



An
Bord
Pleanála

Inspector's Report

ABP-306432-20

Development	Change of use of ground floor office to an amusement arcade.
Location	31-33 Lower Main Street, Letterkenny, Letterkenny PO, Co. Donegal.
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	1951690
Applicant(s)	Connor Carey.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Connor Carey.
Observer(s)	Gerard Convie
Date of Site Inspection	12/03/20
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The appeal site is located at the southern corner of Fortwell Close and Lower Main Street. The building comprises a three-storey property with a commercial office use at ground floor and two floors of residential above.
- 1.2. The office space is accessed directly from the public footpath at the corner of Lower Main Street and Fortwell Close and there is a separate residential entrance from Fortwell Close directly opposite McGinley's Bar. On-street carparking is provided for along both sides of Lower Main Street and prohibited along Fortwell Close which is predominantly a residential street.
- 1.3. Development within the Lower Main Street is characterised by two and three storey buildings comprising commercial operations at ground floor with residential above.

2.0 Proposed Development

- 2.1. It is proposed to change the use of the existing ground floor office (195.2sqm) to an amusement arcade along with external fascia signage.

3.0 Planning Authority Decision

3.1. Decision

Donegal County Council determined to refuse permission for the following reasons:

1. The subject site is located on lands zoned Town Centre within the settlement of Letterkenny in the County Development Plan 2018-2024 (Part C Objectives and Policies for the Towns Chapter 12 refers). The objective of this zoning is 'to sustain and strengthen the core of Letterkenny as a centre of commercial, retail, cultural and community life'. Accordingly, the proposed development is guided by policy LK-TC-P-1 of the said Plan which state, inter alia, that: "all development proposals shall demonstrate overall compliance with the town centre strategy ...and proposals, which the Planning Authority consider would conflict with, or hinder the achievement of this strategy will not be permitted. Furthermore, Town Centre policies LK-TC-P-1, 3, 6, 8 & 9 which are all of particular relevance to the proposed development cumulatively seek to ensure

that all developments: (i) comply with the Town Centre Strategy, (ii) that new developments/ change of use within the traditional town centre do not detract from the objective of creating a vibrant and mixed use town centre and are reflective of the individual development's / buildings location within the town centre, (iii) protect and enhance the town centre streetscape, to help enrich the public realm, (iv) provide traditional shop fronts / historic streetscape, (v) reinforce the traditional town centre as the heart of the town and increase vibrancy and improved environment, (vi) preserve and enhance the traditional town centre creating a high quality sustainable vibrant town centre, (vii) promote an attractive town centre atmosphere and encourage additional trade / business to the traditional town centre / historic streetscape and (viii) ensure the appropriate design management of the town centre streetscape. It is considered that the proposed development, is fundamentally at odds with the overall thrust and vision of the abovementioned Town Centre Strategy specifically, failing to adhere to above mentioned policies LK-TC-P-1, 3, 6, 8 & 9 and would undoubtedly hinder the achievement of the Town Centre Strategy including inter alia: negatively impacting upon rather than reinforcing /improving this individual buildings location within the wider town centre / historic heart of the town, detracting from the achievement of a vibrant town centre and failing to improve / enrich the streetscape / public realm of this area of Lower Main Street. It is further considered that the proposed use would represent a use which rather than assisting in sustaining and strengthening the commercial / business core of the town would fail to contribute to the promotion of an attractive town centre which or encourage additional trade / business into a high quality sustainable vibrant town centre and is incompatible with the creation of a high quality town centre environment. It is therefore considered to permit the proposed development would contravene the aforementioned Town Centre Strategy, policies LK-TC-P-1, 3, 6, 8 & 9 of the Donegal County Development Plan 2018-2024 and would thereby be contrary to the proper planning and sustainable development of the area.

2. The proposed development constitutes a type of development which would by itself and by the undesirable precedent it would create is permitted for further

similar developments which would be contrary to the orderly and sustainable development of the traditional and historic town centre of Letterkenny.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planners report is consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

- Roads Dept – No parking / service vehicle provision, department queries whether on street carparking will be utilised.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

One third party submission was received and stated that the proposed development was invalid and does not comply with the town centre policies and objectives.

4.0 Planning History

There is no recently recorded history that is of relevance to the proposed change of use. Previous planning permission relate to the development of the proposed building on site.

5.0 Policy Context

5.1. Development Plan

Donegal Development Plan 2018-2024

The development site is located within an area zoned Town Centre which seeks to sustain and strengthen the core of Letterkenny as a centre of commercial, retail, cultural and community life.

