



An
Bord
Pleanála

Inspector's Report ABP 303857-18

Development	Sub-division of existing retail unit. Unit 1 to remain in retail use and unit 2 to be used as a bingo hall.
Location	The Retail Unit, Lidl Neighbourhood Centre, Ballyhooly Road, Ballyvolane, Arderrow, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	18/7173
Applicant	Sunbeam Bingo Limited
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellant	Neptune Basketball Club
Observer(s)	None
Date of Site Inspection	25/04/19
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.920 hectares, is accessed from Ballyhooly Road in Ballyvolane in the northern environs of Cork City. The centre consists of two retail units. Lidl supermarket occupies the larger of the two with the smaller unit, currently vacant, attached to its eastern side. There is surface parking to the front, side and rear side of the units. The site is lower than the lands to the north and east with a high embankment delineating the boundaries. The site access provides for left and right turning lanes onto Ballyhooly Road.

The immediate vicinity of the site is characterised by a mix of uses including commercial, retail and leisure facilities. There is a retail complex at the Fox and Hounds pub at the crossroads of Ballyhooly Road and Ballyvolane Road c.135 metres to the south with Ballyvolane Shopping centre anchored by Dunnes Stores c. 200 metres, also to the south. The commercial unit immediately to the south of the site operates as a truck parts outlet whilst the lands to the west and north are, as yet, undeveloped. There are houses to the east with mature housing opposite the site fronting onto Ballyhooly Road.

The crossroads to the south is signalised with a right turn lane facilitating traffic exiting the Ballyhooly Road onto the Ballyvolane Road. The road network was noted to be busy on day of inspection.

2.0 Proposed Development

The application was lodged with the planning authority on the 04/12/18 with unsolicited further information received 30/01/19.

The proposal entails the subdivision of an existing retail unit which has a stated floor area of 970 sqm. into two units; the 1st to have a floor area of 396 sq.m. and the 2nd to have a floor area of 540 sq.m. The proposal is also seeking permission for change of use of unit 2 which is to the rear of unit 1 to a bingo hall. Elevational alterations and signage are proposed.

The application is accompanied by a covering letter from TBP Planning and Development Consultants.

The proposed operating hours are:

Monday to Friday 6pm to 11.30pm

Saturday/Sunday 12pm to 11.30pm

Anticipated 110-140 patrons per evening

Access to the car park has been agreed with Lidl Ireland with 40 allocated spaces to the rear and side.

The unsolicited further information responds to the objection received by the planning authority.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 10 conditions including:

Condition 2: Bingo hall shall operate solely from 6pm to 11.30pm Monday to Friday and between 12pm and 11.30pm Saturday and Sunday.

Condition 3: Prior to occupation submission of management plan for the dispersal of customers at closing time.

Condition 4: Details of ventilation and extraction equipment including noises levels and any required noise insulation.

Condition 5: Prohibition of music or other amplified sound.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Assistant Planner considers that the proposed layout would retain the retail character of the overall building. The proposal is considered to be in accordance with the town centre zoning objective NE-T-01. Operating times are considered acceptable. To minimise the impact on adjoining residents a condition should be imposed requiring the applicant to submit a management plan which details how the amenities of residents will be protected during the dispersal of customers at closing times.

Conditions precluding music or other amplified sound and details of plant equipment recommended. No planning contributions payable due to the nature of the proposed

use change and the fact that no additional floor space is being created. A grant of permission subject to conditions recommended.

The Senior Executive Planner endorses the above assessment. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Area Engineer has no objection to the proposal subject to conditions.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions.

3.4. Third Party Observations

An objection to the proposal received by the planning authority is on file for the Board's information. The issues raised are comparable to those set out in the 3rd party appeal with issues relating to impact on adjoining residential amenities also detailed.

4.0 Planning History

16/5477 – permission granted for demolition of existing foodstore and disused retail unit and construction of new foodstore with a gross floor area of 2977 sq.m.

5.0 Policy Context

5.1. Development Plan

5.1.1. Cork County Development Plan

Objective ZU 3-8 (a) Promote the development of town centres and neighbourhood centres as the primary location for retail and other uses that provide goods or services principally to visiting members of the public. The primary retail areas will form the main focus and preferred location for new retail development, appropriate to the scale and function of each centre.

TCR 4-9: To support, promote and protect neighbourhood centres and large village centres which play an important role in local shopping for residents and provide a range of essential day to day services and facilities.

5.1.2. Cobh Municipal District Local Area Plan, 2017

The site is within an area zoned Town Centre/Neighbourhood Centre.

Ballyvolane has been identified for growth in the North Environs of Cork City with the site identified as part of a new district retail centre.

