



An
Bord
Pleanála

Inspector's Report ABP-301380-18

Development	Change of use of part of vacant public house to a betting office at Main Street, Ballybofey.
Location	Junction 15 Bar & Lounge, Donegal Road and Donegal Street, Ballybofey County Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	18/50051
Applicant(s)	Ladbrokes Ireland Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Tom McGuinness
Observer(s)	None
Date of Site Inspection	18 th June 2018
Inspector	Una O'Neill

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	4
4.0 Planning History.....	4
5.0 Policy Context.....	5
5.1. National Policy	5
5.2. Donegal County Development Plan 2018-2024	5
5.4. Natural Heritage Designations	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Applicant Response	7
6.3. Planning Authority Response	8
6.4. Observations	8
6.5. Further Responses.....	8
7.0 Assessment	8
8.0 Recommendation.....	11
9.0 Reasons and Considerations.....	11
10.0 Conditions	12

1.0 Site Location and Description

- 1.1. The subject site is located in Ballybofey, which is a large town in the centre of County Donegal. The appeal site is located at the junction of Donegal Road/Main Street and Glenfinn Street. There is a laneway alongside the east of the appeal site, access to which is via an archway under the adjoining building. This laneway connects into Donegal Street and the wider local network.
- 1.2. The site, which has a stated area of 0.01ha, comprises a three storey terraced building with a deep single storey return. The building frontage is onto the main street, with the rear return directly onto and also accessible from the side laneway. The building is at present vacant and was previously in use as a public house.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Change of use of part of the ground level of the existing pub to a betting office. It is proposed to use the front section of the ground floor which addresses the street and provide for a new side entrance onto the adjoining lane, with the gross floor area of the proposed use stated to be 112 sqm.
 - Relocation of existing Ladbrokes betting office from existing premises on main street to this building.
 - New shop front.
 - Advertising to both Donegal Street and Donegal Road elevations.

3.0 Planning Authority Decision

3.1. Decision

GRANTED, subject to 10 conditions, including the following:

C4: External lighting and restrictions.

C5: Signage to be in Irish only and where bilingual proposed, then Irish shall be first.

C6: No additional signage.

C9: Development Contribution.

C10: Costs of €4000 for a final surfacing layer to adjacent public road 'arch' to Navenny Car Park alongside the boundary of the premises.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority.

3.2.2. Other Technical Reports

Roads Section – A Specific Development Charge Contribution of €4000 to be levied.

Chief Fire Officer – No objection in principle, subject to obtaining of a Fire Safety Certificate.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A number of third party observations were received. The issues raised are largely addressed within the grounds of appeal.

4.0 Planning History

17/50095 – Permission GRANTED for change of use from vacant public house to three shop units with new shopfronts and provision of three number 1 bed apartments at first, second and third floor level, with dormer window extensions to front and rear elevations.

00/80509 – Permission GRANTED for the improvements and extension of existing licensed premises.

96/97 – Permission GRANTED for the provision of a new doorway onto accessway which connects Main Street with Navenny Car Part, at licensed premises.

5.0 Policy Context

5.1. National Policy

- Retail Planning, Guidelines for Planning Authorities, 2012

5.2. Donegal County Development Plan 2018-2024

Part A & B, Strategic Plan, Policies and Objectives

- Settlement Structure, Level 2A, Strategic Town: Ballybofey-Stranorlar
- **CS-P-3:** It is the policy of the Council that proposals for development in An Clochán Liath (Dungloe), Ballybofey-Stranorlar, Ballyshannon, Bridgend, Donegal Town, Carndonagh and Killybegs shall be considered in the light of all relevant material planning considerations, relevant policies of the County Development Plan and other regional and national guidance/policy, relevant environmental designations and particularly in the light of the relevant Settlement Framework Maps and accompanying text contained in Part C of this Plan. (Note: a Local Area Plan is being prepared in respect of the identified towns and, when adopted, the Local Area Plan will supersede the relevant Settlement Framework Maps and accompanying text to provide a more detailed planning framework).
- **TV-P-7:** It is a policy of the Council that proposals for shop fronts shall, as appropriate:
 - Be of a high quality in terms of overall design, colour and materials.
 - Respect the architectural characteristics of the subject building, in terms of scale, proportion, finishes, materials and relationship to upper levels.
 - Respect the existing streetscape and traditional shop fronts in the area including in terms of scale, proportion, plot width, overall grain of

development, arrangements of fenestration, facia treatment, colouring scheme, materials, and finishes.

- Avoids the use of excessively scaled box facias, plastic canopies over shop fronts, external security shutters, brash colours, flashing or neon lighting.
 - Otherwise be in accordance with the policies for built heritage contained in Part B, Chapter 7.
- **BH-P-10:** It is a policy of the Council to ensure the retention of historic shop fronts, pub fronts and traditional (hand-painted) signage as part of the streetscape of towns and villages and roads of both urban and rural Donegal.

