



An
Bord
Pleanála

Inspector's Report ABP307948-20

Development

Internal subdivision of existing vacant retail unit and change of use from retail to Licensed Betting Office together with new shopfront and advertising signage.

Location

Ellison Street, Castlebar, County Mayo.

Planning Authority

Mayo County Council.

Planning Authority Reg. Ref.

20345.

Applicant

Ladbrokes Ireland Limited.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party.

Appellant

Ladbrokes Ireland Limited.

Observers

None.

Date of Site Inspection

18th November, 2020.

Inspector

Paul Caprani.

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1.0 Introduction

ABP307948-20 relates to a first party appeal against the decision of Mayo County Council to issue notification to refuse planning permission for an internal subdivision of a ground floor retail unit and a change of use from retail use to use as a betting office. Mayo County Council issued notification to refuse planning permission on the basis that the proposal would contravene Policy RP1 of the development plan which seeks to reduce the conversion of a ground floor premises on principal shopping streets to non-retail uses. It is argued that a grant of planning permission in this regard would set an undesirable precedent.

2.0 Site Location and Description

- 2.1. The appeal site is located on the western side of Ellison Street, in the commercial centre of Castlebar Town Centre. The subject site is located on the western side of the street between Duke Street and Shamble Street. The existing Ladbrokes betting office is located on an adjoining street, Castle Street approximately 80 metres south-east of the appeal site.
- 2.2. The appeal site relates to the ground floor of a three-storey late 19th Century Victorian style building. The ground floor unit was formerly occupied by “The Call of the Wild”, a hiking and outdoor pursuits retail unit. The unit is currently vacant. It appears that the two floors directly above the unit are also vacant. The contiguous building to the south-west is occupied by a public house (the Irish House Bar) on the corner of Ellison Street and Duke Street. The contiguous building to the north-east of the site at the corner of Shamble Street and Ellison Street is occupied by a Turkish Barber shop. A raised pedestrian crossing across Ellison Street is located adjacent to the front of the appeal site. Ellison Street is a one-way southbound street.
- 2.3. The existing vacant retail unit has a gross floor area of 141 square metres according to the drawings submitted and accommodates an open plan retail unit to the front of the premises and dressing rooms to the rear bringing the total area of the ground floor to 186 square metres.

3.0 Proposed Development

- 3.1. Planning permission is sought for a change of use of the 141 square metres to the front of the building from retail use to use as a betting office together with new signage.

4.0 Planning Authority's Decision

4.1. Decision

- 4.1.1. Mayo County Council issued notification to refuse planning permission for a single reason which is set out in full below.

"Having regard to the prominent location of the site on a principle shopping street in Castlebar Town Centre, it is considered that the proposed use would contravene Policy RP1 of the Castlebar and Environs Development Plan 2008 – 2014 (incorporating Variations 1 to 5) as extended, "to restrict the conversion of the ground floor of the premises on the principle shopping street to non-retail uses". The proposed development would therefore by itself and the precedent it would set for similar type developments in the town centre, seriously injure the amenities, or depreciate the value, of property in the vicinity and be contrary to the proper planning and sustainable development of the area."

4.2. Documentation Submitted with the Planning Application

- 4.2.1. The planning application was accompanied by drawings, public notices, completed planning application form and fee etc. Also submitted was a letter of consent from the owners of the property permitting the applicant to make the application for the proposed change of use.
- 4.2.2. A covering letter was also submitted by Fergal Fitzpatrick (Architecture and Planning), it provides details of the proposed shopfront treatment and shopfront signage. It also notes that under the provision of the Planning and Development Regulations, the existing betting office at Castle Street can be reverted back to retail use upon vacating the premises without the requirement for planning permission. In terms of car parking, it is also argued that the proposed change of use would not

result in any greater demand for car parking than that associated with the existing retail unit.

