



An  
Bord  
Pleanála

## Inspector's Report ABP-302274-18

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<b>Development</b>	Construct 2 storey building comprising retail and office use.
<b>Location</b>	Circular Road, Letterkenny, Co. Donegal.
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	1850254
<b>Applicant(s)</b>	Charles Ascot Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John Magee
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17 <sup>th</sup> December 2018
<b>Inspector</b>	Donal Donnelly

## 1.0 Site Location and Description

- 1.1. The appeal site is location on Circular Road to the west of Letterkenny town centre. Circular Road commences at Hospital Roundabout and continues west for approximately 1km to the Glengar Road Roundabout. There is hatching along the centre of the road for its entire length to facilitate right turning movements. Footpaths are present on both sides and the speed limit is 50 kph.
- 1.2. Circular Road performs a distributor function with development for the most part being set back from the road edge and accessed by side roads. Glencar Shopping Centre is situated approximately 150m east of the site on the northern side of Circular Road and the hospital is at the eastern end of the road.
- 1.3. The site situated at the western end of Circular Road on its southern side opposite Dr. McGinley Road. The stated area of the site is 0.1837 hectare and the frontage measures approximately 55m. The site is triangular shaped, reasonably level and overgrown. There are mature trees on side boundaries and adjoining residential uses to the east and west.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the following:
  - Construction of a 2-storey building comprising ground floor retail use (284 sq.m.) and 1<sup>st</sup> floor office use (303 sq.m.);
  - Relocation of an existing pedestrian crossing on Circular Road to allow for a new right hand turn lane into the site;
  - New car park (24 spaces) including retaining wall to north-east corner of site;
  - Ancillary site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Donegal County Council issued notification of decision to grant permission subject to 23 conditions.
- 3.1.2. Condition 2 states that the office uses shall be in accordance with the uses defined under Class 2 and 3 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended). Condition 3 states that the retail units shall provide for the sale of goods consistent with a local or neighbourhood centre, with opening hours of 08:30-20:00 Monday to Friday, 08:30-18:00 Saturday and 14:00-18:00 Sunday.

### **3.2. Planning Authority Reports**

- 3.2.1. The recommendation to grant permission in the final Planner's Report reflects the decision of the Planning Authority. The following are the main points raised under the assessment of the proposal:
- A number of serious traffic safety, policy and design concerns remain outstanding.
  - Following discussions with the Roads Engineer, an extension of time was granted and a revised site layout was provided for a refined scheme based on the findings of a submitted Stage 1/2 Road Safety Audit.
  - Following receipt of unsolicited further information and revised access arrangements and building design, it was considered that this constitutes significant further information and the applicant was requested to publicise/erect new planning notices.
- 3.2.2. A report from the Executive Engineer on the original proposal stated that the swept path proposals do not work and conflict with proposed parking and pedestrian crossing points. It was also recommended that the rearrangement on Circular Road requires a full geometric analysis and road safety audit. Furthermore, it is stated that the proposed car parking and delivery parking provision would not comply with the Development Plan.
- 3.2.3. The following points of note are included in the subsequent Planner's Report:

- Principle of small scale mixed use 'neighbourhood centre' serving the surrounding residential estates is acceptable and in accordance with land use zoning, similar localised facilities in the adjoining area and planning history.
- Overall floor area shall be reduced by 1m (1.13m above finished floor level of adjoining dwelling to the east) to maximise integration with sloping site and reduce extent of infilling/ retaining structures.
- Revised finished floor levels, 11m separation distance, retention of mature trees where possible and minimal high level 1<sup>st</sup> floor gable end windows will ensure there is no undue overlooking/ overshadowing.
- Road Safety Audit establishes that proposed development will not give rise to any traffic safety concerns. Delivery hours will be conditioned along with traffic management plan for construction.
- Car parking provision of 21 no. spaces and 9 no. bicycle spaces is considered acceptable taking account the dual mixed use nature of the proposal.
- Roads Department satisfied with revised entry/ exit arrangements and findings of Road Safety Audit.