Part C, Objectives and Policies of the Towns

- Settlement Framework Map for Ballybofey-Stranalar:
Zoning Objective, Town Centre, 'to sustain and strengthen the core of towns as the centres for commercial, retail, cultural and community life'.

5.3. **Draft Local Area Plan:** Draft Seven Strategic Towns Local Area Plan 2018-2024 for the towns of An Clochán Liath (Dungloe), Ballybofey-Stranorlar, Ballyshannon, Bridgend, Carndonagh, Donegal Town and Killybegs

- I note the draft LAP for the Seven Strategic Towns, including Ballybofey-Stranorlar, was adopted on 23rd July 2018 and will come into effect on the 20th August 2018. A copy of the final plan is not yet available.

5.4. **Natural Heritage Designations**

The site is not located within or adjacent to a Natura 2000 site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

One third party appeal has been submitted from the occupant of the neighbouring building of Garvan Court, to the east of the appeal site. Garvan Court comprises an

existing betting office at ground floor level. The grounds of appeal is summarised as follows:

- The site is located within the retail core. Retailing should be maintained as the primary use at ground floor level. This non-retail use will not contribute to active street frontage due to the lack of open window displays associated with this use and will detract from the role of the main street as the retail core of the town centre.
- The proposed change of use will result in an excessive concentration of similar uses in this area and would fail to contribute to a satisfactory diversification and mix of retail provision. Concerns regarding the cumulative impact of a number of existing similar uses and the proposed development have not been addressed.
- The proposed development would set an undesirable precedent and may result in over predominance and increased concentration of such uses at this location.

6.2. Applicant Response

The applicant has responded as follows to the grounds of appeal:

- The applicant is proposing to use part of the ground floor of the building, which was last in use as a pub and so was not an existing retail use. The proposal does not therefore reduce the number of retail premises in the town.
- The proposal is for the commercial relocation of an existing Ladbrokes betting office on the main street to a new location 73m further along that same main street.
- Ballybofey-Stranorlar has the fourth greatest quantum of retail floorspace in the county. The proposed betting office at 112sqm equates to less than 1% of the total retail floorspace within the town. It cannot be considered that this will have a material impact, adverse or otherwise, on the retail environment of the town.

- The appellant's main concern may relate to protection of the commercial status quo. The planning system, as per the retail planning guidelines, should not be used to prevent or inhibit competition.

6.3. **Planning Authority Response**

No further comment.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. I note this application was assessed by the Planning Authority under Donegal County Development Plan 2012-2018. This plan has now been replaced by the adopted Donegal County Development Plan 2018-2024 and it is under this plan that I have assessed the application subject of this appeal.

7.2. I note the draft LAP for the Seven Strategic Towns, including Ballybofey-Stranorlar, was adopted on 23rd July 2018 and will come into effect on the 20th August 2018. A copy of the final plan is not yet available. The zoning objective, as per the draft plan, where it relates to the appeal site, remains as per the Settlement Framework Plan within the County Development Plan 2018-2024.

7.3. The primary issues for assessment include;

- Principle of Development and Compliance with Development Plan Policy
- Shopfront Design
- Appropriate Assessment

Principle of Development and Compliance with Development Plan Policy

- 7.4. The grounds of appeal contends that retail uses should be maintained as the primary use at ground floor level of buildings along the main street and to permit this non-retail use, which comprises an inactive street frontage, will detract from the retail core and function of the town centre. The proposed development will result in a proliferation of such uses in this area, establishing an undesirable precedent, and will fail to contribute to a satisfactory diversification and mix of retail provision.
- 7.5. The applicant states the proposed change of use relates to a pub, which is a non-retail use and therefore there is no loss of retail use at the ground level. The proposed use is to replace an existing use which currently exists along the same main street. Given the strength of the retail centre of Ballybofey, the applicant states this proposal will not materially affect retail provision in the town. It is furthermore stated that it is not the role of planning to prevent or inhibit competition.
- 7.6. The subject site is zoned Town Centre, the objective of which is 'to sustain and strengthen the core of towns as the centres for commercial, retail, cultural and community life'. I consider the proposed commercial development of a betting office to be acceptable in principle and in compliance with the zoning objective for the area.
- 7.7. There are a number of betting offices in Ballybofey, including the existence of a betting office in the neighbouring building (on the opposite side of the laneway to the side of the appeal site). Given the range of land uses along the length of the main street, I do not consider the proposed replacement of an existing betting office on main street with one at this location would result in an over concentration of such uses when one considers the overall size of the retail core and the length of the existing main street. Town centres should be facilitated in their offering of a range of services, as per the zoning objective, and it is not the role of planning to inhibit competition. Having regard to the pattern of development in the area I consider the proposed change of use from public house to betting office appropriate for the location and would not result in a proliferation of this type of use or result in a poor mix of retail provision in the town.

