



An  
Bord  
Pleanála

## Inspector's Report ABP 303935-19

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<b>Development</b>	(1) Amalgamate two ground floor retail shops, (2) Change of use from retail to refreshment/leisure centre, (3) Signage, (4) Alterations to male/female WC, (5) New entrance/lobby, (6) New basement entrance/lift.
<b>Location</b>	The Q Club, The Mall, Main Street, County Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	18/1435
<b>Applicant(s)</b>	Jason Watson
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Jason Watson
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	7 <sup>th</sup> & 18 <sup>th</sup> May 2019
<b>Inspector</b>	Hugh Mannion

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## 1.0 Site Location and Description

- 1.1. The proposed development has a stated 226.77m<sup>2</sup> and comprises changes of use to two existing retail units (units 2 and 3) and their incorporation into an existing basement snooker hall/gaming business in an existing building at The Mall, Main Street, Wicklow, County Wicklow. The existing snooker hall/gaming premises is accessed through a street level lobby and stairs down to the basement. The basement comprises the snooker hall (about two thirds of the floor area) and an amusement machine area, reception, toilets and office accommodation (making up about the remaining third). To the east of the application site in units 4 and 5 of the building is a pizzeria and to the west units 2 and 3 (proposed for incorporation into the existing snooker/amusement machine use) are currently vacant as is unit 1 (not incorporated in the current application). The first floor is not part of the application and is in use as a yoga studio.
- 1.2. The area is within the retail core of Wicklow town as designated in the Town Development Plan. The area has a very fine grain reflective of a 19<sup>th</sup> century pattern of development with few recent interventions. The area is characterised smaller retail uses, grocery shops, barbers, butchers, pharmacy, a jewels shop, a wine shop and a number of coffee shops/restaurants.

## 2.0 Proposed Development

- 2.1. The proposed development comprises;
- 1) The amalgamation of two vacant ground floor shops,
  - 2) Change of use from retail (105.4m<sup>2</sup>) to refreshment/leisure to form part of Q Club (combined floor area of 436m<sup>2</sup>) with a coffee dock, internet portals, pool tables, non-gaming (amusement only machines),
  - 3) Erection of fascia signage,
  - 4) Single storey 6.22m<sup>2</sup> extension to the front of unit 3 to form a lobby,
  - 5) Internal alteration including male/female toilets
  - 6) New entrance to basement including a lift link between ground floor and basement

7) All associated works,

At the Q Club, the Mall, Main Street, Wicklow town, County Wicklow.

### **3.0 Planning Authority Decision**

#### **3.1. Decision – Refuse permission,**

Having regard to

- The lack of active street frontage in this amusement arcade/gaming premises,
- The nature and range of ground floor uses in the vicinity,
- The location of the proposed development in two retail units within the town's retail core
- The location within the Wicklow Town ACA

It is considered that the proposed development would not contribute to the enhancement of the core retail area or of the street, would contravene development objectives set out in the County Development Plan and in the Town Development Plan and would be contrary to the proper planning and sustainable development of the area.

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

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

The planner's report recommended refusal for the reason set out in the manager's order.

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

##### **3.2.3. Area Engineer reported no objection subject to agreeing surface water drainage details.**

## 4.0 Planning History

- 4.1. Permission was refused under PL27.243576 for change of use from retail to pizzeria at unit 3 The Mall because;

It is the policy of the planning authority according to objective MU4 of the Wicklow Town-Rathnew Development Plan 2013–2019 “to control and restrict, where necessary uses at ground/street level in order to prevent an excessive concentration of single outlet types/formats, (eg, bookmakers, off licences including off licences in convenience stores), charity shops, fast food takeaways, amusement centres and financial institutions” and, according to section 3.6.4, to safeguard the vitality and viability of the core shopping area of the town. Having regard to the nature and range of uses in the ground floor units in the area in which the development site is located, it is considered that the proposed development would not contribute to the enhancement of the vitality and viability of the core retail area in the immediate vicinity of the site, would contravene materially development objective MU4 of the said Development Plan, would set a precedent for further similar development in the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

- 4.2. Under reference 17/785 permission was granted for yoga studio use at ground and first floor of units 2 and 3 The Mall, Main Street.

