



An
Bord
Pleanála

Inspector's Report ABP-300937-18

Development	Permission for change of use from existing retail to financial services.
Location	Ground Floor Unit 1, 86 Clanbrassil Street, Dundalk County Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	17/859
Applicant(s)	Bureau Buttercrane Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Terry Boyle
Observer(s)	None
Date of Site Inspection	21 st of May 2018
Inspector	Angela Brereton

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1.0 Site Location and Description

- 1.1. The application site is located in Dundalk town centre, on the west side of Clanbrassil Street opposite the junction with Batchelor's Walk. The site comprises the ground floor of a three storey period building of significant importance within the streetscape of Clanbrassil St. Architectural Conservation Area. The proposal concerns the change of use of the ground floor unit of no.86 Clanbrassil Street.
- 1.2. The ground floor of the adjoining property No.87 has been in use as a bookmaker since 2003 and the subject unit at No.86 is currently vacant but was last in use as a fashion boutique. There is a solicitor's office above with gated access to the carpark at the rear. The existing bookmaker property to the south extends the entire length of the building at no.87 with direct access also available at the rear from the carpark. There is signage advertising the uses on the front and rear elevations of the premises. The 'Height of Health' retail store is located on the ground floor of the adjoining premises to the north.
- 1.3. A large paid carpark is located at the rear of the buildings accessed via The Long Walk and there are a number of laneways from this carpark to Clanbrassil Street. This includes the laneway by the side of Boylesports.
- 1.4. Clanbrassil St. is a main shopping street in the retail area of the town. There are a number of underused and vacant premises on this street.

2.0 Proposed Development

- 2.1. This is to consist of a change of use from existing Retail unit to Financial services, a ground floor internal fitout, external signage and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

On the 18th of January 2018, Louth County Council granted permission for the proposed development subject to 5no. conditions. These generally concern

infrastructural and construction related issues. Condition no.5 concerns design of the fascia and signage.

3.2. **Planning Authority Reports**

Planner's Report

The Planner had regard to the locational context of the site, planning history and policy and to the submissions made. They noted that the site is located within the town centre zoning and the designated Clanbrassil St. ACA in the Dundalk and Environs DP. They provided that as a financial use is permitted within this zoning that it is considered to be acceptable. They noted that the Conservation Officer does not object to the proposal. They considered the proposal acceptable and different to the previous refusal on this site. They recommended that permission be granted subject to conditions.

3.3. **Other Technical Reports**

The Conservation Officer

They noted that the application is within the Clanbrassil St. ACA and did not object to the proposal. They recommended a condition regarding signage should permission be granted.

3.4. **Third Party Observations**

Stephen Ward Town Planning & Development Consultants has made an extensive submission on behalf of Terry Boyle. The issues raised in his objection are taken into account and are included relevant to consideration of his subsequent grounds of appeal as summarised below.

4.0 **Planning History**

The Planner's Report and the documentation submitted by the Third Party provides a detailed planning history of the site. The following are the most recent:

Reg.Ref.16/176 – Ref.PL15.246686 – Permission was refused by the Council and subsequently by the Board for (i) Change of use of part (the rear) of the ground floor

of Unit 1, 86 Clanbrassil Street from retail use to bookmakers, (ii) amalgamation of part (the rear) of the ground floor into the existing bookmakers use at 87 Clanbrassil Street, (iii) enhancement of the existing shop front serving Unit 1, 86 Clanbrassil Street and internal reorganisation of part (front) of the premises to facilitate continued retail use, and (iv) all associated site works, all at site at 87 Clanbrassil Street and Unit 1, 86 Clanbrassil Street, Dundalk, County Louth. The Board's reason for refusal was as follows:

Having regard to the zoning objective for the town centre retail area and to Policy TC2, as set out in the Dundalk and Environs Development Plan 2009-2015 (as extended), which seeks "to resist the conversion of ground floors of retail premises to non-retail uses in the town centre retail zone", it is considered that the proposed change of use would lead to a significantly reduced retail floor area at ground floor area. Accordingly, the proposed development would be contrary to this Development Plan Policy relative to town centre retail, would set an undesirable precedent for such development and would seriously injure the amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Reg.Ref.15/360 – Permission granted subject to conditions for development consisting of the change of use of an existing financial institution to a shop at no.86 Clanbrassil Street, Dundalk. The Planner's Report noted that the ground floor of no. 86 had been a financial institution previously but was then vacant.