### 3.3. **Third Party Observations**

3.3.1. Two third party observations were received.

## 4.0 **Planning History**

Donegal County Council Reg. Ref: 03/88060 (PL66.206969)

4.1. Permission granted in September 2004 for 8 no. apartments.

Donegal County Council Reg. Ref: 05/80004

4.2. Permission granted in November 2005 for 2 no. blocks with Block A consisting of 2 no. retail units and 2 no. apartments and Block B consisting of 1 no. retail unit and 3 no. apartments.

Donegal County Council Reg. Ref: L80114/06 (PL66.222653)

- 4.3. Permission refused for extension to previously permitted development (L80004/05) to include the addition of 3 no. apartments for reasons relating to the confined nature of the site and the relationship of the proposed development to adjacent residential properties.

## 5.0 Policy Context

### 5.1. County Donegal Development Plan, 2018-2014

- 5.1.1. The appeal site is zoned “*established development*” where the objective is “*to conserve and enhance the quality and character of the area, to protect residential amenity and allow for development appropriate to the sustainable growth of the settlement subject to all relevant material planning considerations, all the policies of this Plan, relevant National/ regional policy/guidance including environmental designations and subject to the proper planning and sustainable development of the area.*”
- 5.1.2. Part C, Chapter 12 of the Development Plan sets out objectives and policies for Letterkenny. Phase 1 residential growth areas are identified to the north-west of Glencar Shopping Centre.
- 5.1.3. Policy LK-ED-O-1 seeks “*to build and strengthen Letterkenny as a centre for economic growth across the sectors, in particular through the promotion of the existing business park and through consolidation of the town centre, including the prioritising of improvements to public realm.*”
- 5.1.4. Policy LK-R-P-2 relates to the location of retail development. It is stated that the Council will apply a sequential location test in assessing the suitability of all sites for retail development outside the Town Centre area.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. A third party appeal against the Council’s decision was lodged by the resident of No. 1 Glengar Park, which adjoins the appeal site to the east. The grounds of appeal are as follows:

- Finished floor levels of proposed development will be at the level of appellant's first floor ceilings, which would give rise to overlooking and overshadowing.
- Building will be 10m from appellant's gable wall.
- Unable to accept that higher level windows/ obscure glazing will avoid any possible overlooking. There will be at least two clear corner windows overlooking appellant's property.
- Proposed access is very close to appellant's front door and windows, resulting in noise and disruption from vehicle lights.
- There are five accesses on one side and three on the other side onto Circular Road along the short stretch from Glencar Road to Glencar Retail Park, as well as two pedestrian crossings – two additional access points will exacerbate a dangerous stretch of roadway.
- Development will entail removal of/ damage to mature trees and hedgerow bordering appellant's property – traffic related visibility and excavations would require removal of mature trees. These trees cannot be replaced.
- Area is already fully serviced with retail trades and services.
- Density of proposal is out of character with the area.

## 6.2. Applicant Response

6.2.1. The applicant's agent responded to the third party appeal with the following comments:

- Mature planting and trees are for the most part on the appellant's property.
- These trees provide privacy and prevent overlooking but at the same time already cause overshadowing of the dwelling.
- All 1<sup>st</sup> floor windows along the eastern elevation will have a cill height of 1.75m and will be fitted with obscure glass.
- Condition 4 requires reduction of finished floor level by 1m and this will further militate against overlooking and overshadowing.

- Experts in road safety have concluded in the Road Safety Audit that all traffic hazards have been adequately mitigated.
- There is a clear need for the proposed facilities at this location – existing Glencar Shopping Centre is fully let and any scope for additional units is curtailed by limit on available land and car parking.
- Further retail and service units are clearly needed within the locality to serve local residents.

