



An
Bord
Pleanála

Inspector's Report ABP-309275-21.

Development

Change of use of vacant retail unit to licensed betting office (to be relocated from existing licensed betting office premises at Fox and Hounds Retail Centre) to include all associated internal alterations, new shopfront, signage, projecting sign, satellite dish and air cooling condenser unit to be mounted at rear (west) elevation and all site development works.

Location

Fox and Hounds Neighbourhood Centre, Ballyvolane, Co. Cork.

Planning Authority

Cork City Council.

Planning Authority Reg. Ref.

2039177.

Applicant

Ladbrokes (Ireland) Ltd.

Type of Application

Permission.

Planning Authority Decision

Grant.

Type of Appeal

Third Party

Appellant

Noreen Canty.

Observer

None.

Date of Site Inspection

3 June 2021.

Inspector

Mairead Kenny.

1.0 Site Location and Description

- 1.1. The subject retail unit is Unit 1 at the Fox and Hounds Retail Centre at Ballyhooly / Rathcooney Road in a suburban area in north Cork city. The retail unit has a frontage onto the public road and also occupies a prominent position at the entrance to the overall retail centre and the associated car park. The car park is separated from residential development to the east by a concrete block wall. 3 no. dwellinghouses share a boundary with the car park.
- 1.2. The subject retail unit was previously occupied by a convenience store and the signage which remains in situ indicates the hours of trading of that premises. It is stated that a nearby licensed premises is to be relocated if permission is granted under this appeal. Other uses within the retail centre include the hair salon and a restaurant.
- 1.3. Photographs taken by me at the time of my inspection are attached.

2.0 Proposed Development

- 2.1. The elements of the proposed development are:
 - change of use of vacant retail unit to licensed betting office
 - the betting office is to be relocated from nearby premises within the same retail centre - that land is outlined in blue in the application drawings
 - all associated internal alterations
 - new shopfront advertising signage
 - new high-level projecting signage on north and west elevations
 - new satellite dish and air conditioning unit on west elevation
 - all associated site development works.
- 2.2. The gross floor area of the retail unit is stated to be 170 m².
- 2.3. By way of further information and clarification of further information the applicant provided information relating to the air conditioning unit. This included the relocation of the air conditioning unit to roof level and provided information relating to the noise sources and also to waste management.

2.4. The revised drawings also provided for 2 no. smaller satellite dish units in lieu of the originally proposed 1.2 m diameter unit.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to conditions including:

- to be in accordance with plans and particulars submitted as amended
- requirements relating to signage
- following cessation of the bookmakers use the signage, satellite dishes and air conditioning units shall be removed
- opening hours to be restricted to between 0700 and 2200 Monday to Sunday
- various conditions pertaining to the construction phase
- noise from the premises shall not exceed background levels by more than 5dB(A) between 0800 and 2200 and by more than 3dB(A) at any other time when measured at any external position at noise sensitive premises and measured as $L_{eq,15 \text{ minutes}}$.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Final report (10 December 2020) – recommends permission subject to conditions.

Clarification of further information recommendation (16 November 2020):

- Relocation of the air conditioning unit to roof level is shown
- Environment recommends further information regarding the air conditioning unit.

Further information recommendation (24 June 2020) – in view of the proximity of the residential development to the site the concerns regarding the location of the air condensing unit are considered valid.

3.2.2. Other Technical Reports

Environment Waste Management and Control (Reports of 14 April and 8 December 2020) - no objection subject to conditions attached. The conditions relate to construction and operational noise, waste, orderly development during construction.

Environment Waste Management and Control (29 October 2020) – data sheet relating to air conditioning condenser unit is required.

Roads and Transport Directorate – no objection subject to conditions.

Road Design Planning – no objection.

Drainage Division – no objection.

Area Engineer – no objection subject to conditions.

3.3. Prescribed Bodies

Irish Water – recommends conditions.

3.4. Third Party Observations

Issues raised relate to:

- The history of nuisance associated with the odour and noise from the air conditioning unit associated with the previous tenant of the unit is outlined. Legal action was taken.
- Equipment needs to be at roof level or within the building.

4.0 Planning History

Reg. ref. 12/4916 and reg. ref. 11/6387 relate to retention and upgrade of a mechanical extraction unit at the rear of a convenience store at the site.

Reg. ref. 06/4064 relates to the construction of the mixed-use development including the provision of a pharmacy, travel agents, retail unit, convenience store and medical centre and office with an associated 120 car parking spaces.

5.0 Policy Context

5.1. Development Plan

Cork County Development Plan 2015-2021

Site zoning is TCR 2-1 Town Centre.

5.2. Natural Heritage Designations

None in immediate vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The main points of the appeal are:

- objection to condition 4 relating to hours of opening
- this permits opening at 0700 every day of the week which is unacceptable as is the late nighttime hours
- the car park of the proposed development is behind our property at 39 Brookvale and near bedrooms
- use of the car park will impact sleep
- the opening hours are unnecessary.

6.2. Applicant Response

None received.

6.3. Planning Authority Response

No further comments.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

The appeal solely concerns condition 4, which relates to the hours of operation of the proposed bookmakers. I consider that a *de novo* assessment of this case is not warranted and I restrict my assessment to the subject condition including consideration of the air conditioning unit in this respect.

Based on the information provided by the appellant the concerns effectively relate to the use of the car park by prospective clients of the licensed premises. The appellant contends that by reason of the early morning use and late evening use there would be disruption of sleep to the occupants of her house and in this regard, it is noted that she refers to bedrooms being located proximate to the car park.

In my opinion the most likely significant potential for noise effects would be related to the air conditioning unit which is likely to operate for the hours of trading. This aspect of the development was subject of detailed consideration by the planning authority and revised submissions by the applicant. The appellant raised this matter in her objection to the planning authority but has not addressed it in the appeal. I am satisfied that the proposed air conditioning unit is suitably located and specified and that it would not adversely affect the amenities of the appellant's house or any other residential property in the vicinity. The consideration of this case by the planning authority involve detailed assessment of likely noise impacts in the construction phase and during operation. A range of detailed conditions have been attached in the decision of the planning authority. I consider that the conditions are reasonable, capable of implementation and will ensure the protection of the amenities of residents.

There is potential for some noise arising as a result of use of the car park and this is the specific issue raised in the appeal. It is for this reason that the Board is requested to limit the hours of operation of the bookmakers. The unit is adjacent a fairly busy road and has an established previous use as a convenience store operating over a long day. The car park will be utilised as part of the overall retail

centre and is separated from the appellant's house by a suitable boundary wall. In my opinion there is no likelihood of significant noise or disturbance as a result of use of this car park.

I conclude that it would be unnecessary and unreasonable to further restrict the hours of operation of the licensed bookmakers for the reasons specified.

Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the likely emissions arising from the proposed development, the distance to the nearest European sites and the lack of hydrological collectivity, I am satisfied that 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

I recommend that the planning authority be directed to ATTACH condition 4 for the reasons and considerations below.

I have set out a draft order as follows.

DRAFT ORDER

Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to ATTACH condition number 4 and the reason therefor.

REASONS AND CONSIDERATIONS

Having regard to the nature of the proposed development and its location within an established mixed use centre in an area zoned Town Centre, it is considered that the proposed development would not seriously injure the amenities of the area and is in accordance with the proper planning and sustainable development of the area.

Mairead Kenny
Senior Planning Inspector

4 July 2021