4.3. Planning Authority's Assessment

- 4.3.1. The planner's report notes that the applicants have indicated that the existing premises is no longer suitable for use as a licensed betting shop. However, details have not been submitted demonstrating why this is the case. It is noted that Ellison Street is designated as one of the main shopping streets in Castlebar and it is the policy of the Castlebar Town and Environs Development Plan to maintain the town centre as the principle shopping area for the town and the wider region. The proposed unit occupies a very strategic location in Castlebar Town Centre. While the Planning Authority acknowledges that there is an existing unit which is vacant it is argued that such units must be occupied by new businesses that would serve the local community and wider catchment area and therefore contribute to the vitality and viability of the town centre. In this regard it is stated that the town centre needs businesses that will bring more people in and out and create return trips and a betting office does not generate sufficient public interest to allow this to happen. On this basis Mayo County Council is of the opinion that the location of a betting office at this location would not add to the range of services within the town centre nor would it increase the vitality or vibrancy of the town centre. It is therefore recommended that planning permission be refused.

5.0 Planning History

- 5.1. There are no planning history files attached.
- 5.2. The planning report prepared on behalf of the applicant and submitted with the original documentation to the Planning Authority makes reference to one relevant history file. Under Reg. Ref. P18/603 planning permission was granted for a change of use of a portion of the existing ground floor retail shop to smoking area to service the existing licensed premises adjacent known as the Irish House as well as internal changes to the licensed premises layout to incorporate wheelchair accessible toilet facilities.

6.0 Grounds of Appeal

- 6.1. The decision of Mayo County Council was the subject of a first party appeal on behalf of the applicant by Fergal Fitzpatrick, Architecture and Planning. The grounds of appeal are set out below. The appeal sets out details of the planning history and a description of the appeal site and its immediate environments. It notes that the building in question while not a protected structure, is scheduled on the National Inventory of Architectural Heritage and the National Inventory notes that the building (probably dating from the 1880s) represents an important component of the latter 19th century built heritage of Castlebar.
- 6.2. It notes that the zoning objective for the subject site is governed by Zoning Objective E – ‘Town Centre Use’ and the plan seeks to enhance the special physical and social character of the existing town centre and to provide new and improved ancillary services. It is argued that the provision of a licensed betting office is wholly consistent with the stated objective to provide and improve ancillary services.
- 6.3. It is argued for commercial reasons that the existing Castle Street premises is no longer suitable for use as a licensed betting office and the premises on Castle Street can revert to retail use in the absence of the requirement for planning permission. The applicant in this instance does not wish to add another betting shop to the town centre area but is merely seeking to relocate the existing operation. As such, there will be no material effect on the mix of uses at ground floor level within the town centre. To refuse planning permission for the reason set out it is argued, is unfair and unreasonable.
- 6.4. The grounds of appeal set out details of the shopfront treatment. It is stated that while historically betting offices have presented a static or blank shopfront which has detracted from the commercial vitality of the area, the trend is now changing. Ladbrokes have incorporated more animated treatment with glazed screens to shopfronts and internal display boards etc. The grounds of appeal also argue that the shopfront signage is appropriate for town centre.
- 6.5. It is also argued that the licensed betting office at the appeal site will not constitute an intensification of use or result in a proliferation of betting outlets in the town centre. It is also stated that indicators of vitality and vibrancy include the diversity of retail functions and betting offices represent an appropriate district centre service

which would serve and attract people to the area. It was also submitted that the grant of planning permission for the development as proposed would serve to contribute significantly towards the maintenance of a broad mix of uses in the area. The proposal incorporates a visually penetrable shopfront which will allow for interaction between the internal and external environments and therefore would contribute significantly to the vitality and vibrancy of the town centre. It is suggested that a range of other uses which would not attract the same footfall (post office, travel agency, laundrette etc.) and permitted uses under the retail plans but would not contribute to the vibrancy of the town centre in the same way as the current application. The Planning Authority's decision to de facto retain the existing unit as a retail unit which has been vacant for many years does not in any way ensure that the unit will contribute to the vibrancy and vitality of the town centre.