## 5.0 Policy and Context

- 5.1. The Retail Planning Guidelines for Planning Authorities (DoECLG April 2012) is the relevant national guidance in relation to retail planning. The Guidelines establish several key retail policy objectives including;

- retail development must follow the settlement hierarchy set out in the NSS, regional planning guidelines and development plan core strategies,
- retail development must enhance the vitality and viability of town centres, respect the sequential approach to retail location choices,
- retail development must facilitate use of public transport infrastructure and deliver quality urban design outcomes.

## 5.2. Development Plan

- 5.3. The Wicklow County Development Plan 2016-2022 is the relevant county development plan for the area.
- 5.4. Table 6.1 in the county development plan sets out repeats the Retail Hierarchy for the greater Dublin Area which designates Dublin City as a level 1 metropolitan centre and designates Bray and Wicklow towns as 'Major Town Centre/County Town Centre' at level 2 in the hierarchy. Table 2 in the County Development Plan sets out the County Wicklow Retail Hierarchy and designates Wicklow as a County Town Centre.
- 5.5. Relevant objectives in relation to town centres are:
- 5.6. **Objective RT10** To vigorously protect and promote the vitality and viability of town centres. Development proposals not according with the fundamental objective to support the vitality and viability of town centre sites must demonstrate compliance with the 'sequential approach' before they can be approved. The 'sequential approach' shall be applied and assessed in accordance with the 'Retail Planning Guidelines, (DoECLG, 2012)'<sup>2</sup>. The Planning Authority will discourage new retail development if they would either by themselves or cumulatively in conjunction with other developments seriously damage the vitality and viability of existing retail centres within the County. In the application of the 'sequential approach' due regard shall be paid to RT11 below which prioritises the 'core retail area' for new retail development.
- 5.7. **Objective RT11** To promote developments which reinforce the role and function of the 'core retail area' as the prime shopping area of town centres. The 'core retail area' shall be promoted as the area of first priority for new retail development. In settlements where no 'core retail area' is defined, regard shall be paid to the designated 'town centre' area, the location of the traditional/historical centre and the location of other retail units. Where an application is made for a new development with street frontage either in the defined retail core of a larger settlement or on the 'main street' of a smaller town, retail or commercial use will normally be required at street level.

## 5.8. Retail – Uses

5.9. **Objective RT13** To promote the revitalisation of vacant / derelict properties / shop units. Where no viable retail use can be sustained, alternative uses will be assessed on their own merits against the requirements of the proper planning and sustainable development of the areas within which they are located. This objective will be used to ensure that all proposals for the reuse of existing retail floorspace can be evaluated against the proportion of overall vacancy and to reduce the possibility of dereliction.

**Objective RT14** To control the provision of non-retail uses at ground floor level in the principal shopping streets of centres, in order to protect the retail viability of centres and to maintain the visual character of streets. This objective aims to prevent the proliferation of ‘dead frontages’ on key streets. In particular, active use of corner sites, particularly within larger centres, is considered pivotal in creating a sense of vibrancy.

**Objective RT15** To promote the ‘active’ use of above ground floor levels, and in particular to promote the concept of ‘living over the shop’ in centres. Where a ‘living over the shop’ use is proposed, a relaxation in density, car parking and open space standards will be considered, where the development meets very high quality of design and accommodation.

**Objective RT16** To promote an appropriate mix and balance of different types and styles of retail within centres and to control the number of bookmakers, off-licences (including off-licences in convenience stores), takeaways, ‘cash for gold’ and ‘Pound’ type shops, and other uses that can adversely affect the character of a centre. The mix and balance of different type of retail (including retail services) is important to attract people to centres, and to ensure centres remain the main meeting point for the community. Too many of certain types of outlet can destroy the balance of a centre.

## 5.10. Retail - Design

**Objective RT RT19** To promote quality design in all retail development, in accordance with the design principles set out in the Retail Planning Guidelines 2012 and companion document ‘Retail Design Manual’ (DoAHG, 2012), including the guidance set out in the ‘Development and Design Standards’ appended to this plan.

