



An  
Bord  
Pleanála

## Inspector's Report PL02.248812.

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<b>Development</b>	Change of use from butcher shop to fast food outlet / takeaway.
<b>Location</b>	Pound Street, Arvagh, Co. Cavan.
<b>Planning Authority</b>	Cavan County Council.
<b>Planning Authority Reg. Ref.</b>	17/34.
<b>Applicant(s)</b>	Paddy McGrath.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Joe O'Hare.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	4 <sup>th</sup> October 2017.
<b>Inspector</b>	Karen Kenny.

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## 1.0 Site Location and Description

- 1.1. The site is located along Pound Street, Arvagh. Pound Street is located to the west of Main Street. It is characterised by two storey terraced buildings that front onto the street and a mixture of commercial and residential uses. Whilst there are a number of vacant units along the street, they are all generally in a good state of repair.
- 1.2. The site has a stated area of 0.017 hectares. There is a gable fronted two storey building on the site with a vacant retail unit at ground level (former Butcher Shop) and an apartment at first floor. The site is bounded to the west by a barbers and uses on the opposite side of the street include a takeaway, hair salon, beauty salon and a number of residences. There is a one-way system in operation for vehicles along the street and on-street car parking on the opposite side of the road.

## 2.0 Proposed Development

- 2.1. Permission is sought for change of use from butcher shop to fast food outlet / takeaway.
  - The fast food outlet would occupy an existing commercial unit at ground level and has a stated floor area of 79 square metres.
  - The proposed layout includes food preparation / cooking areas, serving area and a waiting and a seating area.
  - It is proposed to retain the existing shop front and to provide a new name plate.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission subject to 12 no. conditions. The following condition is of note:

- Condition no. 4 restricts the hours of operation to between 16.00 and 23.30.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

- The site is zoned Town Core and that a fast food outlet / takeaway is permitted in principle in this zone.
- Following an initial assessment, the further information was requested in relation to the need for an additional takeaway, hours of operation, deliveries and storage, noise, odour and litter and shopfront design.
- Following receipt of further information, the Report notes that the proposed development would not injure the amenities of the area, give rise to a traffic hazard or be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area.

### 3.2.2. Other Technical Reports

**Area Engineer:** No objection.

## 3.3. **Prescribed Bodies**

None.

## 3.4. **Third Party Observations**

4 no. submissions were received and considered by the Planning Authority. Issues raised are similar to those raised in the grounds of appeal set out below.

## 4.0 **Planning History**

None.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Cavan County Development Plan 2014-2020 is the relevant statutory plan. Arvagh is identified as a Tier 4 Settlement (Small Town) in the Development Plan. The Arvagh Town Plan is set out in Chapter 15 of the Development Plan and in an accompanying zoning map.

- The site is zoned “Town / Village Core Development”. The objective *“establishes the extent of the town/village core and identifies the most suitable location for a mix of retail, commercial, residential, culture and social uses. The overall aim is to strengthen the vitality and viability of the core by actively facilitating the reuse of existing buildings, as well as, brownfield and Greenfield sites. The emphasis will be on high quality urban design which does not detract from the existing urban framework and integrates with the existing character of the town or villages respecting its rural elements”*.
- Fast food outlets / takeaways are permitted in principle in the Town / Village Core development zone.
- Section 10.9 Fast Food Outlets / Takeaways: Proposals for take-always are generally permitted in appropriate locations as per the Zoning Descriptions except where:
  - Development would be likely to prove detrimental to the amenities of nearby residential properties, to visual amenity and parking and which would result in traffic and litter problems which could not reasonably be controlled by use of planning conditions.
  - The application has failed to demonstrate that a satisfactory ventilation flue could be provided that would not cause problems of noise and fumes for the occupiers of nearby properties and it would not be detrimental to the visual amenity of the area.
  - A further change of use would seriously affect the retail vitality and viability of the defined retail centre due to an existing concentration of takeaway premises in an area.

- PIO43: Development proposals shall provide minimum parking requirements in accordance with the standards as set out in table 4.7. The standard is 3 no. car parking spaces per takeaway.
- PIO48: In exceptional circumstances, the Council may at their discretion accept a reduced car parking requirement where the applicant can clearly demonstrate that this would not impact on traffic safety and where it is considered to be in the interests of proper planning and sustainable development of the area.

## 5.2. Natural Heritage Designations

None.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A third party appeal has been received from a resident of Pound Street. The principle grounds of appeal that are relevant to this appeal are can be summarised as follows:

- Traffic hazard and lack of parking.
- Impact on residential amenity due to anti-social behaviour and impacts from noise, odour and litter.
- Cumulative impact and need for another takeaway.
- Development description.

### 6.2. Applicant Response

- Site is zoned Town Core Development. Town cores are traditionally associated with shopping, retail, pubs and restaurants.
- The opening hours are in the evening at a time when traffic from shops and businesses is greatly reduced on Pound Street. The Butcher Shop opened from 9 am to 6 pm and generated more of a parking issues.