Shopfront Design

- 7.8. While not raised within the grounds of appeal, I have concerns in relation to the proposed shopfront design and signage.

- 7.9. The existing shopfront is of traditional wooden design, comprising a fascia board with painted lettering, pilasters, stallriser and plinth. The existing shopfront design, while at present in a poor condition, reflects the traditional character of shopfronts in Ballybofey.
- 7.10. As illustrated on the elevation plans, the applicant proposes to remove the frame of the existing shopfront and replace it with an aluminium sign at fascia level. The window is also to be replaced with a full height window and new glazed shop door. I consider the redesign of the shopfront and signage, if permitted as proposed, would be visually obtrusive, would detract from the streetscape at this prominent junction location and would be contrary to the requirements of policies BH-P-10 and TV-P-7, which requires proposals for shopfronts to respect traditional shopfronts in terms of scale, proportion, arrangements of fenestration, fascia treatment, colouring scheme, materials and finishes etc. The proposed removal of the basic design elements of this shopfront and replacement with an aluminium sign, affects not only the character of the public realm and attractiveness of the street, but also the character of the overall building.
- 7.11. In order to support and maintain the attractiveness and character of this town centre, it is my view that the basic framework elements of the shopfront, ie fascia board, pilasters, stallriser and plinth, should be either repaired or the key elements replaced to reflect the existing design and proportions, in particular the depth and overall height of the fascia and its width should be maintained. Signage comprising hand painted or individually mounted lettering in place of the proposed aluminium corporate sign should be applied to the wooden fascia panel. The use of an aluminium sign in place of the existing/replaced wooden fascia board is in my view inappropriate. Furthermore the side elevation to the laneway with proposed aluminium fascia signage (4 sqm) presents a poor elevation to this street. It is my view that a revised signage proposal for this elevation is required. The Board may consider it appropriate to create a traditional shopfront on this elevation, reflective of what exists on the other side of the street or alternatively, should the Board consider the imposition of signage is sufficient on this elevation, in my view signage should comprise the attachment of discrete individually marked letters onto the façade above the doorway at an appropriate scale. Should the Board be minded to grant permission, these issue could be addressed by way of condition.

Other Matters

- 7.12. Condition 10 of the permission issued by Donegal County Council requires the provision of a contribution of €4000 in respect of applying a final surfacing layer to the adjacent public road, from the 'arch' to Navenny Car Park along the side boundary of the premises. The reason for this condition is 'to defray costs of public infrastructure which shall facilitate the proposed development'. It is stated in the roads report on file that the final surfacing layer has not been added to the road and there are no funds to do this work at present. This 'special development charge' is separate to condition 8, development contribution condition, which is applied under Section 48 of the Planning and Development Act 2000 (as amended).
- 7.13. The development is for the change of use of part of the ground floor of a vacant building/previously a public house and I am not clear that the change of use of this existing building would result in such intensification of use as to result in the requirement for an upgrade of the adjoining public road and the application of a special development charge, beyond the requirements of the development contribution scheme. Should the Board be minded to grant permission, it may wish to consider the omission of this condition.

Appropriate Assessment

- 7.14. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, 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. It is recommended that permission is granted.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Donegal County Development Plan 2018-2024, the town centre zoning objective, the existing pattern of development in the area including the mix of uses prevalent on the main street, 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, 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, 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 proposed development shall be amended as follows:
 - (a) The shopfront design onto Donegal Road/Main Street shall be revised to comprise either the repair of the existing traditional wooden frame shopfront or its replacement with a traditional shopfront reflecting the design of the existing shopfront in terms of scale, proportion, fenestration, fascia treatment, materials, and finishes and shall incorporate the keys elements of fascia board, pilasters, stallriser and plinth.
 - (b) Signage on the Donegal Road elevation shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering.
 - (c) The side elevation onto the laneway shall be modified to incorporate a traditional shopfront frame or, alternatively, signage shall be limited to the area above the proposed door and shall comprise discrete hand-painted or individually mounted lettering directly positioned onto the plaster façade.

- (d) Shopfront signage shall be either Irish Language only or bilingual in nature with Irish first and more prominent than the other languages used.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual amenity.

- 3. The proposed shopfront shall be in accordance with the following requirements:-

- (a) Lighting, where required, shall be by means of concealed neon tubing or by rear illumination,

- (b) No awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,

- (c) External roller shutters shall not be erected and any internal shutter shall be only of the perforated type, coloured to match the shopfront colour,

- (d) No adhesive material shall be affixed to the windows or the shopfront,

- (e) No digital displays or similar illuminated streaming media shall be erected or displayed on the subject premises, structure or site.

Reason: In the interest of visual amenity.

- 4. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no additional advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

- 5. 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.

6. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 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.

7. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

8. 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.

Una O'Neill
Senior Planning Inspector

7th August 2018