



An
Bord
Pleanála

Inspector's Report

ABP-307764-20

Development	Retention of minor alterations to façade and permission for change of use of ground floor retail units to amusement arcade and for change of use of part of 1st floor from residential to office space. This building is in an Architectural Conservation Area.
Location	School Street, Kilcock, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	20/438
Applicant(s)	Patrick Gilson
Type of Application	Retention and permission
Planning Authority Decision	Refuse retention and permission
Type of Appeal	First Party
Appellant(s)	Patrick Gilson
Observer(s)	Gerry Pidgeon
Date of Site Inspection	9 th December 2020
Inspector	Phillippa Joyce

1.0 Site Location and Description

- 1.1. The appeal site is located at a midway point on the western side of School Street, in the centre of Kilcock town. School Street accommodates a mix of commercial businesses, residences and community buildings.
- 1.2. The site comprises two structures which form part of an end of terrace row fronting onto School Street. Whilst appearing as two structures from the street frontage, the internal floorspace of the two plots has been amalgamated forming a single property. The property is two storeys in height with a deep rear return.
- 1.3. The site has nearly full site coverage, with the ground floor area extending c21.5m, the depth of the site. The first floor level of accommodation is c13.5m in depth with a flat roof/ terrace area enclosed at the rear of the property.
- 1.4. There is a narrow laneway adjacent to the building's southwest gable that provides access to an open yard area to the rear of the site. Direct access from this area into the property is possible via two existing doors, one at ground floor level and the other via a stairwell to the flat roof/ terrace area at first floor level.
- 1.5. As noted at the time of site inspection, internal construction works were ongoing. It is highlighted that a component of the proposed development involves retention permission.
- 1.6. The stated area of the site is 0.019 ha and the stated floorspace of the existing building is 256 sqm.

2.0 Proposed Development

- 2.1. The proposed development comprises retention permission for minor alterations to the façade, and permission for a change of use of ground floor retail units to an amusement arcade and for change of use of part of 1st floor from residential to office space.
- 2.2. The alterations to the façade of the structures principally relate to the ground floor level. These include the replacement of original shopfronts, which comprised a single large window pane and an adjacent doorway, with a single doorway on the northern-most property and a doorway and a smaller single window pane on the

southern-most property. The timber advertising panel on the southern-most shopfront appears to have been removed. The chimney breast on the southern gable has been removed from the roof.

- 2.3. With regard to land use, permission is sought for a change of use from retail units to an amusement arcade at ground floor level, and from residential to office space at first floor level. The total floorspace of the proposed works is stated as being c.197 sqm (from the floor plans, the ground floor change of use is c.146 sqm while the first floor is c. 51 sqm). At first floor level, the proposed office space is located to the front of the property including a w/c with shower. The plans indicate a reconfigured one bedroom apartment remaining at the rear of the first floor level.
- 2.4. As noted above, at the time of site inspection internal construction works were observed but there was no commercial or residential use being operated at ground or first floor levels.

3.0 Planning Authority Decision

3.1. Summary of Decision

On the 2nd July 2020, the Planning Authority issued a Notification of Decision to Refuse Permission for 3 no. reasons that can be summarised as follows:

1. The proposed use of the building as an amusement arcade would detract from the vitality and vibrancy of the town centre and the core retail area, be contrary to Policy R59 of the Kildare County Development Plan, and be contrary to the proper planning and sustainable development of the area.
2. The building is located in the core retail area of Kilcock and the proposed amusement arcade use would be non-complimentary and non-supportive of the retail uses in the vicinity, seriously injure the vitality and viability of the street as a retail area, set an undesirable precedent, contravene Policy R60 of the Kildare County Development Plan, and be contrary to the proper planning and sustainable development of the area.
3. Permitting the alterations to the building's façade would set a precedent, negatively impact the visual amenities of the area, militate against enhancement of active street frontages in town centre locations, result in the

loss of traditional shopfront forms within the urban core, and be contrary to the proper planning and sustainable development of the area.

