



An
Bord
Pleanála

Inspector's Report PL.28.248890

Development	Change of use from a retail outlet to a betting office, the erection of signage, the fitting of a door and a window on the elevation facing Lower Cork Hill and associated works.
Location	Main Street, Youghal, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	L.A. 16/06749
Applicant(s)	Bar One Racing
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Mr. Tony Clarke
Observer(s)	None
Date of Site Inspection	25 th September 2017
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The subject site is located along the Main Street in Youghal at the junction of North Main Street and Lower Cork Hill.

- 1.2. The subject property is 3-storey in height which is consistent with the established streetscape.
- 1.3. The property has the appearance of an original period property at first and second floor level given the ope sizes and symmetry.
- 1.4. The ground floor elevation, both North Main Street and Lower Cork Hill, have experienced some level of intervention. However, the frame of the original shopfront is in situ.
- 1.5. The property is currently vacant and was previously used as a retail unit.
- 1.6. The use of the neighbouring property on North Main Street is a business use and the property adjoining the appeal building on Lower Cork Hill is currently in use for apartments.

2.0 Proposed Development

- 2.1. The proposed development consists of a change of use from retail outlet to a betting office.
- 2.2. The proposal also includes the erection of satellite dishes, the fitting of a door and a window on the elevation facing Lower Cork Hill.
- 2.3. The proposal includes a new fascia board with corporate signage. The fascia board faces onto the Main Street and Lower Cork Hill.
- 2.4. The front elevation facing onto the Main Street includes two projecting signs at first floor level. It is also proposed to erect two projecting signs at first level to the elevation facing onto Lower Cork Hill.
- 2.5. The proposed development also includes the erection of 3 no. satellite dishes to the rear of the existing building.

3.0 Planning Authority Decision

Cork County Council decided to grant planning permission subject to 11 conditions. The conditions are standard for the nature of the development proposed.

3.1. Planning Authority Reports

3.1.1. The main issues raised in the planner's report are as follows;

- The Youghal Town Plan includes policy objectives resisting betting offices on the Main Street. However, the objective relates to the over intensification of the use.
- The nearest bookmarker to the appeal site appears to be approximately 250m from the subject site. It is contended that it is difficult to argue overintensificaton on that point.
- The proposed betting office is to occupy a prominent corner building and thus would have enhanced visual prominence. This is important in terms of the heritage of the town.
- The vacancy rate for Youghal currently stands at 25%.
- Heritage plays a significant factor in the improvement of the town and the future economic viability of the town.
- It is being contended that the proposed betting office must be seen in the context of town's heritage status.
- It is submitted that if the aesthetics of the use could be controlled that it may be possible to accommodate the proposed development without negative impacts of the heritage status of the town.
- The Conservation Officer's report is highly critical of the proposed development and is considered unsympathetic to the ACA.
- The Conservation Officer has included a list of details and modifications required should another application be submitted.

Senior Executive Planner's Report

- Conservation Officer recommends refusal based on location within an Architectural Conservation Area.
- The over intensification of betting offices in the town centre is not an issue
- The prominence of the building with its dual frontage is an important consideration
- Youghal is a Heritage town
- The Conservation Officer also recommends modifications should the application be considered further.
- The location of the proposed development is somewhat peripheral to the town centre core of the town.
- The high vacancy rate within the town should be considered.
- The Conservation Officer recommends that the applicant modify the development.
- There are elements of the proposal including provision of 3 no. satellite dishes, dead street frontage, branding, signage etc which are not suitable.

3.1.2. Area Engineer; - No objection subject to conditions.

3.1.3. Conservation Officer; - Refusal recommended. Modifications should the application be considered further.

3.1.4. There is a submission from Irish Water who have no objections to the proposed development.

3.2. Third Party Observations

There is one party submission and the issues raised have been noted and considered.

4.0 Planning History

L.A. Ref. 15/4041 – Permission **granted** for a change of use of ground floor from shop to 3 no. apartments including modifications to existing elevations.

L.A. Ref. 09/58010 – Permission **granted** to change of use of the ground floor of his permission from shop to 3 no. apartments and to modify the existing elevations on the North Main Street and Lower Cork Hill.

5.0 Policy Context

5.1. County Development Plan

The operational County Development Plan is the Cork County Development Plan, 2014 – 2020.

Policy Objective HE 4-5 sets out policy objectives in relation to Architectural Conservation Areas.

5.2. Town Development Plan

The operational development plan is the Youghal Development Plan, 2009 – 2015.

This plan contains several relevant objectives and in summary this includes the following;

- To prevent overintensification of amusement arcades particularly on the Main Street
- The type and colour of materials of shopfronts to be used in development work shall be controlled
- Projecting signs will be limited to the ground floor façade of premises
- Gambling and gaming uses will be resisted at ground floor level on the main streets and square of the town centre.