- Pound Street has a one-way system and on-street parking is available on the north side of the street. This eliminates any traffic hazard and facilitates the smooth flow of traffic.
- Deliveries would not cause congestion. Day time deliveries can park off street and use the side entrance to the takeaway. At off peak times deliveries can be made through the main door.
- The premises will close at 12 pm and will not be open late into the night.
- Steps will be taken to address litter from the takeaway.
- Takeaway will serve Indian food and will provide choice for people in the locality.
- The development description reflects the nature and extent of development.
- The building forms part of the existing streetscape and the shop front will not be affected, save for a new name over the door. There will be no alterations to the footpath or carriageway.

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

- None

### 6.4. **Observations**

- None.

## 7.0 **Assessment**

7.1.1. I consider that the main issues in this case are as follows:

- Principle of Development
- Impact on Residential Amenity
- Traffic and Parking Impacts
- Appropriate Assessment (AA) Screening

## 7.2. Principle of Development

- 7.2.1. The Cavan County Development Plan 2014-2020 is the relevant statutory plan. The appeal site is located within the development boundary of Arvagh, which is identified as a Tier 4 Settlement (Small Town) in the Development Plan.
- 7.2.2. The site is zoned for "Town Core Development". This zoning "*establishes the extent of the town/village core and identifies the most suitable location for a mix of retail, commercial, residential, culture and social uses. The overall aim is to strengthen the vitality and viability of the core by actively facilitating the reuse of existing buildings, as well as, brownfield and greenfield sites...*". The Development Plan indicates that fast food outlets are acceptable in principle under this zoning category.

I am satisfied that the proposed development is acceptable in principle, subject to the assessment of the relevant planning issues identified below.

## 7.3. Impact on Residential Amenity

- 7.3.1. The grounds of appeal argue that the proposed fast food outlet will impact on residential amenity due to noise, odour, litter and anti-social behaviour. The grounds of appeal also question the need for an additional takeaway in the area.
- 7.3.2. The site is located in the commercial core of Arvagh at a location where there is a mixture of commercial and residential uses. There are dwellings adjacent to the premises and as such, the impact on residential amenity is a key consideration.
- 7.3.3. The proposed fast food outlet is of modest scale and while permission is sought for a general takeaway use the details submitted with the application state that it is proposed to operate an Indian takeaway with opening hours from 1600 hours to 2400 hours. The premises would not therefore, operate late into the night and given the nature of the fast food outlet proposed, customers are more likely to take food home rather than congregate in the area. I would also note that there is adequate space within the site to make provision for refuse storage and ventilation.
- 7.3.4. In relation to the cumulative impact of take-away uses, I note that there are two existing take away outlets in the town on Pound Street and on Main Street. I do not consider that the proposed development when taken in conjunction with the existing outlets would constitute an excessive concentration of these types of uses, such that



it would detract from the vitality of the area or be contrary to the zoning objective for the area. The proposal will add to the range of services available in the town and will therefore help to maintain and increase the vitality of the town centre.

- 7.3.5. On the basis of the foregoing, I consider that the proposed takeaway use represents an appropriate use for a vacant unit at this location and I am satisfied that, subject to appropriate conditions in relation to hours of operation and the management of odour and litter, that the proposed use would not impact unduly on the residential amenities of the nearby properties.

#### **7.4. Traffic and Parking Impacts**

- 7.4.1. The grounds of appeal argue that there is a lack of car parking in the town centre and that the proposed takeaway will give rise to a traffic hazard. The applicant's response highlights the availability of on – street car parking on the street.
- 7.4.2. I am satisfied, having regard to the location of the development along a primary commercial street and to the extent of car parking in the immediate vicinity, that there is adequate car parking in the area to serve the development and that the development would not give rise to a traffic hazard.

#### **7.5. Appropriate Assessment (AA) Screening**

- 7.5.1. Having regard to the nature of the development and the location of the site in a fully serviced built up urban area, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

- 8.1. I recommend that permission should be granted subject to conditions for the reasons and considerations set out below.

### **9.0 Reasons and Considerations**

Having regard to the Town Core Development zoning and to the existing commercial use of the site, and given the nature and scale of development proposed, it is

considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the provisions of the County Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 25<sup>th</sup> April 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The hours of operation shall be between 10.00 hours and 24.00 hours.

**Reason:** In the interest of the residential amenities of property in the vicinity.

3. The developer shall control odour emissions from the premises in accordance with measures, including ducting, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public health and to protect the amenities of the area.

4. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This

scheme shall include the provision of litter bins and refuse storage facilities.

**Reason:** In the interest of visual amenity.

5. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

6. The proposed shopfront shall be in accordance with the following requirements:
  - (a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering,
  - (b) Lighting shall be by means of concealed neon tubing or by rear illumination,
  - (c) No awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,
  - (d) No adhesive material shall be affixed to the windows or the shopfront.

**Reason:** In the interest of visual amenity.

7. Water supply and drainage arrangements shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

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Karen Kenny  
Senior Planning Inspector

9<sup>th</sup> October 2017