**Objective RT RT20** To give positive consideration to the re-configuration of existing retail provision in Levels 2 and 3, to accommodate the demands of modern retailing.

**Objective RT RT21** In certain circumstances, the Planning Authority may allow for a relaxation in certain development standards within centres, in the interest of achieving the best development possible, both visually and functionally.

**Objective RT RT22** To promote quality design and materials in the development of shopfronts.

5.11. **Wicklow Town/Rathnew Development Plan 2013-2019** is the relevant local area plan for the area. The site is located in the Core Retail Area illustrated on Map number 10.2. The retail strategy for Wicklow Town is

1. To promote and encourage enhancement and expansion of retail floorspace and town centre activities in Wicklow to enhance its role and importance as a County Town Centre in the GDA;
2. To strictly control the growth of convenience floorspace to that set out in this strategy;
3. To direct new retail development in the first instance into the town centre and in particular to derelict or under-utilised sites;
4. Only when town centre sites have been discounted shall significant retail provision be considered at edge of centre locations. In this regard, priority will be given to the development of the Marlton Action Area;
5. In the event of the delivery of the Lusra Teoranta retail warehousing development within the strategy period, no further significant retail warehousing permission will be granted other than (i) conversion of non-retail premises in the core area to retail warehousing use, (ii) renovation and expansion of existing retail warehouse premises in the core retail area, (iii) redevelopment of derelict or brownfield sites in the core and (iv) replacement of existing facilities within the town;
6. To develop the retail role of Rathnew at a 'local centre' scale, commensurate with its local catchment and its development as an employment and education hub (having regard to its role vis-à-vis Clermont Campus);
7. To allow for the development of small number of neighbourhood centres in the major growth areas of the settlement.



5.12. The retail core is an Architectural Conservation Area as designated in Chapter 11 of the Town Development Plan.

### 5.13. **Natural Heritage Designations**

Not applicable.

### 5.14. **Environmental Impact Assessment Screening**

5.15. Having regard to nature of the development comprising extension to and alteration of an existing retail use in the town centre where public piped services are available there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 **The Appeal**

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

- 1) The current application addresses the refusal reasons set out in reference 18/257 for change of use in three ground floor units. The uses being proposed (with a coffee dock, internet portals, pool tables, non-gaming (amusement only machines) are appropriate in this area of the town centre which has seen a decline in traditional retail uses for 40 years.
- 2) The application refers to non-gaming/amusement only machines. The Gaming and Lotteries Act 1956 and the Board in PL09.110283 also distinguishes between gaming for prizes and gaming for amusement.
- 3) The planning authority incorrectly did not distinguish between gaming and non-gaming machines.
- 4) There is a presumption in favour of this type of application in the zoning provision for the area set out in the Town Development Plan.
- 5) The main problem in this part of the town centre is vacant business premises – not the proposed use.

6) The County Development Plan and the Town Development Plan seeks to revitalise town centres – the present application would contribute to this objective.

7) The site is outside the ‘active town centre’ illustrated on Map 4.1 in the Wicklow/Rathnew Plan 2013.

## 6.2. Planning Authority Response

- No comments.

## 6.3. Observations

- No observations

## 6.4. Further Responses

None

## 7.0 Assessment

7.1. The main planning issues in this case are retail policy and visual impact.

### 7.2. Retail Policy

7.3. The Regional Planning Guidelines for the Greater Dublin Area 2016-2022 adopted the retail hierarchy originally set out in the Retail Strategy for the Greater Dublin Area 2008-2016 by including Wicklow in the level 2 category, after Dublin city, of “Major Town Centre/County Town Centre”. The County Development Plan’s primary objective in relation to Wicklow town is to protect and promote the vitality and viability of the town centres and reinforce the role and function of the ‘retail core area’. The plan (objective RT11) further clarifies that a retail or commercial use will normally be required at street level. The site is located in the retail core as mapped in the Wicklow Town/Rathnew Development Plan 2013-2019. The Town Plan requires that ‘active uses’ will be required at ground floor and that certain uses (eg, bookmakers, off licences including off licences in convenience stores), charity shops, fast food takeaways, amusement centres and financial institutions can destroy the appropriate balance in town centres. But the objective of development management in this area is

attract people to the town core and maintain the town core as a meeting point for the community.