4.0 Planning Authority Reports

4.1. Planning Report

The planner's report is the basis for the Planning Authority decision. In addition to the matters related to the refusal reasons, the report notes, inter alia:

- The subject site is located within Kilcock's Architectural Conservation Area and Core Retail Area;
- Image included from Google Street View 2019, indicating the front elevations of the two structures and the ground floor level shopfronts prior to the alterations;
- Area Planner considers works undertaken to the façade to have improved the visual appearance of the structures;
- The proposed first floor office space is determined to be internally connected to the proposed arcade at ground floor and, as such, is considered to form part of the overall development of the arcade;
- Area Planner recommends a split decision whereby retention permission is granted for the façade alterations and permission is refused for the change of uses at ground and first floor levels for 2 no. reasons (these are the Planning Authority's 1st and 2nd refusal reasons in the Order);
- Senior Planner recommends refusal of the proposed development in its entirety as the vernacular streetscape form is considered to have been significantly impacted by the removal of the traditional form of fenestration and the resultant substantial blank façade on the streetscape is considered to be unacceptable;
- An Appropriate Assessment screening report has been undertaken and a conclusion statement indicates there is no potential for significant effects on the Natura 2000 network.

4.2. Other Technical Reports

Area Engineer: no objection.

Transportation Department: no objection.

Water Services Section: no objection, subject to standard condition relating to surface water services.

Chief Fire Officer: no objection, subject to condition recommending a fire safety certificate is obtained.

4.3. Prescribed Bodies

Irish Water: no objection subject to standard conditions for connection agreement, available capacity and required standards.

4.4. Third Party Observations

5 no. observations, including a representation from a local councillor, were received by the Planning Authority objecting to the proposed development. The key issues raised can be summarised as follows:

- Change of use is not in line with Development Plan Policy R59;
- Congregation of people at an amusement arcade would be a public safety risk as the street is narrow and heavily trafficked;
- Development Plan policy is to avoid a concentration of certain uses in one area, the proposed development is right beside a takeaway and within 50m of a turf accountant and two other takeaways so this is not acceptable;
- Proposed use as an amusement arcade would result in noise, litter, general disturbance and anti social behaviour;
- Existing planning history at the site for two townhouses is the preferable type of development in the predominantly residential area;
- Retention permission stated as minor alterations, however this is not the case as the front façade has changed completely;

- Overlooking of adjacent property is taking place from first floor terrace area with no screening to protect the amenity of the adjacent property;
- Unauthorised development has been taking place; and
- School Street is a local heritage site and the proposed development is not suitable.

5.0 Planning History

Appeal Site:

PA Ref. 17/515, ABP 249235 – Planning Authority granted permission to CPMD Limited on the 16th August 2017 for the change of use of the existing two-storey building from 2 no. ground floor retail units & 1 no. first floor residential apartment to 2 no., two-storey townhouse dwellings, window and door alterations to the School Street and adjoining laneway facades, reduction in size to first floor rear terrace and all ancillary works.

The applicant made an appeal against the development contribution included in Condition 12. On the 20th December 2017, An Bord Pleanála granted permission amending the development contribution condition. The permission has not been implemented to date.

PA Ref. UD 7458 – Planning Authority issued a Warning Letter on the 20th February 2020 to the applicant of the current appeal case in respect of apparent unauthorised development at the site and non-compliance with Condition 1 of PA Ref. 17/515.

6.0 Policy Context

6.1. Kilcock Local Area Plan 2015-2021

6.1.1. Zoning and Use Classes

In the *Kilcock Local Area Plan 2015-2021*, the site is located on lands zoned as ‘A: Town Centre’ with the zoning objective ‘*To provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic use*’. The LAP further states: ‘*the purpose of the zone is to protect and*

enhance the special character of Kilcock town centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to town centre...It is also an objective of the Council that ground floors where appropriate will provide active frontages....'

In the land use zoning matrix, 'office' is permitted in principle under the A: Town Centre zoning, while amusement arcade is not specifically identified as a use. As such the latter is considered as 'other uses' whereby uses not listed will be considered on the merits of the individual planning application and in relation to the general policies and zoning objectives for the area in question of the Plan.