Reg.Ref.15/129 - Permission refused to Boylesports Ltd. by the Council for the change of use of ground floor premises at Unit 1, 86 Clanbrassil Street, from retail use to bookmakers premises and proposed extension of existing ground floor bookmakers premises at No.87 Clanbrassil Street into ground floor premises of Unit 1, 86 Clanbrassil Street, together with alterations to both existing fascias and associated site works. This refers to the subject premises and was refused for two no. reasons, summarised as follows:

- The proposed non-retail use would be unacceptable along the principle shopping street in Dundalk and contrary to Policy TC2 of the Dundalk and Environs Development Plan and the proper planning and sustainable development of the area.

- To permit the signage as proposed would materially contravene Policy CH10 of the Dundalk and Environs Development Plan, detract from the character of the ACA and be contrary to the proper planning and sustainable development of the area.

Copies of these decisions are included in the History Appendix to this Report.

5.0 Policy Context

5.1. Louth County Development Plan 2015-2021

This Plan provides the strategic planning policies and objectives for the County. Section 2.16.4 notes that the Statutory Plan for Dundalk and the surrounding area is the Dundalk and Environs Development Plan 2009-2015 and Policy SS3 seeks: *To review the Dundalk and Environs Development Plan 2009 – 2015 and to prepare a Local Area Plan for Dundalk and Environs which will be consistent with the provisions of the County Plan.*

Chapter 6 includes regard in Section 6.7.1 to retail: *In order to comply with the **Retail Planning: Guidelines for Planning Authorities 2012**, Louth County Council has prepared The Louth Retail Strategy 2014 (Appendix 12, Volume 2(c)). The purpose of this strategy is to implement the objectives of the Retail Planning Guidelines set out the strategic policy framework for the spatial distribution of retail floorspace within the County and inform the policies of the Development Plan.*

Table 6.4 provides the Retail Hierarchy for the County and includes Dundalk as a Level 2 Major Town Centre. This includes: *The Louth Retail Strategy in accordance with the Retail Planning Guidelines identify Core Shopping Areas within Dundalk, Drogheda and Ardee which are primarily devoted to shopping. To retain the primacy of town centres for shopping purposes and to enhance their vitality and viability, new retail development should be located within or close to these identified core retail areas where possible.*

Retail policies EDE32 -EDE 38 are of note. EDE35 seeks: *To generally discourage permission for change of use from retail or service (including banks and similar institutions with over the counter services) to non-retail or non-service uses at ground floor level.*

EDE38 seeks: *To encourage and support the re-use and revitalisation of vacant (and derelict) shops and properties within town and village centres.*

Section 6.7.4 refers to Shopfront Design and 6.7.5 includes Shopfronts in ACA's Policies EDE40 - 41 refer.

Section 6.7.7 sets out the objectives for design of development in ACA's and Section 6.8 refers to Signage, with S.6.8.2.6 referring to fascia signage.

In addition to the County Development Plan, I have reviewed the Dundalk Town & Environs Development Plan 2009 – 2015 as this provides the most recent zoning framework for the area.

Dundalk and Environs Development Plan 2009 -2015 (as extended)

This Plan is still current. As shown on Map 4.2 the site is within the town centre area.

The zoning objective for the town centre retail area is to protect and enhance the viability and vitality of the town centre as the primary retail core area of the town.

Policy TC2 seeks: *To resist the conversion of ground floors of retail premises to non retail uses in the town centre retail zone. Any proposed development within the town centre retail zone shall include for a minimum of 20% residential in upper floors.*

Policy CH10 seeks: *To Protect designated Architectural Conservation Areas within the plan area and require that new development within such areas is sensitively designed so as not to detract from the character of the areas.*

The vision for the Clanbrassil Street ACA (no.4) seeks: *To protect and enhance the character and appearance of the area by giving consideration to the suitability of scale, style, construction materials, colour and decoration to be used in any proposals for new development, including alterations and extensions, taking place within or adjacent to this area.*

Appendix 2 provides Urban Design Guidance. This includes Shop Front Design Guidelines and Signage e.g. Many of the buildings and shopfronts in Clanbrassil St are traditional and therefore retention is highly desirable.