- 6.6. The grounds of appeal also assess the unit occupancy of the town centre on the basis of "value criteria". It concludes based on the analysis undertaken, that the proposal will not diminish the high/moderate value retail offering within the Castlebar Town Centre area and would in fact contribute positively to the retail function of the town centre area.
- 6.7. In terms of traffic and parking, it is stated that most trips to betting offices are made on foot and that the proposal would not result in an intensification of use over and above the existing retail unit on site. The proposal will not generate a disproportionate amount of car borne custom on this basis.
- 6.8. Finally, the grounds of appeal set out details of waste management and housekeeping and noise control and the proposed hours of operation.
- 6.9. On the basis of the above it is recommended that the decision of the Planning Authority be overturned in this instance and that planning permission be granted for the proposed development.

7.0 Appeal Responses

Mayo County Council have not submitted a response to the grounds of appeal.

8.0 Observations

No observations have been submitted in respect of the appeal.

9.0 Environmental Designations

- 9.1. The subject site is not located within or adjacent to a designated Natura 2000 sites. The nearest Natura 2000 site is the River Moy Complex SAC (Site Code: 002298) is located 4.7 kilometres to the north-east of the subject site and 7.6 kilometres to the west of the subject site.

10.0 Development Plan Provision

- 10.1. The site is governed by the policies and provisions contained in the Mayo County Development Plan 2014 – 2020 and the Castlebar and Environs Development Plan 2008 – 2014 (as extended). The subject site is zoned Town Centre in the said plan. (Land Use Zoning Objective E). It is the objective to enhance the special physical and social character of the town centre and provide for new and improved ancillary services. Betting offices are not listed as a specific use in the land use zoning matrix set out in the development plan.
- 10.2. In relation to town centres it is stated that major consideration will be given to the protection of the character of the existing town centre. The town centre includes many land uses; these range from shops, offices, houses to public open space and some industry. The objective governing the area delineated as town centre means that this land use mix will continue. Certain uses because of the particular requirements are best located outside the town centre such as warehousing, general industry and agricultural machinery outlets. The distinctive urban design character will be protected and enhanced in the context of the implementation of this plan.
- 10.3. Chapter 11 of the development plan specifically relates to retailing. It is a priority of the Council to maintain the town centre as the principle shopping area for the town and the wider region and as such the loss of retail uses and frontage will be resisted within the principle shopping area.
- 10.4. Policy RP1 states that it is the policy of the Council to resist the conversion of the ground floor premises of the existing shopping streets to non-retail uses.

- 10.5. The Council will in exceptional circumstances, allow some level of professional and financial services to exist at ground floor within the prime retailing area provided it offers its services that is frequently visited by the public and that an active ground floor window display is in place.
- 10.6. Policy RP2 states it is the policy of the Council to seek to maintain and enhance the role of the town centre as a dominant commercial and retailing area of Castlebar and its environs.

11.0 EIAR Screening

The proposed change of use is not a class of development for which EIAR is required.

12.0 Planning Assessment

- 12.1. I have read the entire contents of the file, have had particular regard to the Planning Authority's reason for refusal and the first party appeal rebuttal of this reason. I have also visited the subject site and its surroundings and I consider that the Board can restrict its deliberations to the issue raised in the Planning Authority's sole reason for refusal namely whether or not the proposal would contravene Policy RP1 of the Castlebar and Environs Development Plan and whether or not the proposal would result in an undesirable precedent for attracting similar uses to the town centre.
- 12.2. A betting office use is not listed in the land use zoning matrix contained in the Castlebar and Environs Development Plan and as such it is considered that the appropriateness of the use in question should be determined on its merits and in accordance with the proper planning and sustainable development of the area. The section of Ellison Street on which the subject site is located is predominantly a retail area and is in the vicinity of the intersection between Ellison Street, Market Street, Castle Street and Shamble Street. The appeal site is also located between two existing town centre uses - a barber shop and a public house. The unit is currently vacant and according to the grounds of appeal has been vacant for some time. The presence of a vacant unit on such a prominent site does not contribute in any way to the vitality or vibrancy of the town centre. The Board will note from the photographs attached that this section of Ellison Street has been the subject of significant traffic

calming and town centre improvements in recent times. The presence of a vacant retail unit at this location therefore in my opinion seriously detracts from and undermines the commercial character and function of the town centre.