Objective NE-T-01 provide a district centre with provision for an appropriate range and scale of retail and commercial facilities to support the new population and taking into consideration the existing retail developments at Fox and Hounds, Dunnes Stores and Lidl. The site should also allow for the development of a health centre and community hall/facility for the new residents.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Coakley O'Neill on behalf of the 3rd party appellant against the planning authority's notification of decision to grant permission can be summarised as follows:

6.1.1. Impact on Retail

- Adopted policies as set out in the County Development Plan, Cobh Municipal District LAP and Metropolitan Cork Joint Retail Strategy highlight that the site, while zoned town centre, operates as a neighbourhood centre with its town centre zoning premised on the expansion of retail floorspace in conjunction with planned population growth within the Ballyvolane Urban Expansion Area.
- The proposal would undermine the vitality of a designated neighbourhood retail centre through the loss of retail floorspace and a significant change to its

established and intended retail function. This would be contrary to policy objective TCR 4-9 and ZU 3-8.

- The retail must be considered prime retail floorspace. There is an overall lack of retail floorspace in the area considering its town centre zoning and overall objective to increase same. The unit's current vacancy cannot be used as a justification for its occupation by a non-retail unit.
- The contention that the proposed bingo use meets the site's zoning objective through the provision of a community facility is misplaced and misleading. The proposed use is a commercial leisure use with a citywide catchment. It would be contrary to policy objective TCR 4-5. While providing for a recreational activity, akin to a cinema, it is not what would be considered a social and community use.
- The nature of the use would alter the neighbourhood centre's hours of activity from the daytime towards the evenings. In this respect it cannot be considered to enhance the centre's established retail character and function.
- The proposal would set an undesirable precedent for such uses within retail areas. File ref. PL28.229949 is considered relevant.

6.1.2. Amenities of Adjoining Area

- The proposal would result in negative impacts arising from hours of operation, noise, traffic and parking.
- The zoning objective requires that traffic impact assessments and road safety audits be prepared for new development proposals. These have not been submitted.
- The proposal will result in 140 customers accessing the bingo hall at any one time. Given the lack of vehicular set down and bus parking areas, coupled with the lack of a dedicated right turn on the public road and the entrance's close proximity to a busy road junction, a TIA and road safety audit are warranted. In their absence there is a lack of evidence that the proposal will not lead to traffic and parking hazards.
- The site is located at the edge of an urban area with poor public transport connectivity.

- Roadways in the immediate area are subject to significant traffic congestion particularly at peak times. This was referenced in the Board's refusal for a new district centre immediately to the south of the junction under ref PL04.244668.
- The proposed bingo use provides an entirely different context in terms of traffic generation and impact. Its peak times are related to the commencement and finishing of bingo games. Convenience retail shopping has a steady flow of customers throughout the day.
- The applicant's expected level of custom of between 110-140 patrons per evening is not the basis on which the proposal must be assessed. It should be focused on the full capacity of the venue and availability of parking and other measures to properly accommodate the capacity. A floorspace of 540 sq.m. would indicate a capacity far in excess of 140 patrons.
- While the planning authority through condition 3 seeks to control the dispersal of customers, it did not seek clarity on drop off /pick up and parking arrangements. No dedicated bus parking, turning areas or set down and pick up areas are provided. There is no scope to provide either on the road.
- The parking spaces identified in the drawings are not within the red line boundary of the subject site nor are they in the ownership of the applicant. The letter of consent makes no reference to the use of the car parking spaces. The use of the parking spaces within the centre cannot, therefore, be conditioned or enforced and thus there is no clarity as to how access and parking is going to be managed.

6.2. Applicant Response

The submission by TBP Planning and Development Consultants on behalf of the applicant states that the appellants have been competitors of the applicant and that the appeal is without substance. The Board is requested to consider its dismissal. The response submission can be summarised as follows:

6.2.1. Impact on Retail

- The site is a retail unit contained within a neighbourhood centre. It has various functions. Permission under ref. 06/5374 was granted for a combination of units which were both retail and commercial uses and/or professional/medical uses. The proposal is for a change of use for a proportion of an existing retail unit within the neighbourhood centre within an area which will become a town centre, as the areas and planned new population to the north of the appeal site develop.
- The application involves the splitting of the existing unit and change of use for only the rear section. The number of retail units remains the same. The prime front unit remains as retail. The smaller retail unit would be more marketable and would be more consistent with a typical neighbourhood unit scale.
- The proposal complements the Cobh Municipal District LAP as it suits both the objectives of the current neighbourhood centre and the proposed new town centre.
- Activity at this centre and centres like it is actively encouraged by the Council. It will bring vitality and activity to the centre in the evening.
- PL28.229949 is not comparable. The application was for a change of use of existing retail to a gaming/amusement arcade within a shopping centre. Amusement arcades/gaming hold different hours of operation compared to a commercial bingo hall.
- The anticipated operating admissions will be 140 customers per night.