Letterkenny is identified as a Layer 1 Growth town whereby 30% population of the population increase is to be directed

- CS-O-11: To support economic growth throughout the county through:
 - (c) The establishment of Letterkenny as a centre for economic growth across the sectors, in particular through the promotion of the existing business park, consolidation of the town centre including the prioritising of improvements to public realm, the delivery of key road and access infrastructure, through a proactive approach to enable the delivery of key regeneration sites..
- Chapter 12 – Letterkenny - Areas within the Town Centre

Traditional Town Centre: This covers an extensive area North and South of the Main Street and the Upper Port Road. It continues to act as the commercial core of the town and displays a vitality and diversity of functions not apparent in other areas of the town. The strong links between the arts, entertainment, traditional town services, (e.g. banking, legal) and independent retailing remain core strengths of this area. The quality of the built environment of the commercial core also contributes significantly to the shopping and visitor experience of the town. It is imperative that the vitality and vibrancy of the Commercial Core is maintained and expanded.
- Development trends

Increasingly the traditional town centre is dominated by; lower order retail units, banks, pubs restaurants and other general services, and struggles to attract and retain higher order retail outlets.
- Section 12.3 Town Centre Strategy
- Developing a mixed-use town centre by requiring that all new developments provide for a diversity of town centre uses including Retail, Services, and Residential Development.
- Facilitating the relocation of lower order activities and certain retail activities (e.g. light manufacturing, wholesale, vehicle retailing) to other areas of the Plan by restricting the future location and/or expansion of such uses within the town centre.

- Policy LK-TC-P-3: Mixed Use Development Policy in the area identified as the Traditional Town Centre New Developments, the redevelopment or the change of use of existing buildings or parts of same, in the traditional town centre shall demonstrate that the proposed usage shall not detract from the objective of creating a vibrant and mixed use town centre. In addition such uses shall be reflective of the development's/building's location within the town centre. Larger scale developments shall provide for a range of unit sizes capable of accommodating a diversity of types of retail, service and residential accommodation. This policy shall not apply to the development of buildings for a cultural, community or educational use.
- Policy LK-TC-P-8: Traditional Town Centre It is the policy of the Council to reinforce the traditional town centre as the heart of the town, to increase its vibrancy and improve its environment (Map 12.2: 'Town Centre Strategy' contained in this part of the Plan, refers).
- LK-TC-P-7: Shop fronts along the 'Town Centre Streetscape' It is the policy of the Council to: (a) Ensure the retention of traditional street-fronts as appropriate. (b) Only approve alterations to existing traditional shop fronts if the proposal is an improvement on what exists. Particular care will be taken over proposals for the installation of blinds, canopies, security grilles and shutters to avoid harm to the visual amenity of the shopping streets, if acceptable in principle they must be designed as an integral part of the shop front design.
 - (c) Avoid pastiche shop fronts and facades.
 - (d) Encourage contemporary design resolution where appropriate avoiding cautious pastiche, considering security lighting and shutters, additional security measures as necessary, signage and advertisements.

Shop fronts form the core of the Main Street providing for a vibrant and active shopping experience. Care is to be taken in the specification detailing of shop fronts, whereby high

5.2. **Natural Heritage Designations**

Lough Swilly SAC and SPA are located c. 1.5km east of the development site.

5.3. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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**

The grounds of appeal have been prepared by Harley Newman Planning Consultants on behalf of the applicant. The issues raised can be summarised as follows:

- The site is located in the commercial core of the town.
- Council provides no detail as to how the development precisely would be at odds with the Town Centre Strategy.
- Reason for refusal is contrary to Section 7.15 of the Development Management guidelines in that it has not clearly shown that the specific policies and objectives would be breached in any specific way.
- Previous decisions by ABP for similar development state that the town centre is suitable to this type of use. A refusal of this permission cited the location of the development removed from the town centre as not appropriate.
- Existing uses at in the vicinity of the appeal site would complement the proposed use.
- Proposal would increase footfall in this part of the Main Street and would therefore increase the vibrancy of the town at this location.

- An additional ABP decision is cited for a similar use in Middleton Cork (ABP 301616-18) whereby the proposed use was in the town centre and which was considered to be an acceptable location for such a use.
- There is no policy within the Development Plan which prohibits gaming.
- There are three book makers and no amusement arcades along the Main Street.
- The use proposed would be restricted to adults only.
- The use would be most intense in evenings.
- The proposal will ensure that the appeal site will not become vacant.
- The limited size of the use means that the use would not dominate the town.
- As the use of the arcade will be mostly in the evenings it is considered that on-street car parking will suffice.

6.2. Planning Authority Response

Donegal County Council responded to the grounds of appeal and reiterated the reason for refusal.

6.3. Observations

One observation was submitted by Gerard Covine. The issues raised are outlined within the submission to the planning application above.

7.0 Assessment

- 7.1. The proposed development is located in an area zoned town centre within the Main street of Letterkenny and proposes to change the use of the existing ground floor from an office to an amusement arcade. The stated objective for the town centre is to sustain and strengthen the core of Letterkenny as a centre of commercial, retail, cultural and community life. The Development Plan for the area does not include a list of specific uses that are permitted, not permitted or open for consideration. Notwithstanding the lack of such guidance under the plan, I would consider that the

nature of the use proposed is appropriate within the town centre zoning having regard to its commercial nature.

