



An
Bord
Pleanála

Inspector's Report

ABP-309229-21

Development	Change of use of part of the ground floor to betting office.
Location	Main Street, Duleek, Co Meath.
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	LB201186
Applicant(s)	Slieve League Hotel Limited.
Type of Application	Permission.
Planning Authority Decision	Grant permission.
Type of Appeal	Third Party
Appellant(s)	Paul Tully.
Observer(s)	Daifeng Yu.
Date of Site Inspection	16 th March 2021.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site is located on Main Street, east of Station Road, at the north-east end of Duleek. The unit in question, which comprises part of the ground floor of a currently unoccupied commercial building, has a gross floor area of 76sqm. The building is currently unoccupied and was undergoing renovation at the time of inspection.
- 1.2. There are a mix of residential and commercial uses in the vicinity of the site, including a Londis newsagent and post office and take-away and there are other commercial uses further east.

2.0 Proposed Development

- 2.1. Permission is sought for change of use of part of a ground floor commercial unit, to a betting office.
- 2.2. The proposed betting office would be located at the south-west end of the building and would have a gross floor area of 76sqm. The proposed use would comprise a primarily open floor, toilet and staff facilities.
- 2.3. The application form outlines that the subject unit is currently approved for commercial use, as a pub & shop.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 7th January 2021 Meath County Council granted permission for the proposed change of use, subject to 12 No. conditions.

Condition No. 2 required the submission and agreement of a flood risk management and evacuation plan.

Condition No. 3(a) required that proposed signage should be agreed with the Planning Authority

3.2. Planning Authority Reports

3.2.1. Planning Reports dated 20th October 2020 and 5th January 2021. The first report noted that the subject site is located within the development boundary of Duleek and is zoned for 'B1' Commercial/Town Centre development purposes, under which the proposed use is permitted. Concerns were expressed regarding a potential proliferation of such uses on the Main Street, where permission was previously granted for a betting shop under Reg. Ref. LB160131 on an adjacent site. Regarding flooding, the report stated that the site is located in Flood Zone A but that the proposal was considered a minor development, involving a change of use of an existing building. The requirement for a 'justification test' was considered to not apply to the development, however; the report outlined that a site-specific flood risk assessment had not been submitted and there was a need to provide an assessment of flood risk. Regarding the requirement for a financial contribution, the report stated that changes of use from a non-residential use to another non-residential use shall be exempted from the requirement, where development contributions have been paid for the existing use. The report recommended that further information should be sought, in relation to the following aspects of the development:

- (a) Car parking proposals,
- (b) Flood risk, and
- (c) The need for an additional betting shop in this location.

The second report followed receipt of the further information response and followed a period of additional public consultation, following the submission of significant additional information on 19th November 2020. The report summarised the responses to the further information items and outlined the proposed site layout was revised as part of the response, to provide 15 parking spaces and 1 disabled space. The report also noted the submission of a site-specific flood risk assessment. The report outlined that a betting shop is an acceptable use at this location and recommended that permission should be granted, subject to 12 No. recommended conditions, which were generally in accordance with the Planning Authority's decision to grant permission.

3.2.2. Other Technical Reports

Environment Department – Emailed reports dated 20th October 2020 and 18th December 2020. The first report advised that the proposed use is highly vulnerable and the site is located in Flood Zone A, but the proposed use is a minor development that involves the change of use of an existing building. The report outlined that a Justification Test was not required for the proposed development, but recommended that a site-specific flood risk assessment should be requested. The second report expressed no objection to the development, following receipt of a site-specific flood risk assessment.

The Planning Report outlined that the Transportation Department, Conservation Officer and Water Services Department were also consulted on the application. Subsequent clarification by the Board, as part of the provision of appeal documentation, clarified that informal comments were provided from the Transportation Department, whilst reports from the Conservation Officer and Water Services Department in respect of another application on the site (Reg. Ref. LB200922) were applied to the proposed development.

3.3. Prescribed Bodies

- 3.3.1. The Planning Authority advised that Irish Water did not provide a submission on the application and that comments provided as part of a previous application, (Reg. Ref. LB200922), were applied.

3.4. Third Party Observations

- 3.4.1. A number of third party submissions were received, the issues raised within which can be summarised as follows:

- Concerns regarding the adequacy of proposed car parking and existing car parking in the vicinity,
- The site is located in Flood Zone A,
- Permission was previously granted for a betting shop in an adjoining premises and the provision of 2 betting shops close together would result in an over-concentration of the use in the area,

- The proposed development includes a direct internal link between the proposed development and the adjacent premises which is licensed for alcohol sales. This is contrary to licensing laws and is contrary to proper planning,
- Concerns regarding litter.