### 6.3. Planning Authority Response

- 6.3.1. The Planning Authority commented that all matters raised in the third party appeal have been previously addressed in the Planner’s Reports.
- 6.3.2. It is reiterated that the statutory development plan is the County Donegal Development Plan 2018-2024, which includes the entire county including former town councils. It is also noted that work on the preparation of a draft Local Area Plan for Letterkenny has commenced with a target publication date of early 2019.

## 7.0 Assessment

7.1. I consider that the key issues in determining this appeal are as follows:

- Development principle;
- Suitability of location for proposed development;
- Access and parking;
- Impact on residential amenity; and
- Appropriate Assessment

### 7.2. Development Principle

- 7.2.1. The appeal site is zoned “*established development*” where the objective is “*to conserve and enhance the quality and character of the area, to protect residential amenity and allow for development appropriate to the sustainable growth of the settlement subject to all relevant material planning considerations, all the policies of*

*this Plan, relevant National/ regional policy/guidance including environmental designations and subject to the proper planning and sustainable development of the area.”*

- 7.2.2. The proposal for a mixed use retail and office development on a presently unused site would be acceptable in principle subject to an assessment of the impact of the proposal on residential amenity and other relevant Development Plan policies and objectives.

### **7.3. Suitability of location for the proposed development**

- 7.3.1. The proposed development comprises 3 no. retail units at ground level and 3 no. offices at 1<sup>st</sup> floor level within a 2-storey block designed to fit the triangular dimensions of the site. The block will have a flat roof contemporary design and the structure will be set back to continue the established building line to the east.
- 7.3.2. The appeal site is surrounded on all sides by residential development and the wider area is defined by outer lying suburban housing. I note, however, that Circular Road is mixed in character. There is an existing shopping centre approximately 150m east of the site and another standalone shop further east. The hospital is also situated at the eastern end of Circular Road. I would therefore have no objection to the proposal from a design perspective and consider that the building can successfully integrate with its surroundings.
- 7.3.3. With respect to the site location and intended usage, I would be satisfied that the proposed development is sufficiently close to the existing shopping centre to provide a complementary function. The Council has attached a condition to the permission which lists the type of occupiers that are considered appropriate for local or neighbourhood centres. In my opinion, these uses will serve the local community and will not adversely impact on the vitality and viability of the existing town centre. It should be noted that the site is more than 1km from Main Street in the town centre and the appeal site is within walking distance for a substantial local catchment. The site would also be located to serve an area zoned for primarily residential development located to the north.
- 7.3.4. The importance of local shops is recognised in the Development Plan, particularly for those less mobile and in peripheral housing estates where they may provide the only



readily accessible shopping facilities. It is also a policy of the Council (RS-P-70) to consider proposals for the provision of local scale neighbourhood shops within Layer 1 and 2A settlements, where such shops are clearly designed and located so as to serve distinct residential neighbourhoods, subject to compliance with all other relevant policies of this Plan.

- 7.3.5. It is stated in the Development Plan that *“employment generating development proposals will normally be expected to locate within suitably zoned areas for general employment and the town centre. This is to try and encourage a more sustainable use of land and in order to try and reduce the need for the car as the only means of transport...”*. The Planning Authority has attached a condition to the grant of permission requiring the office units to be used in accordance with the uses defined under Use Classes 2 & 3 of Schedule 2 of the Planning and Development Regulations 2001 (as amended). Such uses include financial and professional services (other than health or medical services), any other service (including use as a betting office), and use as an office other than the above uses. In my opinion, these uses are appropriate for a small scale local centre. I also consider that it is appropriate to attach a condition to any grant of permission stating that no amalgamation of units shall take place without a prior grant of permission.
- 7.3.6. Having regard to the small scale nature of the proposed retail and office units, and to the location of the site within reasonable proximity to an existing shopping centre and a local catchment, I would have no objection to the proposed uses at this location.