Appendix 7 relates to Development Management Guidelines for ACA's. Clanbrassil St. is in ACA 4 and specific guidelines relate.

6.0 The Appeal

6.1. Grounds of Appeal

Stephen Ward Town Planning and Development Consultants Ltd have submitted a Third Party Appeal on behalf of Terry Boyle of Dundalk Bureau de Change, Park Street, Dundalk. This has regard to the locational context of the site, planning history and policy. The grounds of appeal include the following:

- It is submitted that the proposed development is of the same type of application as that was previously refused in PL15.246686, and that the previous Board reason for refusal is similarly applicable to the current proposal. There has been no change in policies since the previous refusals.
- They submit that the proposed development comprising a change of use from retail to financial services (non-retail) is wholly contrary to the objectives of the Dundalk and Environs DP in relation to the protection of town centre retail zoning and permitted retail floor space.
- The proposed development should be assessed not only against zoning, but also against the policies and objectives of the Dundalk and Environs DP as they relate to the Town Centre Retail Core. Also against the Town Centre policies in the Dundalk Urban Design Framework plan (DUDFP).
- If permitted the proposal would lead to the loss of a retail unit in the town centre area and would impact negatively on the character of the ACA.
- They submit that the application premises has an established and functional retail use and the suggestion of the unit being 'too small and unviable' to operate a successful retail unit cannot be sustained.
- They submit that in view of its locational context in the commercial town centre of Dundalk no.86 is an attractive retail proposition. Also, that financial viability is not a basis on which to override the long-established planning policy for this area which is to resist the loss of retail ground floor space to non-retail uses.

- They contend that the proposed development contravenes the Retail Strategy for County Louth 2009 which is contained in the 2009 Dundalk and Environs DP 2009.
- They note that Louth Retail Strategy 2014 is the subsequent retail policy document from the 2009 Louth Retail Strategy. This includes: *Consider policies restricting the type of non-retail uses along the core shopping areas.*
- The Dundalk and Environs Development Plan 2009-2015, the 2009 and 2014 Retail Strategies establish policies that restrict non-retail uses within the core retail area. They submit that the proposed development is contrary to planning policies of retaining and promoting retail in town centres.
- They consider that there is a proliferation of Class 2 Building/Land uses in the Town Centre. They refer to the change from Class 1 retail to Class 2 Business Use. Figure 5 of their submission, illustrates the proliferation of Class 2 building uses located at ground level within 250m of the site.
- They point out that the change of use from Bureau de Change to Betting Office would be exempted development, both uses being within the same use class.
- They refer to the Clanbrassil Street Rejuvenation Project and note that the application premises is within this area. They note the success of the Market Square rejuvenation project, resulting in the reinvigoration of the town centre as a whole.
- They envisage that the rejuvenation of Clanbrassil Street and the St. Nicholas's/Church Street quarter will replicate the success of the Market Square/Court House quarter with an emphasis on the enhancement of vibrancy with retail uses contributing a crucial functional role within the town's primary retail thoroughfare.
- They submit that this proposal is fundamentally flawed. The planning policies all seek to resist the loss of retail in the town centre core area.
- They submit that the premises does not detract from the visual amenities of the area and the ACA. Vacancy does not justify its occupation by a non-retail use.

- If this development is permitted it will set a precedent for further loss of retail units in the core town centre area. Years of consistent application of policy to refuse such proposals would be undone.
- They submit that the proposal would be in material contravention with Policy TC2 of the Dundalk and Environs DP and would be inconsistent with the 2009 and 2014 Louth Retail Strategies. It would set a negative precedent for the Town Centre Retail and would lead to a reduction of the retail provision available to Dundalk Town Centre.

