



An  
Bord  
Pleanála

## Inspector's Report PL05E. 248426

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<b>Development</b>	Change of use from supermarket to amusement centre, and from office to 2no. apartments
<b>Location</b>	The Dunree Centre, St. Mary's Road, Buncrana, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	17/50208
<b>Applicant</b>	Donal Casey
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Split decision
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Colm O'Donnell
<b>Observer</b>	None
<b>Date of Site Inspection</b>	2 <sup>nd</sup> August 2017
<b>Inspector</b>	Stephen J. O'Sullivan

## **1.0 Site Location and Description**

1.1. The site is in the town centre of Buncrana, Co. Donegal. It has a stated area of 0.284ha. It is connected to the main street via a pedestrian passage at its eastern end. Its western end has frontage onto St. Mary's Road from which there is a vehicular access. The site is occupied by a two and three storey building. Its ground floor is mostly occupied by a vacant shop with offices and apartments on the first floor. This part of the building on the site has blank wall along the northern boundary of the site with a car park. The western end of the building has a food use at ground floor use with apartments on two floors above.

## **2.0 Proposed Development**

2.1. The proposed development is to change the use of the supermarket on the ground floor to an amusement centre and the use of the offices above to 2no. one-bedroom apartments. The apartments would have a combined floor area of 99m<sup>2</sup>. Two new windows would be inserted on the northern elevation to serve the apartments, as well as one on the eastern elevation and one on the western elevation.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority made a split decision on the application. It granted permission to change the first floor offices to 2 apartments and insert additional windows. It refused permission to change the use of the supermarket to an amusement arcade for two reasons. The first stated that the loss of retail floorspace in the town centre of Buncrana would detract from its vitality and viability contrary to the provisions of the development plan. The second stated that the proposal to provide an amusement arcade in the same building as established residential uses would seriously injure residential amenity and contravene policy H-P-21 of the development plan.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The planner's report stated that no amenity issue arise with the proposed windows as they would be overlooking a car park. The terms of any lease agreement is a civil and not a planning matter. The proposed apartments would comply with the space requirements of the design standards for apartments issued by the minister in 2015, although it is not feasible to provide open space in an established building. There is adequate public amenity space in the vicinity. The new windows on the northern elevation would overlook a car park and would cause no amenity issue. The proposed amusement centre would detract from the retail role of the town centre. A split decision to permit the apartments but not the amusement centre was recommended.

### **3.2.2. Third Party Observations**

The appellant objected to the development on grounds similar to those raised in the subsequent appeal.

Another person objected to the development as the original tender for the lands when they were in public ownership required a retail development with a public car park to enhance the vitality and viability of the town centre. The proposed amusement arcade would contravene this requirement and the policies of the town development plan. It would also be incompatible with residential use in the same buildings.

## **4.0 Planning History**

Reg. Ref. No. P44/98 – the planning authority granted permission for a supermarket, 8 apartments and car parking.

Reg. Ref. 07/12 – the planning authority granted permission in March 2007 to retain a change of use on one of the ground floor shops at the western end of the site to a fast food outlet.

## 5.0 Policy Context

### 5.1. The Guidelines for Planning Authorities on Apartment Design Standards, 2015

A minimum floor area of 45m<sup>2</sup> is set for one-bedroom apartments.

### 5.2. Development Plan

The Buncrana and Environs Development Plan 2014-2020 applies. The site is zoned as town centre. Policy R-P-8 is to secure the vitality and viability of the retail function of the town centre. Policy H-P-21 is to protect the residential amenity of existing residential units. Policy H-P-25 is to consider proposals for residential use on upper floor above commercial premises if they do not prejudice commercial activity or result in a loss of residential amenity.

### 5.3. Natural Heritage Designations

None

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The appellant objects to the proposed windows that would be overlooking his property. This is no requirement for them and they would interfere with the privacy to which his customers are entitled.
- The supermarket was developed in accordance with a brief issued by the planning authority when they offered the site for sale in the 1990s. So the applicant may not have the necessary legal interest to carry out the development with the council remaining the owner of the freehold.

### 6.2. Applicant Response

- The applicant has the necessary legal interest to carry out the development and there is no restriction on his ownership of the site.

- The argument about the privacy of the customers of using the car park and entrance serving a commercial premises is spurious. The appellant's property is already overlooked by windows.

### 6.3. **Planning Authority Response**

The planning authority did not respond to the appeal

## 7.0 **Assessment**

- 7.1. The applicant did not appeal the refusal of permission to change the supermarket to an amusement centre, and the planning authority stated reasonable grounds for its decision in this regard. It is not considered, therefore, that the board should revisit this element of the planning authority's decision.
- 7.2. The proposed windows serving the apartments would overlook a car park and would not injure the amenities of properties in the vicinity of the site. The fact that the site had previously been sold by the local authority would not provide grounds to refuse permission for a proposal that was in keeping with the proper planning and sustainable development of the area. The grounds of the submitted appeal are not accepted, therefore.
- 7.3. The two proposed apartment would exceed the minimum size standards set out in the guidelines for planning authorities on apartment design. However the outlook and natural light available to them would be deficient. There would be no south facing windows. The windows on the northern and eastern elevation would face the back of functional commercial buildings with little separation distance. The windows on the western elevation would face over an extensive flat roof. The situation of the offices whose change of use is proposed relative to these other structures therefore renders them inappropriate for residential use and the standard of amenity that could be achieved for the occupants of the proposed apartments would be inadequate.

## 8.0 **Recommendation**

- 8.1. I recommend that permission be refused.

## 9.0 Reasons and Considerations

- 9.1. The proposed apartments would not provide an adequate level of residential amenity for their occupants because the orientation of the windows serving the apartments and their proximity to other structures means that they would not provide the apartments with an acceptable outlook or level of natural light.
- 9.2. The site is zoned as town centre under the Buncrana and Environs Development Plan 2014-2020. The proposed change of use of a shop to an amusement centre would diminish the extent of retail floorspace and exacerbate the pattern of non-retail development in town centre and would detract from its vitality and viability. This would contravene the zoning of the site and policy R-P-8 of the development plan. The proposed change of use to an amusement centre would also introduce disorderly and bad neighbour development that would seriously injure the residential amenity of the existing dwellings on the site, contrary to policy H-P-21 of the development plan.

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Stephen J. O'Sullivan  
Planning Inspector

29<sup>th</sup> August 2017