



An
Bord
Pleanála

Inspector's Report ABP-309435-21.

Development	Retention of existing old post office coffee shop bakery and takeaway signage and retracting awning.
Location	Crossmolina, County Mayo.
Planning Authority	Mayo County Council.
Planning Authority Reg. Ref.	20790.
Applicant(s)	Eilish Gill.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Artan Meha.
Observer(s)	None.
Date of Site Inspection	18 th May 2021
Inspector	Philip Davis.

Contents

1.0 Introduction.....	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority Decision	4
4.1. Decision	4
4.2. Planning Authority Reports	4
4.3. Prescribed Bodies	5
4.4. Third Party Observations	5
5.0 Planning History.....	5
6.0 Policy Context.....	5
6.1. Development Plan.....	5
6.2. EIAR.....	5
6.3. Natural Heritage Designations	6
7.0 The Appeal	6
7.1. Grounds of Appeal	6
7.2. Applicant Response	6
7.3. Planning Authority Response	7
7.4. Observations	7
8.0 Assessment.....	7
9.0 Recommendation.....	11
10.0 Reasons and Considerations	11
11.0 Conditions	11

1.0 Introduction

This appeal is by a neighbouring business owner against the decision of the planning authority to grant permission for the retention of a coffee shop, in addition to an awning and sign on the external elevation in the village of Crossmolina in County Mayo. The grounds of appeal relate to amenity impacts on the adjoining property.

2.0 Site Location and Description

2.1. Crossmolina

Crossmolina is a town on the crossing point of the River Deel just north of Lough Conn in north County Mayo. It has a population recorded in the last census of just over 1,000. The town traces its origin to a 6th Century Abbey founded by St. Tiernan- this is located on a high point to the north of the town. There are some medieval remains within the town on the west bank of the Deel. It later developed as a local market town. The settlement has a small main street with a number of roads converging at the bridge over the Deel – at this point there is a linear park on each side of the river. There is a Centra supermarket within the village and a number of other commercial outlets on both sides of the river along the Main Street and on adjoining streets. The townscape is characterised by mostly 19th Century or early 20th century 2-3 storey terraced mixed residential/commercial buildings.

2.2. Appeal site

The appeal site is a 3-storey 2-bay terraced commercial/residential building of probably late 19th Century date located on the south side of the Main Street, between two adjoining 2-story commercial buildings, one a pharmacy, the other a coffee shop 'The River Café'. The building is known as The Old Post Office, although no evidence of its former use is visible. It is on a site given as 0.006 hectares in extent with 122 square metres of the 161 square metre building in commercial use. It is in use as a coffee shop and takeaway and has an external awning and a sign on the upper floors.

3.0 Proposed Development

The proposed development is described on the site notice as being for the retention of existing Old Post Office Coffee Shop, Bakery & Takeaway, Signage & Retracting Awning, including all other associated works and services.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 9 no. generally standard conditions, some of which relate to the operations of the coffee shop.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Following internal consultations, a request for further information was issued.
- The report notes that the building is not a protected structure and is within a predominantly retail/commercial part of the town.
- It is noted that the river is an SAC (part of the River Moy SAC) but having regard to the nature of the development stage II AA is not required. No EIAR is required.
- The use is considered appropriate for a town centre.
- The changes submitted with the revised plans are considered acceptable.
- Car parking provision is considered acceptable.
- Most environmental controls considered acceptable, but questions raised over refuse area – it is considered that this can be dealt with by way of condition.
- It is considered that the blocking of the window is considered a legal issue and not relevant to the application.
- Noted that there is decking at the third-floor level which may be unauthorised – it is not considered that granting permission would regularise this.
- Permission recommended subject to conditions.

4.2.2. Other Technical Reports

Ballina Area Office: Recommended a request for further information.

Flood Risks Management: The site is within a Flood Zone A area, but as it is only for a change of use this is not considered a problem.

Architect's report: No issues with the design (this is referred to in the planning report but is not on file)

4.3. Prescribed Bodies

National Roads Office. No issues raised.

4.4. Third Party Observations

The appellant to this appeal objected to the proposed development raising a number of issues with the works.