6.1.2. **Architectural Conservation Area**

The site is located within the town's Architectural Conservation Area (indicated on Map 11). The LAP comments that the retention, rehabilitation and reuse of old buildings can play a pivotal role in the sustainable development of the town, with many making a positive contribution to both the streetscape and sense of place. Relevant conservation and traditional shopfront policy and associated objectives in the LAP include:

Policy HC 2: To seek the preservation of the built heritage of Kilcock that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the town.

Objective HCO 3: To implement a high standard of shopfront design relating to the character of the shopfronts in the town in accordance with the principles contained in the County Kildare Shopfront Guidelines.

Objective HCO 4: To apply best conservation practice to protect features and buildings of interest including...[r]etain traditional features such as historic windows, doors, overlights/ fanlights, renders, roof coverings, shopfronts and rainwater goods, in preference to their removal and replacement.

Policy HC 13: To protect the special interest and character of Kilcock's Architectural Conservation Area in the development management process.

Policy HC 17: To seek the repair and retention of shop fronts and pub fronts of architectural interest in accordance with the principles contained in Kildare Shopfront Guidelines.

6.1.3. Core Retail Area

The site is located within the town's Core Retail Area (indicated on Map 12). The LAP comments that streets within the town core area are being adversely affected by inactive frontages and lower-order retail uses. Relevant retail policy and associated objectives in the LAP include:

Policy RE 2: To consolidate and improve the image of the town and reinforce the primacy of the town core retail area.

Policy RE 18: To require a high quality of design for new and replacement shopfronts, signage and advertising. Kildare County Council will actively promote and seek the principles of good shopfront design as set out in the Kildare Shopfront Design Guidelines.

Policy RE 21: To have regard to the architectural fabric and fine grain of traditional retail frontage, whilst providing for modern retail formats.

Objective REO 6: To maintain the role of Kilcock's town core area as the primary retail centre for convenience and local comparison shopping through continuing to develop the retail environment, the quality of the public realm, the range of retail uses and to facilitate complementary uses to retail.

6.2. Kildare County Development Plan 2017-2023

The *Kildare County Development Plan 2017-2023* provides further policy and associated objectives on the topics of core retail areas, non-retail uses, architectural conservation areas and shopfronts. For the most part, these are included for in the policy and objectives in the predating Kilcock LAP detailed above.

However, specifically referenced in the Planning Authority's refusal reasons and therefore of direct relevance to the appeal determination are the additional policies associated with non-retail uses in core retail areas.

Policy R59: Refuse planning applications for amusement/ gaming arcades as they are considered to be an undesirable use and potentially detrimental to the business and commercial environment of centres in the county.

Policy R60: Discourage where possible within its statutory powers the introduction of non-retail and lower grade retail uses in Core Retail Areas and other streets, in the interests of maintaining and sustaining the retail attraction of the county's centres.

6.3. **Natural Heritage Designations**

The appeal site is not located in or near to any European site.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

The following is a summary of the main issues raised in the first party grounds of appeal:

- There is a high level of vacancy and dereliction in Kilcock;
- The building was derelict until the applicant decided to renovate it;
- The Development Plan policies supporting the reuse and regeneration of older buildings in the town are referred to and considered relevant to the appeal;
- The non-retail and lower grade retail uses are legitimate businesses that employ people, pay rates and contribute to the local economy;
- A newly renovated building with an amusement arcade is more desirable than a derelict building;
- the type of activity to occur on the premises is minor or petty in nature due to restrictions on players' age and winnings associated with gaming legislation;
- Other amusement arcades are operating in other locations in Kildare for years with presenting any difficulty; and
- Requests the Board to permit the proposal to bring use into a derelict and unused building, provide a business, jobs and a leisure facility all of which will rejuvenate the town centre.