6.2.2. Impact on Amenities of the Area

- The requirement for traffic impact assessment and road safety audits in objective NE-T-01 relate to new developments which the application is not. It is seeking a change as to how an existing space is used, the use of which including times of use and parking, have been adequately addressed in the application documentation. PL04.244668 is not comparable as it related to a new district centre.
- The applicant will generally be operating outside of peak traffic hours.

- The opening hours of the bingo hall only differ from the centre's current hours by 1 hour on a Sunday.
- A condition has been attached to address the issue of noise.
- No evidence has been put forward to support the claim of general nuisance. A bingo facility tends to attract responsible clientele in an older age cohort who are also members of the local community. A condition has been attached to address the dispersal of customers at the end of the bingo session.
- The applicant will not have a hire bus attending the venue.
- Traffic and parking were assessed under the original permission. The applicant is being allocated in the region of 40 of the existing car spaces to the rear of the site, aligning with the proposed entrance to the proposed bingo hall. More than adequate parking is provided. The allocated car spaces were clearly noted in the application drawings. Lidl agrees to the use of the spaces.

6.3. **Planning Authority Response**

None

6.4. **Observations**

None.

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Compatibility with Zoning and Policy Provisions
- Traffic and Parking
- Amenities of Adjoining Properties
- Other Issues

7.1. Compatibility with Zoning and Policy Provisions

As per the current Cobh Municipal District Local Area Plan, 2017 the site is within an area zoned town centre/neighbourhood centre. The proposal entails the subdivision of an existing vacant retail unit with a stated floor area of 970 sq.m. adjoining the existing Lidl supermarket. The front section of the unit is to be retained for retail purposes and is to have a floor area of 396 sq.m. with a change of use of the rear section to allow for a bingo hall with a floor area of 540 sq.m. Notwithstanding the said change of use the primacy of retail uses will continue within the centre both in visual terms and allocation of floorspace.

I note the LAP identifies the site as part of a proposed district centre to support the planned expansion of the Ballyvolane area with specific objective NE-T-01 seeking such a district centre to provide for an appropriate range and scale of retail and commercial facilities to support the new population, taking into consideration the existing retail developments at Fox and Hounds, Dunnes Stores and Lidl.

As per figure 3.4.4 in the LAP the site forms only a small section of the identified district centre lands with provision made for expansion to the north of the appeal site and to the east of the existing retail component at the Fox and Hounds. In my opinion the loss of retail floorspace as proposed in this instance would not have a detrimental impact on the relevant objective provisions and would provide for a mix of uses which would be synonymous with a district centre. In this context I note that district centres often provide for leisure facilities serving the catchment area. While no definition is given of a bingo hall in the Planning and Development Acts and Regulations it is noteworthy that Class 11 of Schedule 2, Part 4 – Exempted Development of the regulations groups a bingo hall with a theatre, cinema, concert hall and a skating rink or gym or other indoor sports or recreation not involving the use of motor vehicles or firearms. Such uses would not be uncommon in district centres. On this basis I consider that the proposed development would not hinder the realisation of the district centre objective, would add to the vibrancy and vitality of the neighbourhood centre as existing and would thus accord with the zoning provisions for the site. I also note that an amusement arcade is defined separately in the regulations as a premises used for the playing of gaming machines, video games or other amusement machines and by way of Article 4 is specifically excluded in terms of the exempted development provisions as set out in Schedule 2, Part 4.

The proposed bingo hall is not comparable to such as use and on this basis I submit that file ref. PL28.229949 as referenced by the agent for the appellant is not applicable.

7.2. Traffic and Parking

The unit is to be accessed via the existing entrance from Ballyhooly Road which provides for both left and right turning lanes exiting onto the road. Certainly, the road was noted to be well trafficked on day of inspection with a signalised crossroads in close proximity to the south. I note that the peak time for the proposed bingo hall would be in the evening and would not coincide with either the AM or PM peak times on the local road network.

The opening hours of the bingo hall are stated to be between 6.00pm and 11.30pm Monday to Friday and between 12pm to 11.30pm Saturday/Sunday. Whilst the Lidl supermarket has operating hours up to 10pm Monday to Saturday and up to 9pm Saturday/Sunday the peak operating hours of the two uses will generally not coincide. As noted above the peak time for the bingo hall would be in the evening with the main bingo session starting at 8pm.