5.0 Planning History

There are no records of planning applications or appeals relating to the site.

6.0 Policy Context

6.1. Development Plan

There is no LAP for Crossmolina. The planning authority state that they consider the site to be 'Town Centre', with relevant car parking standards in table 12 of the Mayo County Development Plan. The site is not a protected structure.

6.2. EIAR

Having regard to the nature of the proposed development and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

6.3. Natural Heritage Designations

The River Deel is part of the Moy catchment and is designated an SAC, part of the River Moy SAC, site code 002298.

7.0 The Appeal

7.1. Grounds of Appeal

The appellant is the occupier of the adjoining coffee shop and the apartment above. The main grounds of appeal raised are:

- It is submitted that as part of the works a window in his apartment was blocked up (photo attached).
- This has had a significant issue on the amenity of his dwelling.
- This was not addressed by the planning authority.
- It is noted that there is an internal stairs to the second floor area. It is requested that this be closed off to prevent use of the second floor area.
- It is argued that fencing to the rear (photo attached) should be removed as this is unauthorised. It is argued that the applicant has been using the second floor decking area in an unauthorised manner.
- There is no objection to the principle of the use of the shop as a café.

7.2. Applicant Response

- It is stated that the blocking up of the window was carried out with the authorisation of the owner of the adjoining premises.
- It is stated that a fire door has been erected on the staircase and as such is part of the fire certification.
- It is confirmed that the second floor and external patio were not part of the application. It is stated that this is not in use and is not proposed to be used by staff or customers.

- It is stated that the outdoor terrace was part of the original building (photos attached).
- Additional photos and a copy of the fire certificate are enclosed.

7.3. **Planning Authority Response**

The planning authority has not responded to the grounds of appeal.

7.4. **Observations**

None

8.0 **Assessment**

Having inspected the site and reviewed the file documents I consider that the proposed development can be addressed under the following general headings:

- Preliminary issues
- Principle of development
- Design issues
- Other planning issues
- Appropriate Assessment

8.1. **Preliminary issues**

A key issue raised by the appellant, who is the tenant of the next-door café, is that alterations were made to the structure without his permission – there does appear to be some confusion about the nature of the works carried out to the rear of the structure and whether they require permission – the lack of a planning history of an older structure such as this has made it difficult to assess which additions may be considered unauthorised. It does appear that the applicant had the permission of the landowner of the adjoining property for some of the works. In this regard, many of the issues raised are civil matters between the parties and the provisions of

S.34(13) of the Act as amended (“*A person shall not be entitled solely by reason of a permission under this section to carry out any development*”) apply.

8.2. Principle of development

The proposed development is within an established mixed-use commercial/residential area identified as ‘Town Centre’ in the Mayo County Development Plan 2014 – there is no LAP or other plan for the settlement. The planning authority considers such works to be generally acceptable in such areas subject to normal planning criteria and I would concur with this view. The café appears to have previously been a retail unit with residential above - I would consider a café to be an appropriate use for the building and the general location. As noted above, there is some confusion in the documentation about alterations to the rear of the building – there does not appear to be any record of previous permissions applying to this structure and it would seem quite a few alterations have occurred over decades and it is unclear as to whether some would require retention. The planning authority are satisfied with the application as submitted with the plans and have accepted an element of ambiguity about some of the works. It is unclear in particular if the decking area to the rear is part of the application as it is not clearly indicated in the plans. For the avoidance of doubt I would clarify that I do not consider this to be part of the application and the question of whether it requires retention is a matter for the planning authority.

8.3. Design issues

The building is a typical terraced structure of the period and contributes significantly to the attractive local streetscape, but it is not a protected structure. Although Crossmolina has roots back to the medieval period or earlier, there are no buildings of major importance close to the site. I would consider the works to the front elevation to be attractive and an enhancement of the overall streetscape. The use of an awning and external tables would not detract from the overall building – I would consider it an enhancement, so long as they are appropriately designed and maintained.

The alterations to the internal layout are generally acceptable – the interior has been attractively restored and improved. The appellant has requested that the internal stairway be excluded from the café use, but I do not consider this to be practical and may impact on fire safety.