6.0 The Appeal

6.1. The appeal was submitted by Tony Clarke. The following is a summary of the main issues;

Invalid

ACA

- The planning application fails to mention that the application site is located within an ACA.
- Question no. 22 of the planning application form requests whether a property is located within an ACA.
- It is submitted that there are works proposed to form a new external door and window on the elevation facing Lower Cork Hill. The application should indicate that the appeal site is located within an ACA.
- It is submitted that the application should be accompanied by a short report with photographs. No such report was submitted.

Conservation

- The Conservation Officer is critical of the proposed development and this is illustrated in 3 no. reports by the Conservation Officer.
- The Conservation Officer submits that the corporate branding is unacceptable and the satellite dishes to the rear is unacceptable.
- The Conservation Officer also considered that the applicant should engage an architect to prepare and submit the application however this was not done.
- The Conservation Officer recommended refusal on the ground of (a) contravene policy objective 4.4 in the Youghal Town Development Plan and policies EN 4-5 of the Cork County Development Plan and (b) contravene policy objective 3.1 of the Youghal Town Development Plan.

Fee

- It is contended that the incorrect fee was paid in relation to the proposed satellite dishes.

- The planning application fee in relation to the satellite dishes should be calculated on the basis that satellite dishes are plant.
- It is contended that satellite dishes are regarded as Class 8 within Schedule 9 of the Planning and Development Regulations, 2001 – 2013.
- The application should be declared invalid.

Legal Interest

- The applicant fails to indicate their legal interest subject building.
- The application is therefore invalid having regard to Article 22 (1) (d) of the Regulations.

Reasons for Refusing the proposed development

- The proposed development would be contrary to Section 3.1 of the Youghal Town Development Plan.
- It is contended that the proposed development would amount to an over intensification of betting shops on the main street and an additional betting office within the centre of the heritage town and within an ACA would seriously detract from the visual amenity of the area.
- The proposed betting office would fail to respect the scale, massing, proportions, design and materials of existing structures and reflect the character of the area.
- It is submitted that the proposed change of use would not contribute to the vibrancy and viability of the town centre and would therefore be contrary to Section 1.3 of the Retail Planning Guidelines.
- It is considered that the proposed development would contravene Section 2.2.5 of the Retail Planning Guidelines, 2012. The quality of design of the proposed development is not in line with Section 2.2.5 of the Retail Planning Guidelines, 2012. The signage proposals are inferior and the 3 no. satellite dishes are located inappropriately.

- It is contended that the proposed development is inconsistent with Section 7.2.5 of the Cork County Development Plan, 2014 – 2020. It is considered that the proposal will detract from the amenity, vitality and character of the area. The hours of operation and the control of litter are also a concern.
- It is submitted that an aim of the Town Development Plan is to encourage retail use in the town centre. It is important to retain as much retail as possible on the main street. It is considered that the provision of a bookmarkers on the Main Street would contravene this policy objective.
- It is contended that such a change of use will not strengthen the retail function of the town.

6.2. Planning Authority Response

None

7.0 Assessment

- Principle of Development
- Conservation
- Retail
- Other Issues

7.1. Principle of Development

The appeal site is zoned Town Centre 4 (Retail) in accordance with the provisions of the Youghal Town Development Plan, 2009 – 2015, and the location of the appeal site is situated on the Main Street of Youghal.

The zoning objective for Town Centre 4 (Retail) states it is '*primarily retail and commercial uses with ancillary mixed uses subsidiary and complementary to the*

primary use, including office accommodation, and respecting the residential amenities of residences in the vicinity’.

In general, the proposed change of use from retail to betting office would be consistent with the zoning objective Town Centre 4 and should the proposal be consistent with the retail and urban conservation policy objectives of the Youghal Town Development Plan, 2009 – 2015, and the Cork County Development Plan, 2014 – 2020, the proposed development, in my view, would be acceptable in principle.

7.2. **Urban Conservation**

The subject property on the appeal site is not a protected structure however the property is located within a designated ACA in accordance with the provisions of the Youghal Town Development Plan, 2009 – 2015. I noted from a visual observation of the area that the property on the appeal site has period features and this was a common theme of the properties in the immediate vicinity of the appeal site. These period buildings contribute to the character of the local area.

The planning application did not include a conservation report of the subject building however I would estimate, from a visual observation of the area, that the appeal property and the neighbouring properties on the main street adjacent to the appeal property would date from the late nineteenth century and therefore the character of the area is typical of a traditional Irish townscape. I also noted that much of the original buildings along the Main Street are in-tact.