- 7.2. The reason for refusal relates to the impact of the proposed use on the realisation of the town centre strategy. It is stated within the reason for refusal that the proposed development would fundamentally be at odds with the overall thrust and vision of the Town Centre Strategy and would negatively impact upon the building's location within the wider town centre. It is further stated that the proposed use would detract from the achievement of a vibrant town centre and would fail to enrich the streetscape at this location. In addition, the Council considered that the proposed use would not encourage additional trade and is incompatible with the creation of a high-quality town centre environment.
- 7.3. The applicant contends that the Council within the reason for refusal has failed to specify the particular reason for which the proposed development would impact the realisation of the Town Strategy and argues that the proposal will maintain an active street frontage, will prevent the unit from becoming vacant and will complement existing uses in the vicinity.
- 7.4. Having regard to the zoning of the area and the location of the site, I consider that a town centre location is the most appropriate location for the proposed use. As mentioned above the Donegal County Development Plan does not preclude specific uses from the town centre, in regards to the nature of use, the proposal is for a business operation which must be viewed on its merits and not precluded on the basis that it is considered by some to be an undesirable use. I would consider that the nature of use would be a concern in the context of a proliferation of such uses within a town centre location. In this regard I would not consider this to be the case and would note that the principle of the use is acceptable at this location subject to the proposal being satisfactory in regard to the amenities of adjoining properties, visual amenity and traffic safety.

Traffic

- 7.5. It is proposed to convert c. 195 sqm to an amusement arcade. The floor area will contain a relatively small open plan area with the remainder subdivided into 2 no. offices, meeting room, canteen, toilets and print room. Parking standards are not specified for this particular use within the Donegal County Development Plan,

however standards for similar uses can be applied. As mentioned above there is significant supply of on-street parking which businesses along the main street utilise for customers.

- 7.6. I note that the applicant seeks to avail of this parking arrangement and states that the proposed arcade will be utilised mostly in the evenings and will not conflict with daytime uses along the street.
- 7.7. Given the highly accessible location of this use within Letterkenny town centre I consider that the existing parking arrangements available within the vicinity of the proposed use to be sufficient to cater for the proposal. It is of note that a number of public houses are present along this street and also avail of on-street parking. Given the nature of the use there will undoubtedly be an overlap of customers to existing establishments in the area.

Visual Amenity

- 7.8. No changes are proposed to the exterior of the building with the exception of fascia signage. No specific details of sign have been submitted with either the planning application or the appeal. I am satisfied that such details can be adequately addressed by way of condition should the Board be minded to approve the proposal.

Residential Amenity

- 7.9. As mentioned above the site is located within the Lower Main Street of Letterkenny whereby development is characterised by commercial business at ground floor and residential uses within the upper floors. The proposed use will undoubtedly generate higher noise levels than currently generated from the office use, however it is not uncommon for uses such as public houses to contain residential apartments above ground floor.
- 7.10. I am therefore satisfied, given the town centre location and the uses present within the vicinity of the site that residential amenity will not be significantly affected by the proposal. Noise levels can be adequately conditioned in order to ensure that residential amenity is protected.

Appropriate Assessment

- 7.11. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment

issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Conclusion

7.12. In conclusion, whilst I acknowledge the concerns of the Council and the observer to the appeal, in the absence of any policy which specifically prohibits such uses from the Main Street, the proposed development must be considered on its merits. As mentioned above the town centre whereby there are established night time uses, is the most appropriate location for such entertainment establishments and as such given the location of the proposed use and that no other such uses are present in the vicinity I consider that the proposed change of use is acceptable in this instance. The proposal will not negatively impact the vitality or viability of the Main Street and as such is in accordance with the policies and objectives of the Town Centre Strategy which seeks to provide for varied mix of uses within the area.

8.0 Recommendation

8.1. I recommend that permission is granted subject to standard conditions.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Donegal County Development Plan 2018-2024, the existing pattern of development in the area, and 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 seriously injure the amenities of the area or of property in the vicinity and would not hamper the development of a high quality vibrant town centre. 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 developed 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. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

3. Prior to the commencement of development details of colour, design and location of all signage proposed shall be submitted and approved by the planning authority.

Reason: In the interest of visual amenity and orderly development.

4. The shopfront shall be in accordance with the following requirements: -
 - a. All external lights shall be adequately hooded and aligned to as to prevent direct spillage of light onto the public road.
 - b. No L.E.D., neon or similar lights shall be erected on the subject premises, structure or site.
 - c. No awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission.
 - d. No digital displays or similar illuminated streaming media shall be erected or displayed on the subject premises, structure or site.

Reason: In the interest of visual amenity.

5. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

6. The sound levels from any loudspeaker announcements, music or other material projected in or from the premises shall be controlled so as to ensure the sound is not audible in adjoining premises or at two metres from the frontage.

Reason: In the interests of environmental amenity.

7. The amusement arcade building hereby permitted shall only be open for use between the hours of 09.30am – 11.00pm Sunday to Thursday and 09.30am – 12.30am Friday and Saturday.

Reason: In the interest of residential amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Sarah Lynch
Planning Inspector

24th March 2020