6.2. Planning Authority Response

They advise that the Planner has no further comments to make over and above the Planner's Report dated 15th of January 2018.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. The application property at no. 86 Clanbrassil St. forms a three storey terraced building located on the western side of Clanbrassil St. The overall building comprises the subject site in the ground floor unit, with offices on the first and second floors, of the building. The application site is currently vacant and was last used as a retail unit. The proposed development is for a Bureau de Change in the ground floor unit.
- 7.1.2. This building is located within the designated Clanbrassil Street Architectural Conservation Area. It is included in the 'Town Centre Retail' as identified within the Dundalk and Environs Development Plan 2009-2015 as varied and extended. The site is also within the 'Town Core' character area identified within the *Dundalk Urban Design Framework Plan*. Although no.86 Clanbrassil St. is not a protected structure, it is located within the Clanbrassil Street ACA(no.4) which includes, this street, Church Street and the Market Square Area.
- 7.1.3. The Third Party are concerned that if permitted this proposal would lead to a negative precedent in the Town Centre and ACA where the loss of retail floor space would negatively impact on the character and viability of the Town Centre Retail Core area undermining the aims of the ACA. They consider that this proposal would

detract from the contribution the premises makes to the functionality of the ACA as well as its physical appearance and add to the proliferation of non-retail uses in the town centre.

- 7.1.4. Map 4.2 of The Dundalk and Environs Development Plan 2009-2015 (as extended) shows that the site is located within the Town Centre Retail zoning area where the objective seeks: *To protect and enhance the vitality and viability of the town centre as the primary retail core of the town.* While there is reference to some mixture of uses within the town centre it is provided: *Within the defined TCR zone, proposed development that would involve a net loss of convenience or comparison shopping floor space at ground level will be resisted.* It is further provided: *Permitted uses at ground floor level should be predominantly retail but may also include financial and professional services, where the premises are frequently visited by the public and where an active window display is maintained at street level.*
- 7.1.5. Note is made of the Third Party Grounds of Appeal and regard is had to issues raised, in the Assessment below, including compliance with planning policy and design and layout, taking into consideration the usage of a now vacant property. It also needs to be ascertained as to whether this proposal would address the Board's previous reason for refusal and be in accordance with the proper planning and sustainable development of the area.

7.2. **Change of Use and differences between that previously refused**

- 7.2.1. The most recent application relevant to this site was Reg.Ref.16/179, Board refusal Ref.PL15.246686 refers. As noted in the Planning History section above this application referred to the amalgamation of the ground floor units of both nos. 86 and 87 Clanbrassil Street. It sought to change the use of the ground floor of part of no.86 from retail to bookmakers (to become part of Boylesports) and to retain a small element of retail (13sq.m) at the front of no.86.as retail.
- 7.2.2. It was noted that that proposal was considered different to the previous refusal Reg.Ref.15/129 which sought a change use of the entire unit at no.86 to bookmakers and to amalgamate the two units.
- 7.2.3. The current application differs from the previous two applications in that it seeks to retain the integral floor area of the unit i.e it does not seek to sub-divide it or to

amalgamate it with the adjoining bookmakers. However, it does seek to change the use in this Town Centre zoning from retail to financial use.

7.2.4. The previously refused applications and the current application all propose the loss of retail floorspace at ground floor level. It is submitted that in use terms the proposed development, as it is not for a retail use, remains in contravention of retail policy TC2 (loss of ground floor retail unit in the core retail area) of the Dundalk and Environs DP and of the County Retail Strategy.

7.2.5. The Third Party also notes Town Centre Policies in the Dundalk Urban Design Framework Plan. Following on from the general objectives of the Town Core Character Area, the DUDFP identifies a number of specific priority objectives and guidelines for the development and enhancement of Dundalk's town core character area. This includes the need to require a sustainable mix of uses in the town centre and to require retail on the ground floor with a mixture of uses on the upper floors.