The application is stated to be for the ground and first floor only, which leaves the issue of the rear balcony and upper floor somewhat ambiguous – at present it is unoccupied. The planning authority clarified this by way of condition 3 '*The change of use here permitted for retention shall only relate to the ground and first floor only*'. I consider this to be a reasonable approach. I would note that while ideally the building would remain in mixed use, having regard to the value to the town of having a variety of such uses, I do not see a fundamental problem with converting the entire building to café use.

I would conclude that subject to a number of issues that can be dealt with by condition, the physical alterations proposed, and the change of use are acceptable.

8.4. Other planning issues

Flooding

The proposed development is within a Flood Risk Zone, but the planning authority consider that having regard to the existing and previous use, that this is not a reason for refusal. I would concur with this assessment.

Cultural heritage

The existing building appears to be 19th Century in origin but does not appear to have any significant conservation interest, but is important as part of the generally good quality streetscape of the town. It is not a protected structure, and the site is not within an archaeological zone.

Waste and litter

I note the planning authority's concern over the lack of detail on waste bin storage – I consider that this issue can be addressed through condition.

Parking and access

The site has no curtilage parking, but I note the planning authority is satisfied with the provision of on-street parking. I note that a small area of carparking on backlands across the street is signed as being for the use of the café. The N59 runs

through the town, but as the site is within the town limits the planning authority did not consider that there were any traffic implications. There appears to be sufficient space on the road for loading.

Financial contributions

The proposed change of use is subject to a S.48 Development Contribution. No other contributions apply.

8.5. **Appropriate Assessment**

The River Deel is part of the Moy catchment and is designated an SAC, part of the River Moy SAC, site code 002298. The river flows through Crossmolina in a semi-natural section with a linear park on each side. The qualifying interests of the SAC are as follows:

Lowland hay meadows (<i>Alopecurus pratensis</i> , <i>Sanguisorba officinalis</i>) [6510]
Active raised bogs [7110]
Degraded raised bogs still capable of natural regeneration [7120]
Depressions on peat substrates of the <i>Rhynchosporion</i> [7150]
Alkaline fens [7230]
Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]
Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]
<i>Austroptamobius pallipes</i> (White-clawed Crayfish) [1092]
<i>Petromyzon marinus</i> (Sea Lamprey) [1095]
<i>Lampetra planeri</i> (Brook Lamprey) [1096]
<i>Salmo salar</i> (Salmon) [1106]
<i>Lutra lutra</i> (Otter) [1355]

The river also flows into Lough Conn which has both an SAC and SPA designation. The proposed development is an existing structure within the town, and I do not consider that the proposed works would alter or increase any impact on run-off or other potential impacts on the qualifying interests or their related conservation objectives.

I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002298 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

I recommend that the proposed retention of use and proposed alterations be granted permission for the reasons and considerations set out below, subject to the conditions in section 11 of this report.

10.0 Reasons and Considerations

Having regard to the location of the site within the town centre of Crossmolina and the historic use of the building for retail and residential, it is considered that the retention of the café use along with permission for signage and awning would, subject to the conditions set out below, not seriously injure the residential amenities of adjoining properties and would otherwise be in accordance with the proper planning and sustainable development of the area.

11.0 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 conditions require details to be agreed with the planning authority the developer shall agree such details within two months of the date of this order and the development shall be carried out and completed in accordance with agreed particulars.

Reason: In the interest of clarity.

2. The change of use hereby permitted for retention shall only relate to the ground and first floor only.

Reason: In the interest of clarity.

3. No advertising or advertising 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 outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

4. The café and take way facility shall not be operated between 23.00 and 0800 on any day.

Reason: In the interest of the amenities of property in the vicinity.

5. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority within 2 months of the date of this order. This scheme shall include the provision of litter bins and revised refuse storage facilities.

Reason: In the interest of visual amenity.

6. The developer shall control odour emissions from the premises in accordance to measures which shall be submitted to and agreed in writing with, the planning authority within 2 months of the date of this order.

Reason: In the interest of public health and to protect the amenities of the area.

7. 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.

Philip Davis
Planning Inspector

21st May 2021