The proposed development includes the provision of corporate signage on the fascia board and projecting signs from first floor level. The proposal also includes projecting spot lights. I would note that some of the earlier proposals such as script writing on the front door and the number of projecting signs has been modified and that 3 no. satellite dishes proposed to the rear of the building have been removed following

requests by the local authority. It is now proposed that there would be a single projecting sign located on the Main Street elevation.

The Main Street in Youghal including the appeal property is designated an ACA. Having regard to policy objective HE4-5: 'Architectural Conservation Area' of the Cork County Development Plan, 2014 – 2020. The following, in my view, are the relevant policy provisions.

(c) Ensure new development respects the character of the area

(d) Promote high quality architectural design

(f) Ensure lighting, signage and advertising does not detract from the character of the ACA.

I would acknowledge the revised elevations which include omitting 3 no. satellite dishes, 3 no. projecting signs and script writing on the door however the appeal property is a prominent corner building given it's location as an approach to an historic streetscape and location on a main street designated ACA. The sensitivity of this building is important as any insensitive design may have implications for the main street and the approach to this historic town centre.

Policy Objective 3.1 of the Youghal Town Development Plan, 2009 – 2015, sets out policy objectives and I would note that the following is the policy objective '*within the central core of the town there are significant groupings or concentrations of heritage structures. Their value and significance may be greater than if the buildings are taken individually*'.

I would consider that this policy provision would be relevant for the proposed development. The building the subject of the appeal site makes a greater contribution, in my view, to the street and the collection of buildings on the street rather than the individual contribution of the building. Therefore the intervention

proposed, in my view, would adversely impact on the street as a whole as well as the individual buildings.

I would consider having regard to the reports by the Conservation Officer, the ACA status of the main street and a visual observation of the area that the building would require an individual treatment rather than a corporate approach in relation to signage. The proposal also included projecting spot lights rather than the more sensitive internally lit signage. I would conclude that the corporate design approach, as proposed, would adversely impact on the integrity of this historic streetscape and would set an undesirable precedent for other such developments in the area. I would consider that the proposed development contravenes policy objective HE 4-5 of the Cork County Development Plan, 2014 – 2020, and Policy Objective 3.1 of the Youghal Town Development Plan, 2009 – 2015.

Having regard to the above the Board might consider a condition or a split decision essentially permitting the proposed use but omitting the shopfront design. However it is my view the applicant has had three attempts with the local authority and a fresh application is required. Furthermore paragraph 7.7 of the Development Management Guidelines for Planning Authorities, 2007, is also a relevant consideration. The Guidelines advise that a condition shall not materially alter part of an application which forms an essential part of the proposed development.

7.3. **Retail**

There are two relevant development control objectives in the Youghal Development Plan, 2009 – 2015, and these include;

- To prevent overintensification of amusement arcades particularly on the Main Street
- Gambling and gaming uses will be resisted at ground floor level on the main streets and square of the town centre

I would note that the planner's report refers to another betting office on the main street which is located approximately some 250m from the appeal site. I inspected the appeal site and the immediate area of the subject site and there no other noticeable betting offices in the vicinity of the appeal site. I would consider that based on the established uses in the local area located within the vicinity of the appeal site that the change of use from retail to betting office would not result in an overconcentration of betting offices in this immediate area. Therefore the principle of the change of use is acceptable in my view.

7.4. **Other Issues**

The appellant requests that the Board invalidate the application and appeal for several reasons and these include applicant has insufficient legal interest, payment of incorrect fee and planning application form incorrectly completed.

I would consider that the Board is primarily concerned with a de-nova planning assessment of the proposed development and would have no jurisdiction to decide on the planning process.

8.0 **Recommendation**

- 8.1. I have read the submissions on the file, visited the site, had due regard to the Cork County Development Plan, 2014 – 2020, and the Youghal Town Development Plan, 2009 – 2015, and all other matters arising. I recommend that planning permission be refused for the reason set out below.

9.0 Reasons and Considerations

1. Notwithstanding that no. 2 North Main Street is not a protected structure, it is considered that no. 2 Main Street contributes positively to the historic urban form and character of Main Street, Youghal, which is a designated Architectural Conservation Area, in accordance with the provisions of the Youghal Town Development Plan, 2009 – 2015. Having regard to the shopfront design and signage, the proposed development would have a detrimental effect on the character and setting of the Main Street Architectural Conservation Area, would be contrary to Policy HE 4-5 of the Cork County Development Plan, 2014 – 2020, and Policy Objective 3.1 of the Youghal Town Development Plan, 2009 – 2015, and therefore would seriously injure the visual amenities and the architectural and historical interest of the area and accordingly would therefore be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector

17th November 2017