- 12.3. It is my view therefore that the occupancy of the ground floor retail unit would represent a considerable planning gain. The principle of a betting shop has already been established in the town centre and the existing betting shop on Castle Street which is less than 100 metres away is also located on lands which are zoned for town centre uses. It can be reasonably argued therefore that the principle of a betting shop on lands governed by the Zoning Objective E (town centre) has already been established and contrary to what is stated in the Planning Authority's reason for refusal the relocation of the betting office to another unit governed by the town centre zoning would not established an undesirable precedent for such a use.
- 12.4. Furthermore, while a betting office does not constitute retail use, it does generate appropriate levels of footfall as similar to a retail unit. A betting office is frequented by patrons throughout the business hours of the day. As such, it is my opinion that a betting office would generate pedestrian activity to and from the premises similar to that associated with a retail unit. On this basis I would conclude that the proposed development would generate significant levels of footfall to ensure that the proposal contributes to the vibrancy of the town centre.
- 12.5. It is clear from the existing Ladbrokes on Castle Street (see photographs attached) that the shopfront is transparent and incorporates a display which would to some extent, contributes to the retail/commercial character of the street and would not result in a blocked-off or blank frontage. The incorporate of screens as suggested in the grounds of appeal will contribute towards an active ground floor window display.
- 12.6. It is clear from the contents of the development plan that the Council will in exceptional circumstances allow some level of professional and financial services to exist at ground floor level within the prime retailing area, provided it offers a service that is frequently visited by the public. I consider that the provision of a betting shop would sit comfortably with this objective and will certainly contribute more to the character of the town centre than the existing vacant unit.
- 12.7. Finally, in relation to this issue I would reiterate the point made in the grounds of appeal that what is proposed in this instance is a relocation of an existing

established use within a unit zoned for town centre activity to another unit albeit at a more prominent location within the town centre that is also zoned for town centre activity. It does not result in an intensification of betting offices within the town centre nor does it result in the proliferation of betting offices within the core retail area of the town.

- 12.8. On the basis of the above arguments I would recommend that the Board overturn the decision of the Planning Authority and grant planning permission for the proposed change of use from a retail unit to a betting office.
- 12.9. Finally, the Board will note that the reason for refusal merely states that the proposed use would contravene Policy RP1 of the Castlebar and Environs Development Plan 2008 – 2014. As there is no explicit reference to “material contravention” it is my considered opinion that the provisions and criteria set out under Section 37(2)(b) of the Planning and Development Act 2000 would not apply to the Board in this instance.

13.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest 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.

14.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

15.0 Reasons and Considerations

Having regard to the town centre zoning objective of the subject site, the pattern of development in the area, and the modest scale of the proposed development together with the proposal to occupy a vacant unit it is considered that, subject to compliance with the conditions set out below, the proposed development would not

detract from the character of the area and would help strengthen the commercial function of the town centre of Castlebar. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

16.0 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 the 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. Details of the proposed advertising signage and shopfront display shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. Details of the materials, colours and textures of all external finishes, shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

4. Site development and building works shall be carried out only between the hours of 0700 to 1900 hours Monday to Friday inclusive, and between 0800 hours to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the

vicinity.

5. The opening times of the betting office shall be as follows:

Monday to Friday: 10.15 a.m. to 6.30 p.m.

Saturday 10.00 a.m. to 6.30 p.m.

Sunday 11.00 a.m. to 6.00 p.m.

The betting office shall not operate outside the above hours in the absence of a grant of planning permission.

Reason: In the interest of orderly development.

6. 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 prior 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.

Paul Caprani,
Senior Planning Inspector.

10th December, 2020.