



An  
Bord  
Pleanála

## Inspector's Report ABP-302996-18

### Development

Continuation of use as a Private Members Club and Retention of Projecting Sign at The Loft Club

### Location

4 Fairgreen Street, Naas County Kildare

### Planning Authority

Kildare County Council

### Planning Authority Reg. Ref.

181051

### Applicant(s)

The Loft Club Ltd.

### Type of Application

Permission

### Planning Authority Decision

Grant

### Type of Appeal

First v Condition

### Appellant(s)

The Loft Club Ltd

### Date of Site Inspection

24<sup>th</sup> January 2018

### Inspector

Colin McBride

## **1.0 Site Location and Description**

- 1.1. The appeal site, which has a stated area of 0.0209 hectares, is located in Naas town centre. The appeal site is the first floor of a two-storey structure on the eastern side of Fairgreen Street (no. 4). The ground floor of the building is in use as an amusement arcade/gaming premises. Adjoining structures are also two-storey and consist of commercial uses.

## **2.0 Proposed Development**

- 2.1. Permission is sought for retention of for continued use as a private members club and retention of existing projecting sign. There are subject to retention is at first floor level and has a floor area of 103.56sqm. The projecting sign is is 700mm x 650mm (based on drawings submitted) in size and is an internally illuminated sign.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to seven conditions. Of note are the following conditions...

Condition no. 3:

The existing projecting sign shall be omitted from the development and shall be removed from the façade within one month of the date of the final grant of permission,

Reason: In the interests of visual amenity and to protect the character of the Naas Architectural Conservation Area.

Condition no. 4:

The opening hours shall be confined to the hours of 1200 – 2400, only.

Reason: In the interests of the amenities of the area.

Condition no. 5:

- (a) no awning, canopies, external grilles, roller shutters or projecting signs or other signs, shall be erected externally on the premises without prior planning permission;
- (b) Any roller shutters shall be restricted to internal types mounted behind the display and coloured to match the shop front, and of perforated design;
- (c) No advertising signs, structures nor devices of any kind including flags, shall be erected on the exterior of the building, nor projecting from it, nor located internally so as to be visible from the exterior, without in each case prior planning permission.
- (d) No additional material shall be affixed to the windows of the shop front.
- (e) No material or advertising signs of any kind shall be displayed on the public footpath or public road.

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

#### **3.2.1. Planning Reports**

Planning Report (22/10/18): The proposed development was considered to be satisfactory in the context of the proper planning and sustainable development of the area subject to the conditions outlined above.

#### **3.2.2. Other Technical Reports**

District Planning Report (14/09/18): No objection.

EHO (18/09/18) No objection subject to conditions.

Water Services (22/10/18) No objection.

### **3.3. Prescribed Bodies**

### **3.4. Third Party Observations**

Naas Tidy Towns

- The sign is not in keeping with the traditional look of the Main Street.

- The sign is illuminated and contrary Council policy.
- The sign is distracting for traffic users and is potential traffic hazard.

## **4.0 Planning History**

17/431: Permission granted for retention of change of use of ground floor retail unit to gaming/amusement arcade at no. 4 Fairgreen.

PL73.242747: Permission granted for change of use of ground floor retail unit to gaming arcade.

Appeal 08/500045: Permission granted for retention of change of use from offices to private members club at no. 4 Fairgreen.

01/500039: Permission granted for retention of new frontage and rear store and two garage doors at no. 4 Fairgreen.

## **5.0 Policy Context**

### **5.1. Development Plan**

The relevant Development Plan is the Naas Town Development Plan 2011-2017: The site is zoned Objective A Town Centre with a stated objective 'to provide for the development and improvement of appropriate town centre uses including retail, residential, commercial and civic uses'.

A private members club is not listed in the Land use Zoning Matrix. Under Section 14.3.2 in relation to Other Uses it is noted that proposed land uses not listed in the matrix will be considered on the merits of the individual planning application.

The site is located within the ACA and Zone of Archaeological Heritage outlined in Maps 11.2 and 11.3 of the Development Plan/

## **5.2. Natural Heritage Designations**

None in the vicinity.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A first party appeal has been lodged by the Loft Club Ltd. The grounds of appeal are as follows.

- The appeal is against the application of condition no's 3, 4 and 5.
- In relation to condition no. 3, it is noted the sign subject to retention is the only sign to advertise the club apart from the etching on the glass door. It is noted the business at ground floor level (Gold Rush) is separate and independent to the appellant's business. It is noted there are many other signs along the streetscape advertising businesses and services and that the sign is necessary for the appellant to advertise their business. It is noted the sign is not obtrusive or out of keeping with other signage through the town.
- In relation to condition no. 4, it is noted that the restrictive operating hours would put this operation out of business and staff out of work. It is noted that the business operates on the basis of hours from 8.00pm to 8.00am. It is noted that the business has operated here for significant period of time with no adverse impact on the amenities of area and no complaints from the local community and authorities.
- In relation to condition no. 5 it is noted that the appellant's do not have any issues with the restrictions in regards to awnings, canopies or roller shutters. It is however considered that the removal of their only signage would have a detrimental impact on their business.