3.4.2. 1 additional observation was received following the submission of revised public notices, the issues raised within which can be summarised as follows:

- Proposed car parking is inadequate and was not justified,
- Available parking spaces in the area are fully utilised and the lack of parking causes traffic safety issues when vehicles manoeuvre onto the street,
- The development is premature as there is a planning permission in place for a betting shop elsewhere in the town. Granting permission for a second betting office would contravene provisions within the development plan for managing the development of small towns.

4.0 Planning History

4.1.1. I encountered the following in my review of planning records for the subject site:

LB200922 – Permission refused on 7th January 2021 for 1. Retention of the opening of 4 new windows to the rear and 2 new windows to the side & for raising the parapet to part of the front of the building 2. The construction of a storeroom to the rear 3. Construction of a new storeroom, escape stairs and access doors to the side including the replacement of the existing side canopy with a new canopy 4. A new shop front and associated signage and lighting 5. A new access door to the front and side of the building and alteration to the front façade including the front windows at first floor level 6. the change of use of the first floor from restaurant & function room to an 8 bedroom guest house, including associated staff, storage and plant room 7. The provision of 2 new guest bedrooms and associated staff and storage facilities at first floor level within the envelope of the existing building 8. To close off one of the existing entrances to the existing car park and make alterations to the existing front boundary wall. To include all

drainage connections and associated site works. Permission was refused for 1 reason, related to flood risk/public safety concerns.

SA130885 – Permission granted on 5th September 2014 for (1) Retention of the change of use of part of the first floor area from residential to a bar/function room including external smoking area to the rear. (2) Retention of a new front access door to the lounge area including all associated site works.

SA60088 - Permission granted on 29th January 2007 for demolition of existing public house and function room and construction of fully serviced 3 storey hotel over 2-level basement

Relevant Nearby Planning History

LB160131 - *Adjacent site to the west.* Permission granted on 3rd May 2016 for change of use from a ground floor shop to a betting office including external signage.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The subject site is zoned 'B1' under the Meath County Development Plan 2013-2019, with an objective '*to protect, provide for and / or improve town and village centre facilities and uses.*'
- 5.1.2. The zoning map for Duleek also identifies the site as falling within a flood zone.
- 5.1.3. Volume 5 contains a written statement for Duleek. Main Street is identified as the commercial heart of the town and it is stated that it should remain the core retailing and commercial heart of the town. Future commercial and retail development should be directed into the town centre.
- 5.1.4. The written statement contains a number of policies, including the following which are relevant to the subject case:

SP 2 To encourage the sequential development of Duleek from the central core outwards, in order to ensure that the higher order facilities and the

higher density development is located on the most central lands where possible, with optimum access and the highest level of services.

FR POL 2 Where existing development within the village centre is at potential risk of flooding (A1 “Existing Residential” and B1 “Village Centre” land use zoning objectives refer) as identified on the land use zoning objectives map, any significant extensions / change of use / reconstruction shall be subject to an appropriately detailed Flood Risk Assessment in line with the policies (WS POL 29 - 36) contained in Volume I of the County Development Plan.

CER POL 1 To promote enterprise creation opportunities and encourage job/employment creation initiatives in line with the sustainable growth of Duleek and on appropriately zoned and serviced land.

CER POL 2 To consolidate the central area of Duleek for commercial uses.

CER POL 3 To maintain and improve the vitality and viability of Duleek’s central core area as the focus of all commercial and retail activity, in order to ensure both a mixture and variety of local shopping to serve the shopping needs of the local community.

5.2. Natural Heritage Designations

5.2.1. The subject site is not located within or adjacent to any designated European Site.

5.3. EIA Screening

5.3.1. The proposal is for a change of use within an existing building. This type of development does not constitute an EIA project and so the question as to whether or not it might be sub-threshold does not arise.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The subject site is adjacent to a premises that has been approved for a betting office under Reg. Ref. FS16080. A grant of permission would set a precedent and would result in an overconcentration of the use in the area.
- There is an existing lack of parking in the area and the proposed development will contribute to oversubscription and congestion.
- The applicant identified that there are 45 spaces within 70m of the development but did not outline that there are approx. 40 houses, a convenience store and a take-away in the same area. The majority of houses in the area have no off-street parking and rely on available parking.
- Betting office developments cause litter
- The application documents indicate a direct link between the proposed development and the adjacent premises which is licensed for the sale of alcohol. This is contrary to licensing laws for a betting shop and for premises licensed for alcohol sales.

