



An
Bord
Pleanála

Inspector's Report

ABP-313044-22

Development	Change of use of building from storage to sport & recreation use. Permission to make elevational changes to building and new signage.
Location	Rock Street, Kenmare, Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	211481
Applicant(s)	Abbeyville Communications & Media Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Abbeyville Communications & Media Limited
Date of Site Inspection	22 nd June 2022
Inspector	Liam Bowe

1.0 Site Location and Description

- 1.1. The appeal site is located in Kenmare town centre in West Kerry. It is situated at the eastern end of a terrace of two-storey houses on Rock Street approximately 50m to the east of the Main Street. The site is accessed from Rock Street and has existing pedestrian and vehicular access from the street.
- 1.2. The appeal site has a stated area of 0.0346 hectares. The site is comprised of an existing storage shed and an end of terrace two-storey house. The house is presently unoccupied, and the shed is not in use. There is a row of terraced houses immediately adjacent to the west that runs to the Main Street and there is also a terrace of houses along the north side of Rock Street that runs to the Main Street. There is a residential street, Downing's Row, directly opposite the site that runs away from the site in a northerly direction. There is a lane (Back Lane) immediately to the west of the site that serves the rear of properties on the Main Street and further to the west is an open space area associated with a residential area known as Lodge Wood.

2.0 Proposed Development

- 2.1.1. The proposed development comprises the change of use of the existing house and storage shed (total stated area of 314m²) on the site to use as indoor sports and recreation. Alterations are proposed to the front/north elevation of the building and signage is proposed on the front/north, east and west elevations, all at Rock Street, Kenmare, Co. Kerry. The house and storage shed are serviced by an existing connection to the public water supply and public sewer.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. By order dated 21st February 2022 Kerry County Council issued notification of decision to Refuse Permission for the development for the following reason:

The application site is located on a narrow cul-de-sac side street in a predominantly residential area. Having regard to the nature of the proposed development and

proximity to existing residential development, it is considered that the noise, traffic and general disturbance that would be generated by the proposed development would seriously injure the residential amenities and values of property in the vicinity. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. **Planning Report**

The Planning Officer in the report dated 18th February 2022 stated the relevant development plan and zoning for the area, outlined the planning history on the site, noted the third-party submission and recommended that permission be refused due to its adverse impact on the residential amenity of the area, which is reflected in the decision of the Planning Authority.

Appropriate Assessment Screening was carried out and concluded that there is no likely potential for significant effects to any Natura 2000 site.

3.2.2. **Other Technical Reports**

Conservation Officer – The report dated 17th January 2021 states that the site is located within a designated ACA. No objection to proposal with the use of hardwood to front façade door and window. Condition recommended regarding metal roller door.

County Archaeologist – No objection.

Area Engineer/Roads – No objection.

Fire Officer – No objection.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

There was a submission made on the planning application outlining concerns in relation to car parking and noise.

4.0 Planning History

4.1. Appeal Site:

P.A. ref. no.76/546: Permission granted for a store.

5.0 Policy Context

5.1. Kerry County Development Plan 2022 - 2028

The Board should note that the Planning Authority carried out their assessment of the proposed development based on the policies and objectives contained in the Kerry County Development Plan 2015-2021. The Kerry County Development Plan 2022-2028 came into effect on 15th August 2022.

- 5.1.1. Kenmare is designated as a Regional Town under Section 3.10.2 Settlement Hierarchy of the County Development Plan with a housing, employment and service function serving the local region within the county.

Policy Objective KCDP 3-5:

It is an objective of the Council to ‘strengthen the social and economic structure of rural towns and villages by supporting the re-use of existing buildings and the regeneration of under-utilised buildings and lands.’

The County Development Plan states that the existing zoning in Kenmare is that which is included in the Kenmare Functional Area Local Area Plan 2010-2016 (as extended).

5.2. Kenmare Functional Area Local Area Plan 2010-2016 (as extended)

- 5.2.1. The appeal site has a land use zoning of ‘**M1 – Town Centre**’. A Sports club/Recreational building is ‘Open to Consideration’ under this zoning.

The purpose of this land use zoning is:

‘To primarily provide for mixed uses including retailing, residential, commercial, office, civic buildings, financial institutions, professional services and any other uses appropriate to the town centre. Proposed developments should improve the vitality

and viability of the town centre and shall meet the needs of the town and the hinterland.’