7.3. **Design and Layout and impact on the Character and Amenities of the Area**

7.3.1. This proposal is for the change of use of the now vacant retail unit to a Bureau de Change/Financial Services. The proposal encompasses the total ground floor area (c.55sq.m) of no.86 Clanbrassil St. It provides for the sub-division of the premises into a front lobby with a glass booth display (c.21.5sq.m), and office area (c.21.5sq.m) and kitchen and toilet facilities at the rear (c.12sq.m) at the rear. It is noted that in view of the layout there will be no windows to the central office area. There are no extensions or changes proposed to the external elevations.

7.3.2. As shown on the elevations it is proposed to retain the existing shop front, but to change the fascia signage. It is noted that the Conservation Officer did not object to the proposal but recommended a condition relative to signage, which was included in Condition no.5 of the Council's permission. If the Board are mindful to grant it is recommended that such a condition be included to ensure appropriate signage that would not detract from the character of the traditional shopfront in the ACA.

7.4. **Regard to Retail issues**

7.4.1. The subject vacant unit was formerly used as retail. The two units on either side are 'Boylesports' bookmakers to the south and 'Height of Health' health food retail to the

north. 'Glow beauty' is to the north of this and was not open on the day of the site visit. There is a men's clothing shop 'Mankind' to the north of this and a florist to the north of the access lane. 'Gino's diner – Takeaway and Eat in' which does not appear to be in use is to the south of 'Boylesports' along with an opticians and fashion outlet to the south of this. Offices including solicitors occupy the first and second floors of no.86 Clanbrassil Street. Directly opposite the site, along the eastern side of Clanbrassil are a number of commercial premises including a café, hairdressers, painting and decorating store, real estate agents, bar and restaurant, foodhall, children's retail shop and indoor market.

- 7.4.2. Annex 2 of the Retail Planning Guidelines 2012, concerns Assessing the Vitality and Viability of Town Centres. While regard is had to Figure 5 of the Third Party submission, showing the location of Class 2 Financial/Business uses in the town centre area, it is noted that the occupancy rate for retail (Class 1) in this core area of Clanbrassil St. is higher than some other parts of the street.
- 7.4.3. The Third Party submit that the 'exception' for financial and professional services in this area is limited. It is noted that there are already a number of banks and financial institutions at ground floor level in the Clanbrassil St. Area. It is also noted having regard to the planning history of the site, that the change of use from financial to betting shop is in the same use class in Part 4 of the Planning and Development Regulations 2001 (as amended) and would not require planning permission.
- 7.4.4. It is of note that the Retail Planning Guidelines 2012 has regard to the sequential approach and seek to support retail development in town centres. Section 4.4.1 notes that: *The Centres of Cities and Town Centres are the most suitable locations for the higher order fashion and comparison goods and are the most accessible locations for the majority of the catchment population. This includes that: They should be supported in maintaining and expanding their retail offer to serve that population in a sustainable way which will also help to reduce the need to travel.*
- 7.4.5. Policy TC 2 which is referred to in the Board's refusal in PL15.246686, seeks to: *Resist the conversion of ground floors of retail premises to non retail uses in the town centre retail zone. Any proposed development within the town centre retail zone shall include a minimum of 20% residential in upper floors.*

7.4.6. Having regard to these issues including the planning history of the site, I would consider that the proposed development, for a change of use from retail to financial should be resisted in this Town Centre location. I would not consider that the Board's reason for refusal in PL15.246686 has been addressed/overcome by the current proposal.

7.5. **Screening for Appropriate Assessment**

The application site is located c.1.5km from Dundalk Bay SAC and Dundalk Bay SPA. It is considered that having regard to the nature and scale of the development which is for a change of use in a fully serviced town centre location, and to the nature of the receiving environment, that no appropriate assessment issues arise.

8.0 **Recommendation**

8.1. I recommend that permission be refused for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

1. Having regard to the zoning objective for the town centre retail area and to Policy TC2, as set out in the Dundalk and Environs Development Plan 2009-2015 (as extended), which seeks "to resist the conversion of ground floors of retail premises to non-retail uses in the town centre retail zone", it is considered that the proposed change of use would lead to a loss of retail floor area at ground floor level. Accordingly, the proposed development would be contrary to this Development Plan Policy relative to town centre retail, would set an undesirable precedent for such development and would seriously injure the amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Angela Brereton

Planning Inspector

25th of May 2018