#### **7.4. Access and parking**

- 7.4.1. A Stage 1/2 Road Safety Audit of the original proposal was carried out and revised access arrangements were submitted to the Planning Authority as further information. These amendments result in a number of road safety improvements for pedestrians and delivery vehicles, e.g. raised table pedestrian crossings, dropped kerbs and tactile paving and crossing points, a footway route to the rear, and illustration of swept path for the largest vehicles likely to access the site.
- 7.4.2. Overall, I consider that the road safety proposals give rise to a safer environment for pedestrians and motorists. I would have some outstanding concerns, however, with respect to issues of pedestrian and cyclist access. There is an existing disused

gateway to the rear of the site that can provide easy access to Wolfe Tone Place and onto Glencar Park. It would appear that this potential route is being obstructed with the positioning of proposed staff car parking. I also note that there is potential for a pedestrian connection with Glencar Park from the north-eastern corner of the site at the location of the proposed bicycle parking. Should the Board be minded to grant permission for the proposed development, I consider that the applicant should be required to set out future potential pedestrian connections to the site prior to commencement of development.

- 7.4.3. Alternatively, the Board may consider it appropriate to seek future information in the form of a pedestrian access strategy for the site. As noted above, the site is within walking distance of Glencar Shopping Centre and it is therefore imperative that an attractive pedestrian environment is provided to encourage walking between these sites. It should be noted that there is already a pedestrian crossing on Circular Road at Glencar Shopping Centre, as well as the informal crossing point in front of the site.
- 7.4.4. In my opinion, bicycle parking should be located in closer proximity to the main access to the building and not in a concealed corner that also forms part of the roadway. I would therefore be of the opinion that the applicant should be required to relocate the proposed bicycle parking to a more convenient and visible location and to show a potential pedestrian connection to Glencar Park at the location of the relocated bike parking. These amendments and the pedestrian access to the rear may result in the loss of a number of car parking spaces.
- 7.4.5. The Development Plan car parking standards are to provide 1 car parking space per 20 sq.m. (shops/ retail food) and 25 sq.m. (shops/ retail non-food) of publically accessible floor area plus parking for delivery vehicles. For offices, the standard is 1 car parking space per 30 sq.m. for offices. The Development Plan cycle parking standard is a provision of two stands per retail unit minimum and one per 100 sq.m. of office space.
- 7.4.6. The net retail floor area is 274 sq.m. and with a 50/50 split between retail food/ retail non-food, this equates to a provision of 12 spaces. The office space requirement is 9.85 spaces, which is a total requirement of 22 no. car parking spaces. A total of 19 no. spaces are provided to the front of the proposed building and 3 no. staff parking spaces are proposed in the rear corner.

- 7.4.7. It is stated under Development Plan Policy T-P-13 that a reduced number of car parking spaces may be acceptable where, inter alia, the development would benefit from spare capacity available in nearby public car parks, car parks habitually open to public use or on on-street car parking, or where it is clear to the Planning Authority that one of the uses is daytime use and the other is evening use. In my view, there is potential for reduced car parking in this case having regard to the proximity of Glencar Shopping Centre and the potential for some dual usage of spaces having regard to the mixed use nature of the proposal.
- 7.4.8. In general, I consider that there is potential to improve the levels of pedestrian and cycle permeability and accessibility around the site and this would have the effect of reducing reliance on the private car and, therefore, associated car parking demand.

#### **7.5. Impact on residential amenity**

- 7.5.1. A third party appeal against the Council's decision has been lodged by the resident of No. 1 Glencar Park, which adjoins the appeal site to the north-east. The appellant is mainly concerned with the potential for the proposed building to give rise to overshadowing and overlooking impacts, together with noise and disturbance from vehicles.
- 7.5.2. The Planning Authority has attached a condition to its notification of decision requiring the finished floor levels to be reduced by 1m. The condition also requires the retaining wall proposed along the eastern boundary to be reduced to a height of 1m and for 1.8m high close board fencing to be erected along eastern and western site boundaries.
- 7.5.3. Overall, I would be in agreement that the proposed building will not give rise to any significant impacts on adjoining residential amenity. The structure will rise to a height of 7.3m and will continue the building line set by the property to the east. It should be noted that the footprint and site boundary will splay away from adjoining properties the this reduces any overbearing or overshadowing impacts. I would also be satisfied that high level windows on side elevations will not give rise to issues of overlooking of adjoining property.