6.2. Applicant Response

6.2.1. A response was received on the applicant's behalf, prepared by Ludlow Architects, the contents of which can be summarised as follows:

- Permission for the betting shop approved under Reg. Ref. LB160131 has not been implemented and there is no betting shop operating in this adjoining unit.
- There is no restriction in the development plan regarding the use of the site as a betting shop. The use is acceptable in this location and complies with the zoning objective.
- The objector is the proprietor of a betting shop at the west end of Main Street and was the applicant for the betting shop granted under Reg. Ref. LB160131.
- The number of betting shops in a village is a matter for market competition and is not a planning issue.
- The Planning Authority considered car parking provision to be adequate.
- Litter is not a planning issue.

- The rear door from the betting shop is a means of escape in case of fire. Licensing laws are not a planning issue.

6.3. Planning Authority Response

6.3.1. A submission was received dated 10th February 2021, the contents of which can be summarised as follows:

- The Planning Authority is satisfied that all matters raised in the appeal were considered in its assessment of the planning application, as detailed in the planning reports dated 20th October 2020 and 5th January 2021.

6.4. Observations

6.4.1. A letter of observation was received from Daifeng Yu, with an address at 114 The Commons, Duleek, the contents of which can be summarised as follows:-

- Issues raised within the observer's submission to the Planning Authority were not fully considered.
- The applicant has identified a shortfall of 45 car parking spaces on the site and has not submitted a traffic survey or other supporting documentation to demonstrate the availability, adequacy and use profile of on-street parking.
- On-street parking is fully utilised by commercial units and residential properties.
- The lack of car parking in the area can lead to a traffic hazard.
- Tully Bookmakers intend to commence the development approved under Reg. Ref. 160131. It is therefore premature to allow a second bookmakers office in the town and to do so would contravene objectives within the development plan in relation to managing the development of small towns.

6.5. Further Responses

6.5.1. None.

7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the appeal in detail, the main planning issues in the assessment of the appeal are as follows:

- Principle of development;
- Impact on the Town Centre;
- Car parking;
- Flood Risk;
- Other issues;
- Appropriate Assessment

7.2. **Principle of Development**

7.3. The proposed development is consistent with the 'B1' zoning objective, under which a betting office use is permitted.

7.4. **Impact on Town Centre**

7.4.1. On my visit to the site, I noted 1 existing betting office shopfront in the town (Tully Bookmakers), adjacent to The Greyhound Bar, at the south end of the town. It was unclear to me whether the building is actually in active use for this purpose, given current Covid19 Level 5 restrictions require that non-essential retail (including betting offices) should remain closed. The applicant's response to the appeal indicates that this unit is in active use and is operated by the appellant.

7.4.2. The grounds of appeal raise concerns that the proposed development would represent an over-concentration of betting shop uses in the area, where the site is adjacent to a premises that has been approved for use as a betting office. The observer on the appeal has also stated that Tully Bookmakers intends to take up permission Reg. Ref. LB160131.

7.4.3. The applicant's response to the appeal states that there is no existing betting office use in the adjacent premises and that the extant permission for the use expires in May 2021. The submission further argues that the number of betting offices in a village is a matter for market competition and not a planning issue.

- 7.4.4. There are no policy controls within the development plan, relating to the proliferation of betting office uses in a given town or, indeed, in a particular part of a town. Moreover, in my view it is not uncommon to see two or more betting office uses operating in close proximity to each other. In this instance, I see no reason why the operation of two betting offices in close proximity to each other would have any adverse impact on the surrounding area, such that a refusal of permission would be justified.
- 7.4.5. Regarding the proposed shopfront, the elevation drawings indicate that the fascia board would contain signage, but specific details have not been outlined. Should the Board decide to grant permission, I would recommend a condition be attached requiring the agreement of the proposed shopfront with the Planning Authority.