## 6.2. Planning Authority Response

Response by Kildare County Council:

- In relation to condition no. 3 it is noted that the site is located in an ACA and that such is the reason for this condition. The condition is in the interest of visual amenity and also has regard to Council's Shop Front Guidelines (2013).
- In relation to Condition no. 4 it is noted the site is located within a town centre where there is a mix of uses including residential. It is noted that Board had previously attached a condition restricting the opening hours of the amusement arcade at ground floor level to the same hours under PL73.242747. The condition is considered reasonable to protect the amenities of the area.
- In regards to condition no. 5 such was imposed to protect the visual amenities of the town centre from unnecessary visual clutter and due to the site location within an ACA.

## 6.3 Further response by the applicant/appellant.

- The applicant is willing to enter into negotiations with the Planning Authority regarding an alternative sign that might be more acceptable. It is noted that the existing sign is the only opportunity to advertise the business and is need to attract new members.
- It is noted that changing the opening hours would have a detrimental impact to the existing business, which has operated since 2008. It is noted the hours imposed by Condition no. 4 would make the operation of the club unsustainable.
- It is noted that the applicant/appellant is happy to agree to the conditions regarding awnings, canopies or roller shutters.

## 7.0 Assessment

7.1 At the outset, I wish to point out that following consideration of the

documentation on the appeal file and the site location and context, I am satisfied consideration of the proposal on a de novo basis, (that is as if the application had been made to the Board in the first instance), is unwarranted and that it is appropriate to determine the appeal in accordance with the provisions of Section 139 of the Planning and Development Act, 2000 as amended. Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Condition no. 3

Condition no. 4

Condition no. 5

## 7.2 Condition no. 3:

7.2.1 Condition no. 3 requires removal of an existing internally illuminated projecting sign. The sign for retention is a projecting and illuminated sign with an animated sequence that plays in a loop. Although the sign is located in an area that is quite run down in appearance and has a varied degree of signage, the design and type of sign proposed would not be in keeping with objectives for the Main Street of Naas or a designated Architectural Conservation Area. To grant permission to retain the sign would set a bad precedent for other signage at this location when the objective is to raise standards rather than lower them. I would consider that that condition no. 3 requiring removal of the sign should be retained.

7.2.2 It is acknowledged that the sign is advertising an existing business and removal of such would leave little indication of the existing business. Notwithstanding such, there are clear issues regarding the design and quality of the design and the applicant/appellant has not submitted an amended proposal that has regard to such issues when the opportunity existed to do so. Retaining this condition and removing the sign does not preclude the applicant submitting a proposal for an alternative sign subject to planning permission in the future.

### 7.3 Condition no. 4:

7.3.1 Condition no. 4 restricts the opening hours of from 12:00 to 24:00. It is noted that the condition is on the basis of adjoining amenity with the site located in an area with a mix of uses including residential. The appellant note that the hours are too restrictive with current operation between 20:00 to 08:00. Having inspected the site the development is located in a town centre is located in an area that is very much commercial in nature with very little residential development in evidence. I would note that there is no residential development on adjoining sites. Having inspected other files concerning similar uses (PL28 .241009) I would note that operating hours varying from 21:00 to 06:00 have been permitted in similar circumstances). I would consider that given the commercial nature of the location and the fact that there is no significant third party objection regarding the nature of use, that the operating hours should be amended as per the hours indicated by the applicant/appellant.

### 7.4 Condition no. 5:

7.4.1 Condition no. 5 states that...

- (a) no awning, canopies, external grilles, roller shutters or projecting signs or other signs, shall be erected externally on the premises without prior planning permission;
- (b) Any roller shutters shall be restricted to internal types mounted behind the display and coloured to match the shop front, and of perforated design;
- (c) No advertising signs, structures nor devices of any kind including flags, shall be erected on the exterior of the building, nor projecting from it, nor located internally so as to be visible from the exterior, without in each case prior planning permission.
- (d) No additional material shall be affixed to the windows of the shop front.
- (e) No material or advertising signs of any kind shall be displayed on the public footpath or public road.

7.4.2 Given the prominent town centre location of the site and designation of the area as an ACA, I consider that this condition is appropriate to protect the visual amenities of



the area and promote a good standard of architectural character. The issues of the retention of the projecting illuminated sign has been dealt with under section 7.2 of this report. I would recommend that condition no. 5 be retained.

## **8.0 Recommendation**

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to RETAIN Condition no.s 3 and 5 and AMEND no. 4 as follows, and the reasons therefor.

Condition no. 4

The opening hours shall be confined to the hours of 20:00 – 08:00, only.

Reason: In the interests of the amenities of the area.

## **9.0 Reasons and Considerations**

a) Having regard to the design and scale of the projecting illuminated sign subject to retention, the proposed development would have an adverse visual impact and would constitute poor quality signage at a prominent town centre location and in an area designated as an Architectural Conservation Area. The proposed development would set an undesirable precedent for other such development and would, therefore, be contrary to the proper planning and sustainable development of the area.

(b) Having regard to the town centre location of the site and adjoining uses, which are all commercial in nature, it is considered that the amended opening hours as per the existing operation are appropriate and that the operation of the existing business would have no adverse impact on the amenities of adjoining properties.

(c) Having regard to the prominent town centre location of the site and the designation of the area as an Architectural Conservation Area, it is considered that condition no. 5 is appropriate to ensure maintenance of a good standard in terms of architectural character and would be in accordance with the proper planning and sustainable development of the area.

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Colin McBride  
Planning Inspector

21<sup>st</sup> February 2019