- 7.4. The subject building is a two storey six bay building at the eastern end of the town's retail core. The two most eastern units, units 4 and 5, of the building are occupied by an 'Apache' pizza company pizzeria. There is then an entrance from Main Street which allows stairway access to the existing basement level gaming business – The Q Club and upstairs at first floor to a yoga studio. Unit 3 was a nail bar but is currently vacant, unit 2 was an image design business but is vacant and unit 1 is also vacant but was a 'Paddy Power's' betting shop. Immediately to the east is an Indian restaurant, a Jack & Jill charity office, a politician's constituency office, four or five residential uses, a hair salon and a citizen's information office. Thereafter is Salt House Lane which links to the dockland's area on the Leitrim River.
- 7.5. Immediately west of the application site is a butcher's, an antique/gift shop, a small hardware shop which may/may not be open, a closed barber's shop, a vacant shop, a butcher, hairdressers, coffee shop and small supermarket. On the other side of Main Street and starting at Coates Lane from the east are; a Chinese restaurant, a sports shop, a pizza takeaway, a post office, a computer repair shop, a barbers, charity shop, a vacant premises, a vacant hotel, two kore vacant commercial uses, a fruit/veg shop, a Chinese acupuncture business, a Polish grocery shop, an Italian seated restaurant, a gift shop, barber's shop and flower shop. I conclude from this short survey that the vacant premises in Main Street are concentrated to the east of the application site on the edge of the retail core.
- 7.6. A primary consideration is if the proposed development comprises an active use at ground floor. The application provides for recreational uses at ground floor; these would basically replicate the activity at basement level – pool tables and amusement machines and additionally a coffee station and internet terminals/hot desk are proposed. The reason set out in the Town Development Plan for preferring active uses is to attract footfall to the retail core and maintain the town core as a meeting point. The applicant's cover letter accompanying the application makes the point that the nature (particularly on-line shopping) of town centre shopping is changing and it might be added that the scale of shopping outlets is changing with a customer preference for larger floor plates. If the objective is to create footfall in the retail core then those who play pool/game on line/drink coffee and use amusement machines

serve approximately the same function as customers of more conventional retail uses. The planning history and use history of this building evidences a certain difficulty in finding sustainable long term uses and I conclude that it is better to have a use that is not conventional retail rather than another vacant premise on the eastern edge of the retail core of the town.

**7.7. Architectural Conservation Area and Shopfront Design.**

7.8. The retail core is also an Architectural Conservation Area as designated in Chapter 11 of the Town Development Plan. The Development Plan describes the buildings in the ACA as having been constructed in the period 1750 to 1900 on plots which may date to the medieval period. The plan makes the point that the preservation of the character of the Town Centre ACA is essential to safeguarding the identity of the town and maintaining continuity with its development history. The collection of buildings and spaces within the ACA represent a unique aspect of Wicklow Town's built heritage and contribute to its attractiveness. I am unable to confirm the age of the building; the front façade appears relatively recent, but the roof pitch and local place map appear to date it to the 19<sup>th</sup> century. In any case it is not a protected structure nor is it listed in the NIAH.

7.9. It is an objective (Objective RT RT22) set out in the County Development Plan to promote quality design and materials in the development of shopfronts and to have regard to the design principles set out in the Retail Planning Guidelines 2012 and companion document 'Retail Design Manual' (DoAHG, 2012). The Retail Design Manual, *inter alia*, makes the points that new retail uses should contribute to the vitality and attractiveness of the urban streetscape and contribute to the activity within the street at different times of the day and days of the weeks. The proposed use has the advantage of attracting customers outside the conventional shopping hours and thereby contribute to a longer active day in the area.