In view of the floor area of the proposed unit, the vehicular movements that would arise as a consequence of the proposed development relative to that from the development as existing were it to be fully occupied (2 no. retail units) would not give rise to a material increase in vehicular movements. In addition, whilst not being provided by the applicant, it is not unusual for coaches/minibuses to be scheduled to transport patrons to such facilities. As such the potential for the full complement of clientele entering or exiting onto the adjoining road network by way of private car is low. On this basis I do not consider that a Traffic Impact Assessment is warranted. In addition I would concur with the agent for the applicant that the requirement for traffic impact assessment and road safety audits as set out in objective NE-T-01 of the LAP would more appropriately apply to new developments and not such a change of use. Therefore, I do not consider that the proposal for a district centre refused permission under file ref. PL04.244668 is comparable.

The existing centre in which only 1 of the 2 existing retail units is currently occupied is served by extensive surface parking to the front, side and rear equating to in the region of 180 spaces. Customers of Lidl largely avail of the parking to the front of

the unit and, as noted on day of inspection (Thursday 12.30pm), the areas to the side and rear were not being used. These are the spaces identified as being available to the bingo hall equating to in the region of 40 spaces. The Lidl unit with a gross floor space of 1749 sq.m. would, relative to the current County Development Plan standards as set out in Appendix D, require 87 spaces. Unit 1 to be retained as retail would require 20 spaces. No specific reference is made to bingo halls in the standards although requirements are stipulated for theatres, cinemas, recreational buildings and commercial leisure including amusement centres, play centres etc. No internal layout of the bingo hall has been provided and as such, the capacity of the unit is not entirely clear although the agent for the applicant submits that there would be an average of 140 customers per night. This is contested by the appellant which contends that the figure is significantly higher. I submit that the application of 1 space per 20 sq.m as applicable to retail floorspace and which is more onerous than the requirements for the above entertainment uses would provide for a robust approach. This would result in a parking requirement of 27. As noted above 40 spaces are to be allocated for the use. Any additional parking that may be required over and above these 40 spaces would be found within the overall site and would not result in on street parking or congestion on the surrounding network.

Provision for bus pick up and set down should be provided for within the site and can be required by way of condition should the Board be disposed to a favourable decision in this instance.

Whilst the red line delineating the site subject of the application does not include the said parking spaces they are included within the lands within the applicant's ownership (Lidl Ireland). A letter of consent from same accompanies the application and there is no suggestion that it is not aware of the proposed parking arrangements. Notwithstanding as per Section 34(13) of the Planning and Development Act 2000 as amended a person shall not be entitled solely by reason of a permission to carry out any development.

7.3. Amenities of Adjoining Property

The site is located within an area characterised by a mix of residential, commercial and retail uses dominated by a busy road network. The Ashgrove housing estate to the south is separated from the overall site by Ballyhooly Road. The nearest

residential properties are to the east accessed from Rathconney Road. I also note that the site is within an area which is planned as a district centre serving the planned expansion of the north city suburbs and, as such, it is anticipated that the character of the area will alter significantly into the future. I do not consider that the proposed change of use would have an adverse impact on the existing amenities of adjoining property. Any issues of noise and potential for nuisance from amplified sound can be addressed by way of condition.

7.4. Other Issues

Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment 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

Having regard to the foregoing I recommend that permission for the above described development be granted permission for the following reasons and considerations, subject to conditions.

9.0 Reasons and Considerations

Having regard to the mix of uses and pattern of development in the vicinity and to the nature and scale of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would not contravene materially the current town centre/neighbourhood centre zoning provisions for the site as set out in the current Cobh Municipal District Local Area Plan, would not seriously injure the amenities of the area or of property in the vicinity and would not give rise to a traffic hazard or to traffic congestion. 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 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. No change of use of the permitted bingo hall shall take place without a further grant of planning permission.

Reason: In the interest of orderly development and to protect the amenities of the area.

3. The hours of operation of the bingo club shall be between 1800 hours to 2300 hours on Monday-Friday, and 1200 to 2300 hours on Saturday/Sunday.

Reason: In the interest of the amenity of residential property in the vicinity.

4. Prior to the operation of the bingo hall a management plan for the dispersal of patrons at closing times shall be submitted to the planning authority for written agreement.

Reason: In the interest of orderly development and to protect the amenities of property in the vicinity.

5. Amplified music or other specific entertainment noise emissions from the bingo hall shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at

any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeqT.

Reason: In order to protect the amenities of property in the vicinity.

6. Details of signage for the proposed units shall be submitted to and agreed in writing with the planning authority prior to commencement of the proposed use.

Reason: In the interest of visual amenity.

7. All patrons arriving/leaving the permitted bingo hall by private bus transport shall enter and alight within the allocated parking area within the site. There shall be no loading or drop-off on the public road. A revised site plan with the proposed loading/drop-off point delineated thereon shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of public safety.

8. Water supply and drainage arrangements, including 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.

9. 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the proposed use. Thereafter, the waste shall be managed in accordance with the agreed

plan.

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

Pauline Fitzpatrick
Senior Planning Inspector

June, 2019