7.2. Planning Authority Response

The Planning Authority responded to the first party appeal, the key issues raised are summarised as follows:

- The appeal site is in a town centre location and within a Core Retail Area, as such, the proposed development of is contrary to Policies R59 and R60 of the Development Plan which are 'explicit in their intent';
- While the building is not a Protected Structure it does have value and the vernacular streetscape form within the ACA is significantly impacted by the removal of the traditional form of fenestration and resultant substantially blank façade on the streetscape is unacceptable;
- A split decision was considered, but it was decided that the nature of the façade and proposed use are considered to be inseparable and the Board is requested to uphold the decision to refuse retention permission and permission; and
- Reference is made to unauthorised development at the site and a copy of a warning letter, signed 20th February 2020, specifying non-compliance with Condition 1 of PA Ref.17/515 has been provided.

7.3. Observations

One observation has been made on the appeal by Gerry Pidgeon. The observation highlights:

- Construction works have been undertaken, date in May 2020 cited;
- States works presumed to not reflect planning as no commencement notice was submitted to the Planning Authority for the permitted two town houses; and
- Other general comments are made including: illegal dumping taken place; no health and safety at site; safety concerns relating to flat roof balcony to the rear of the property which has no railings and overlooks the observer's property; unsociable behaviour from a nearby takeaway; and lack of car parking to serve proposed development.

8.0 Assessment

I consider the main issues in determining the appeal to be as follows:

- Alterations to the Building Façade;
- Proposed Use Classes; and
- Residential Amenity – New Issue.

8.1. Alterations to the Building Façade

- 8.1.1. The proposed development seeks retention permission for, as described in the public notices, minor alterations to the façade. I have reviewed the photographs and images in the planning application and appeal documentation, and the plans and particulars of the history file PA Ref. 17/515. I consider the alterations undertaken to be significant and to have notably changed the character of the two original structures, to have removed their distinctive shopfront symmetry and by association to have altered the streetscape of School Street.
- 8.1.2. The appeal site is located in the town's Architectural Conservation Area and its Core Retail Area. This is reflective of the building's historic value, its original use as two shops within the town centre with views to and from the market square, featuring two traditional shopfronts which contributed to the heritage value and character of School Street. As such, the site is afforded a greater level of protection in terms of planning policy.
- 8.1.3. The northern-most structure has an altered ground floor front elevation with no windows, a predominantly blank facade and a single solid door directly accessing the first floor level. The ground floor front elevation of the southern-most structure features a similar solid door adjacent to a smaller window, but otherwise has a predominantly blank façade.
- 8.1.4. I consider it reasonable to assume that the alterations undertaken to the façade of the building are associated with, and seek to facilitate, the concurrently proposed change of use from two retail units to an amalgamated non-retail use. The

appropriateness of the façade alterations cannot be considered in isolation from concurrently determining an acceptable use for the building. That being, the alterations to the façade cannot be fully understood in the absence of a comprehensive plan for the internal operation building and the manner in which it will be accessed from the front and rear of the property.

- 8.1.5. In summary, I consider the alterations made to the façade of the original structures to have caused injury to their distinctive character and to have negatively impacted on School Street's streetscape, which is included in the town's Architectural Conservation Area and characterised by the majority of commercial premises featuring traditional shopfronts and residences with windows and active façades at the street level. As such, I consider that the proposed development does not comply with the requirements of applicable Kilcock LAP conservation policies and associated objectives, in particular Policy HC2, Objective HCO 4 and Policy HC17.

8.2. Proposed Use Classes

- 8.2.1. At ground floor level, the proposed development seeks a change of use from retailing to amusement arcade, and at first floor level a partial change of use is sought from residential to office. In the Kilcock LAP, the zoning matrix for the 'A: Town Centre' zoning objective does not specify amusement arcade as a use class so it is considered as an 'other use' assessed subject to other Plan policies, while office is permitted in principle.
- 8.2.2. In determining the appropriateness of the amusement arcade use class, of direct relevance are the requirements of Development Plan Policies R59 and R60. These policies, respectively, seek to refuse permission for amusement arcades due to their being an undesirable use in the County's centres, and to actively discourage the introduction of non-retail uses into the Core Retail Areas of town centres.
- 8.2.3. While I note the first party's position that non-retail uses are legitimate businesses offering employment, commercial activity and part of a range of user-experiences, fundamentally, the non-retail use being proposed is an amusement arcade and the appeal site is located in Kilcock's Core Retail Area. As such, the proposed change

of use sought for the ground floor is contrary to the requirements of Policy R59 and Policy R60 of the Development Plan.

