



An  
Bord  
Pleanála

## Inspector's Report PL05E.249408

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<b>Development</b>	Change of use from existing retail unit to takeaway with all associated works
<b>Location</b>	Diamond, Churchland Quarters, Carndonagh, Lifford PO, Co. Donegal
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	17/51220
<b>Applicant(s)</b>	Sajid Mahmood
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Sandra Miller
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	08/12/2017
<b>Inspector</b>	Gillian Kane

## 1.0 Site Location and Description

- 1.1.1. The subject site is located on the northern side of The Diamond, the central urban area in the town of Carndonagh in northern Donegal. The Diamond comprises a number of banks and offices, small retail units and a large restaurant around a central island. Some residential use was obvious on upper floors. On street car parking is found on all side of this central area. The subject site is a vacant former retail unit with access from the rear. A large supermarket with surface car park bounds the site to the north.
- 1.1.2. Photographs from the site visit are appended to this report.

## 2.0 Proposed Development

- 2.1.1. Permission was sought for the change of use from a retail unit to a takeaway. No external changes are proposed.
- 2.1.2. Three objections to the proposed development were submitted to the Council.

## 3.0 Reports on file following submission of Application

- 3.1.1. **Environmental Health Officer:** No objection subject to conditions.
- 3.1.2. **Chief Fire Officer:** No objection subject to conditions.
- 3.1.3. **Planning Report:** Site is within the settlement framework for Carndonagh. Principle of proposed development acceptable within the context of the urban fabric of the area.

## 4.0 Planning Authority Decision

- 4.1. **Decision**
  - 4.1.1. On the 21<sup>st</sup> September 2017 the Planning Authority issued a notification of intention to **grant** permission subject to 9 no. standard conditions. Condition no. 2 requires the provision of a litter bin outside the premises. Condition no.s 4, 5 and 6 refer to advertising. Condition no. 8 refers to environmental health

## 5.0 Planning History

- 5.1.1. Planning Authority reg. ref. 04/5922: Planning permission was granted for a new disabled access ramp when the subject site was in use as National Irish Bank as part of a larger site.

## 6.0 Policy Context

### 6.1. Donegal Development Plan 2012-2018

- 6.1.1. The subject site is located within the settlement boundary of Carndonagh. Appendix A of the development plan identifies Carndonagh as a Tier 2 Strategic Support Town. The development plan recognises that while the town has experienced rapid growth the Diamond and the town centre have suffered dereliction, vacancy and neglect. The settlement framework seeks to redress this imbalance with an emphasis on renewal and redevelopment of the central urban areas. Policy for the town, relevant to the subject proposal is:

1. The primary policy for Carndonagh is to revitalise the immediate town centre by restoring vitality and viability, ensuring that this area remains the retail core within the town and that a diverse range of businesses and professional services locate here. There are a number of opportunities to redevelop or open up backlands to enable development immediately behind the streetscape, such as the Mart Site, brownfield sites and vacant properties.

## 7.0 The Appeal

- 7.1.1. A third party appeal against the decision to grant permission was received by the Board on the 17<sup>th</sup> October 2017. The grounds of appeal can be summarised as follows:

- The application form is incomplete as details of employees and traffic generated by the use are not provided.
- The cover letter correctly notes that an additional car parking space is provided. This is shown on the drawings but not mentioned in the site notice.
- The planning history refers to the building next door.
- There is no LAP for Carndonagh.

- The Chief Fire Officers recommendation that a fire safety certificate must be applied for was not included in the planning decision.
- The objections from Mr. Prabjoat Singhe were dismissed by the planner, who stated that the proposed development was acceptable.
- It is submitted that the proposed development does not accord with policy as it does not allow a diverse range of business and professional services and may displace an existing service.
- The objection that the proposed development would create anti-social behaviour was addressed by a condition requiring a litter bin. The objection in relation to traffic was deemed not to be material.
- The objection of the Appellant regarding ventilation was addressed by the EHO, who requires a mechanical extract ventilator 1m above roof eaves level. It is not clear if this distance is from the subject or the appellant's premises. The drawing MC/1629/Protected Structure.01 states that an "extractor fan outlet brought out through the existing roof void above" is incorrect as there is no roof void. Further information should have been requested.
- Arbitrary opening hours have been applied without any reference to the application.
- No consideration has been given to the disposal of fat and grease. This is a public health issue.
- The Board is requested to refuse permission on the grounds that the proposed development will have a detrimental impact on adjoining properties.

## 7.2. Planning Authority Response

- 7.2.1. The subject site is centrally located within the 'town centre'. The proposed development would not be at variance with the policy to revitalise the immediate town centre as the proposed use is compatible with a town centre location. Public health requirements have been dealt with by way of condition. Car parking requirements can be addressed by public car spaces. Concerns regarding fire safety will be addressed by the Fire Safety Certificate. The Board is requested to grant permission.

### 7.3. Applicants response to Appeal

- The existing premises was a retail unit for many years before unfortunately closing.
- The proposed change of use involves internal alterations only.
- The proposed takeaway will generate 3 -4 full time jobs and 2-3 part time jobs. The opening hours will be 16.00 to 01.00 seven days a week. The Board is requested to change the conditioned hours of the Planning Authority.
- Deliveries will be twice a week in a small van.
- The rear access is currently overgrown but has been used for car parking for the previous business. No car parking is proposed.
- The appellant's objection regarding mechanical extraction has no merit as all works will comply with EHO guidelines and Building Regulations.
- There are no other takeaways within the Diamond.
- The Board is requested to grant permission.

### 7.4. Observations

7.4.1. None on file

## 8.0 Assessment

- 8.1.1. The policy for Carndonagh as set out in Appendix A of the County development plan is to revitalise the immediate town centre by restoring vitality and viability, ensuring that this area remains the retail core within the town and that a diverse range of businesses and professional services locate here. The proposed development which seeks to bring a vacant town-centre unit into use, is in accordance with that policy. The proposed use will also introduce evening and night-time business into the Diamond. On the date of my site visit, other than pubs, only two food providers were apparent. I am satisfied that the proposed use would not displace or prejudice the provision of other food-service providers in this central urban area.
- 8.1.2. Issue reading mechanical extraction and ventilation are matters for the Environmental Health Office of the Council. Likewise, fire safety certificates are a

compliance matter for the Local Authority. I am satisfied that no car parking is required as sufficient on-street car parking exists in the immediate and wider area.

- 8.1.3. The proposed change of use from retail to takeaway is acceptable, accords with the framework policy for the town centre of Carndonagh and is in keeping with the proper planning and sustainable development of the area.

## 8.2. **Appropriate Assessment**

- 8.2.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, and proximity to the nearest European site, no appropriate assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

## 9.0 **Recommendation**

- 9.1.1. I have read the submissions on file, visited the site, and have had due regard to the provisions of the Donegal County Development Plan 2012-2018 and all other matters arising. I recommend permission be GRANTED subject to the following conditions:

## 10.0 **Reasons and Considerations**

Having regard to the zoning objectives for the area and pattern of development in area, 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 property in the vicinity and would be acceptable in terms of traffic safety, public health and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## 11.0 **Conditions**

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 16.00 hours and 01.00 hours Monday to Saturday and between 16.00 hours and 23.00 hours on Sunday.

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

3. 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.

4. The developer shall control odour emissions from the premises in accordance with measures including extract duct details 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.

5. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Gillian Kane

Senior Planning Inspector

22 December 2017