7.10. The County Development Plan<sup>1</sup> sets out general development standards for retail development. The shopfront should reflect the age, style and character of the building, modernist or traditional treatments should depend on the building and adjoining premises. The fascia should advertise the name of the shop and visually support the upper storeys. Signage should be limited to the fascia, lettering should

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<sup>1</sup> Appendix 1 Section 5 page 36

be appropriately sized and illumination is generally unnecessary or where businesses are opening in the evening modest levels of discrete lighting may be acceptable. External shutters will not be permitted.

- 7.11. In relation to the visual impact of the change of use two considerations arise; the proposal to provide a lobby and fenestration/shutters.
- 7.12. Units 1 (partially), 2 and 3 are set back from the inner edge of the footpath<sup>2</sup> creating an overhang of the first floor while the pizzeria in units 4 and 5 is flush with the upper storey. The application includes the incorporation of the area under the overhang into unit number 3 to accommodate an entrance lobby. The resultant arrangement in so far as it meets the footpath would reflect the pizzeria use, the main entrance to the Q Club and the former Paddy Power's premises. The application form states that the applicant is the owner of this space. The footpath would remain about 2.7m wide at this point.
- 7.13. The new shopfront (see especially drawing number 1809/PP/300) is relatively conventional but this is largely determined by the existing façade structure. There is a mix of more traditional and modern shop fronts in the immediate vicinity and the proposed size and shape of the new shop front generally reflects the existing arrangement. The proposed "Q Club" signage is more in keeping with the Development Plan advice than the existing signage on the building. I recommend a condition which omits shutters and material adhering to the inside of the window in order to maintain an active visual engagement with the street and that the exact size, materials and lighting of the new shop front and signage be agreed in writing with the planning authority.
- 7.14. **Lift Shaft.**
- 7.15. Access to the basement is currently via a stair. The proposed development includes a lift which is would accommodate mobility impaired persons. The building is not a protected structure nor it is listed in the National Inventory of Architectural Heritage for Wicklow town and therefore some loss of building fabric may be justified in pursuit of a more sustainable use.

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<sup>2</sup> McAulay Rice Architects drawing -Existing ground floor Plan correctly represents this.

7.16. In so far as the lift would facilitate the proposed use and would not detract from the architectural heritage of the town I consider this aspect of the application to be acceptable.

7.17. **Other codes.**

7.18. I note the points raised in the appeal concerning the gaming and lotteries legislation. Having regard to the advice set out in paragraph 7.8 of the Development Management Guidelines for Planning Authorities (DOEHLG 2007) concerning applicants' separate responsibilities under different legislative codes I advise that the main landuse planning issues in this case are as set out above.

7.19. **Appropriate Assessment**

7.20. Having regard to the very modest scale of the proposed development and the foreseeable emissions therefrom 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. I recommend a grant of permission.

## 9.0 **Reasons and Considerations**

Having regard to the location of the proposed development in the retail core of Wicklow town as established in the Wicklow Town/Rathnew Development Plan 2013-2019, to the pattern of commercial development in the area and subject to the conditions set out below it is considered that the proposed development would not detract from the vitality and viability of the town centre or from the visual amenity of the area, accord with the policies and objectives in relation to retail development set out in the Wicklow County Development Plan 2016-2022 and the Wicklow/Rathnew Town Development Plan and with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed shopfront shall be in accordance with the following requirements: -</p> <p>(a) The existing 'Casino' sign shall be removed from the premises. New signs shall be restricted to two single fascia signs comprising either hand-painted lettering or individually mounted lettering,</p> <p>(b) lighting shall be by means of concealed neon tubing or by rear illumination,</p> <p>(c) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,</p> <p>(d) no external roller shutter shall not be erected on the premises and any internal shutter shall be only of the perforated type, coloured to match the shopfront colour.</p> <p>(e) no adhesive material shall be affixed to the windows or the shopfront.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>Water supply and drainage arrangements including the disposal of surface water shall comply with the requirements of the planning authority for such services and works.</p>

	Reason: In the interest of public health.
4.	<p>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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 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.</p>

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Hugh Mannion  
Senior Planning Inspector

20<sup>th</sup> May 2019