7.5. Car Parking

- 7.5.1. In accordance with Section 11.9 of the development plan, 'non-food retail' uses are required to provide parking at a rate of 1 space per 20sqm gross floor area. The development therefore ordinarily would give rise to a requirement for 4 parking spaces. However, consideration must be given to that the subject unit is already approved for commercial use, as part of the wider public house use. I consider it is unlikely the proposed betting shop use would generate a requirement for additional parking, over and above the approved public house use.
- 7.5.2. I also note that Note 2 of Section 11.9 of the development plan outlines that car parking standards will be applied at the Council's discretion in rural towns and villages. In this instance, the site is centrally located within the town and is accessible by other means than the private car. There is on-street parking in the vicinity and also elsewhere, along both Main Street and Ashbourne Road. In my opinion there is adequate provision for car parking, within the site and along the public streets.
- 7.5.3. The grounds of appeal argue that there is an existing lack of parking in the area and that the proposed development will contribute to oversubscription and congestion in the area and have referenced the use of on-street spaces by houses, a convenience store and a take-away. The observer has also expressed concerns regarding the adequacy of existing on-street parking to accommodate the development.

- 7.5.4. Regarding other commercial uses in the vicinity, I do not consider the proposed development would have any material impact on the ongoing operation of these uses.
- 7.5.5. Regarding the use of on-street parking spaces by residential users, I noted on my visit to the site that houses on the opposite side of Main Street in this area of the town do not generally contain a parking area within the front garden, so it may be that some on-street parking spaces are utilised by residents. Available aerial photography also indicates that a number of these properties contain rear parking areas. In any case, the spaces are located within the boundaries of the carriageway and are public parking, accessible to any and all users. I consider that long-stay residential use of on-street parking spaces is a matter for the County Council to consider and is not a reason on which a refusal of permission in this instance could be justified.
- 7.5.6. I note that the Planning Authority did not object to the development on the grounds of car parking.

7.6. Flood Risk

- 7.6.1. According to FEM FRAMS mapping¹ the site is primarily located within Flood Zone A but is in a 'defended area' which also encompasses other lands within the town.
- 7.6.2. In accordance with Table 3.1 of *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) buildings used for retail or commercial purposes are 'less vulnerable development.' As a change of use, the development also constitutes a 'minor development' and in accordance with Section 5.28 of the Guidelines, the Justification Test does not apply.
- 7.6.3. A Flood Risk Assessment, prepared by Hydrocare Environmental Ltd, was submitted at the further information stage, following a request from the Environment Department. The Assessment outlined that the site is defended as part of the Duleek Flood Relief Scheme, which comprises of flood defence walls and embankments along the River Nanny and Para madden Stream and a storm water pumping station, to provide protection against the 100-year fluvial flood.

¹ Flood Maps - Floodinfo.ie

- 7.6.4. The Assessment recommended that a flood risk management and evacuation plan should be agreed with the Planning Authority, prior to commencement of the use.
- 7.6.5. I am satisfied that, subject to implementation of a management and evacuation plan, adequate consideration has been given to flood risk. Should the Board decide to grant permission, I would recommend that a condition be attached requiring the submission of a flood risk management and evacuation plan, with the Planning Authority.

7.7. Other Issues

- 7.7.1. Regarding the appellant's claim that the development would be contrary to licensing laws, due to the provision of a direct link between the proposed betting office and the public house, I note that the applicant has clarified that the door in question is a fire escape. In general terms, compliance with licensing laws is not a matter to be considered in this appeal as it is controlled via other legislative codes.
- 7.7.2. The appellant has also raised concerns regarding litter arising from the proposed use. I do not consider that potential litter issues would justify a refusal of permission for the proposed development.

7.8. Appropriate Assessment

The subject site is not within or adjacent to of any Natura 2000 site, the nearest designated sites being the River Boyne and River Blackwater Special Protection Area (Site Code 004232) and River Boyne and River Blackwater Special Area of Conservation (Site Code 002299), both of which are approx. 4.5km north.

- 7.8.1. Having regard to the nature and scale of the proposed development, a change of use on urban, zoned and serviced lands, 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

- 8.1.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

Having regard to the B1 zoning objective which applies to the site under the Meath County Development Plan 2013-2019, under which betting office uses are permitted, together with the site's accessible location and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development would not result in an overconcentration of the proposed use in the area, would not be prejudicial to traffic safety and would be in accordance 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, as amended by additional information submitted on 19th November 2020, 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>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of development a flood risk management and evacuation plan, prepared in accordance with the recommendations of the site-specific flood risk assessment submitted as part of the application, shall be submitted for the written agreement of the Planning Authority.</p> <p>Reason: In the interest of public safety.</p>
3.	<p>Details of proposed shopfront including associated signage shall be submitted for the agreement of the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400</p>

	<p>hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
5.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area.</p>
6.	<p>Water supply and drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>

Barry O'Donnell
 Planning Inspector

23rd March 2021