- 8.2.4. At first floor level, the proposed development seeks a partial change of use of the existing residential to office. The office is accessible via the front door of the northern-most structure and an internal staircase. The Planning Authority noted that the first floor office use was accessible from the ground floor level and that therefore the office was part of the overall amusement arcade use. In the first party appeal, the applicant did not comment on the nature of the office use or dispute the position taken by the Planning Authority.
- 8.2.5. From a review of the floor plans, I note it is possible for direct access to be achieved between the proposed ground and first floors uses. In the absence of any evidence indicating otherwise, I consider it reasonable to interpret that the building's internal layout has been designed to facilitate the uses and the respective parts of the building could operate as a single business premises. Therefore, on the basis of the information in the appeal file, the first floor office use is considered to be ancillary to the amusement arcade use and therefore similarly contrary to Development Plan Policy R59 and Policy R60.

8.3. Residential Amenity – New issue

- 8.3.1. As noted above, the Planning Authority considered the proposed first floor office space to be part of the overall amusement arcade development and refused the changes in use. There is no further assessment undertaken on the proposed changes to the residential apartment stated as existing at the first floor level.
- 8.3.2. I have reviewed the existing floorplans and elevations submitted with the planning history file PA. Ref 17/515, which indicate the apartment's design and layout prior to the changes having been made for which retention permission is presently sought. These plans indicate the first floor level comprising a 2 no. bedroom apartment that was accessed from the rear of the site via the external stairwell with the roof terrace area serving as an area of private open space.

8.3.3. The proposed development seeks to change the living area of the apartment into an office space. The plans appear to indicate a one-bedroom apartment remaining, however this is not definitive as two kitchen areas appear to be indicated. I note the applicant has not provided definitive details to allow an assessment on the minimum standards for apartments in accordance with the national planning guidelines and Development Plan standards. There is no clarity on items such as floor areas, room sizes, access arrangements, bin storage, car and bicycle parking.

8.3.4. In the absence of the above, I have reservations in relation to the residential amenity of the apartment, in particular measures by which amenity of future residents would be safeguarded from the adjacent office use proposed at first floor level and from the proposed ground floor amusement arcade use. While this is a new issue and the Board may recirculate the matter to the applicant, I do not consider that to be appropriate in this instance due to the number of other planning reasons for refusal.

9.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

10.0 **Recommendation**

I recommend that permission be refused for the proposed development due to the reasons and considerations set out below.

11.0 **Reasons and Considerations**

1.	The alterations to the façade of the building, by reason of the removal of the two traditional shopfronts and their replacement with predominantly blank and inactive ground floor frontages, have significantly altered the character of the original structures, and adversely affect the streetscape
----	---

	<p>of School Street which is located within Kilcock's Architectural Conservation Area. The proposed development would be contrary to Policy HC2, Objective HCO4 and Policy HC17 of the <i>Kilcock Local Area Plan 2015-2021</i>, and would, therefore, be contrary to the proper planning and sustainable development of the area.</p>
2.	<p>The proposed change of use from retail to an amusement arcade is contrary to Policies R59 and R60 of the <i>Kildare County Development Plan 2017-2023</i> which seek to curtail the development of amusement arcades in Core Retail Areas of town centres. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.</p>
3.	<p>On the basis of the information submitted with the application and appeal, the Board is not satisfied that the proposed partial change of use at first floor level from residential to office, would allow the resultant apartment to satisfactorily meet the required minimum standards of accommodation and be afforded sufficient privacy and safety to ensure that the residential amenity of future residents would be protected. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.</p>

Phillippa Joyce
 Senior Planning Inspector
 17th December 2020