7.5.4. There may be some disturbance arising from vehicles accessing site. However, Circular Road is heavily trafficked and I consider that additional vehicular movements will not be largely perceptible in this context.

## 7.6. **Appropriate Assessment**

7.6.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

## 8.0 **Recommendation**

8.1. It is considered that the proposed development should be granted for the reasons and considerations hereunder and subject to the conditions below.

## 9.0 **Reasons and Considerations**

Having regard to the “*established development*” zoning objective and the location of the site within a suburban location, together with the scale, layout and design of the proposed development, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. 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> day of June 2018, 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. Prior to commencement of development, the applicant shall submit revised plans and particulars to the Planning Authority for written agreement illustrating indicative future pedestrian linkages to the south and north-east of the site.

**Reason:** In the interests of pedestrian safety and permeability.

3. Prior to commencement of development, the applicant shall submit revised plans and particulars to the Planning Authority for written agreement illustrating cycle parking relocated in close proximity to the main entrance to the building.

**Reason:** In the interests of promoting sustainable transport modes.

4. Parking for the development shall be provided in accordance with a final detailed parking layout which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure a satisfactory parking layout in the interest of pedestrian and traffic safety and of visual amenity.

5. No amalgamation of office/ retail units or subdivision of any unit shall take place without a prior grant of planning permission.

**Reason:** To control the layout and scale of the development in the interest of protecting the vitality and viability of the town centre.

6. The proposed office units shall be used in accordance with the uses defined under Use Class 2 and Use Class 3 of Part 4 of Schedule of 2 of the Planning and Development Regulations, 2001 (as amended).

**Reason:** To allow for orderly development.

7. Prior to the occupation of each retail unit, the proposed tenant/occupier and the precise nature of each retail service, together with individual signage proposals, opening hours and delivery arrangements shall be confirmed to the Planning Authority in writing. The retail units shall provide for the sale of goods consistent with a local or neighbourhood centre and typically shall

comprise of newsagent, small supermarket/general grocery store, sub post office and other small shops of a local nature serving a small, localised catchment population.

**Reason:** To allow for orderly development.

8. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development and to reduce and regulate the extent of staff parking. Details to be agreed with the planning authority shall include the provision of shower and changing facilities associated with the policies set out in the strategy.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

9. The internal road network serving the proposed development, including turning areas, junctions, parking areas, footpaths, road markings, pedestrian crossing points, signage and kerbs shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

10. Prior to first commercial operation of the development herein permitted, a Stage 3 Safety Audit shall be undertaken and submitted to the Planning Authority for written agreement. All findings and recommendations of the Stage 3 Safety Audit shall be implemented in full in accordance with the requirements of, and to the written satisfaction of, the Planning Authority.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

11. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

12. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
  - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
  - (c) details of proposed street furniture, including bollards, lighting fixtures and seating;
  - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes;
  - (e) cross sections on an east to west axis showing finished floor levels and boundary treatments with adjoining property to the satisfaction of the Planning Authority.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

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

13. Prior to commencement of development, the developer shall submit and obtain the written agreement of the planning authority, to a plan containing details for the management of waste (and in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and in particular, recyclable materials, and for the on-going operation of these facilities.

**Reason:** To provide for the appropriate management of waste, and in particular, recyclable materials, in interest of protecting the environment.

14. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction

practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

15. All service cables associated with the proposed development shall be run underground within the site.

**Reason:** In the interests of orderly development and the visual amenities of the area.

16. 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.

17. 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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. Donal Donnelly  
Planning Inspector

19<sup>th</sup> December 2018