5.3. Natural Heritage Designations

The site is not located within any European site. The closest Natura 2000 site is the Kenmare River SAC (Site code: 002158) located approximately 300m to the west and 700m to the south of the appeal site. Mucksna Wood SAC (Site code: 001371) is located approximately 1km to the south of the appeal site.

5.4. EIA Screening

Having regard to the nature and scale of the development and separation from sensitive environmental receptors, I am satisfied that no likely significant impacts on the environment arise from the development and that the carrying out of an EIA is not required in this case.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal are submitted by MOL Consulting Engineers Limited, Kilmurry Business & Technology Park, Kilmurry, Kenmare, Co. Kerry on behalf of the First Party, Abbeyville Communications & Media Limited, and the main points made can be summarised as follows:

- Outlines the history of the building and its use as a store by John R. McCarthys Builders Providers.
- Contend that 22 of the 38 properties which have access to Rock Street, Downing’s Row or Back Lane have a commercial use.
- Confirm that the proposed 2 no. golf simulators are enclosed booths and sound insulated.
- State that the sound generated from art and yoga classes would only be from people talking.

- State that music will not be played during dance or fitness classes.
- Advises that the proposed on-site car parking spaces are for the owner and staff and that customers will be directed to park on the Main Street.
- Contend that by bringing the building back into to use will result in a reduction in anti-social behaviour and loitering in the area.
- Outlines how the proposed development will benefit the town and comply with the aims of the development plan.

6.2. Planning Authority Response

The Planning Authority has not responded to the grounds of the appeal.

7.0 Assessment

I consider the main issues in determining this appeal are as follows:

- Residential Amenities
- Other Issues
- Appropriate Assessment

7.1. Residential Amenities

Noise & Disturbance

- 7.1.1. It is generally accepted that evening and night-time commercial uses such as indoor sports/gaming facilities are more appropriately located within town centres, as opposed to established residential areas. I recognise that there are residential uses in the area, although it is identified as the ‘town centre’ area in the Local Area Plan. I note the history of the building and its use as a store by John R. McCarthys Builders Providers and associated activity and I note the First Party’s contention that 22 of the 38 properties which have access to Rock Street, Downing’s Row or Back Lane have a commercial use. On the day of my site inspection, I observed a number of retail/office uses on Rock Street and that Back Lane serves as a rear access to the properties on the Main Street. Consequently, I consider the subject stretch of street is directly off the primary commercial street in the town centre and is defined by a mix of uses. Addressing vacancy should be a primary objective in creating a vibrant

town centre and the proposed use on a street located off a primary retail street, replacing a commercial use, would not in my opinion unreasonably conflict with the other town centre uses. With the attachment of appropriate conditions restricting noise levels and opening hours, I am satisfied that the proposed development would not be detrimental to neighbouring residential amenities by way of nuisance.

7.1.2. The Planning Authority raised a concern that the proposed development would add to general disturbance in this area. There is little evidence in my view that would support that the proposed change of use has the potential to add to the level of anti-social behaviour in its locality or otherwise. I consider that by providing a use that extends into the evening and into the early night-time would increase the level of passive surveillance in this area.

7.1.3. In conclusion, I am satisfied that the proposed change of use of a vacant storage shed and house to an indoor sports/gaming facility would not be contrary to the proper planning and sustainable development of the area, given the character of the immediate and surrounding area, the modest scale of the development, the previous commercial use of the premises and the prevailing planning policy provisions, as outlined above. Furthermore, the proposed development would not have an adverse impact on the character and mix of uses in the area and would not lead to an overconcentration of such uses in this area. Accordingly, planning permission for the proposed development should not be refused for this reason.

Car Parking

7.1.4. The proposed layout provides three car parking spaces on-site for the stated use of the owner and two employees. Any visitors to the proposed development would be able to avail of the on-street parking provided on the Main Street or other areas in the town centre. Section 14.4.3 of the Kerry County Development Plan 2022-2028 states that the Council will facilitate a reduction in car parking standards for change of use/regeneration developments in town centre locations and no specific car parking requirements are outlined in the Development Plan.

7.1.5. I do note the restricted nature of the proposed car parking spaces whereby the three spaces proposed are 7.2m wide in total and are to be accessed from the street via a roller shutter door measuring 6.7m in width. I consider that the area proposed for the provision of car parking could only comfortably accommodate two spaces, one of

which should be a universal access space. I consider this provision to be acceptable at this town centre location and in accordance with the policy outlined in the County Development Plan. I am also satisfied that there will be no significant change as a result of the proposed change of use in access/egress to/from Rock Street or Downing's Row for existing residents.

7.2. Other Issues

Design

7.2.1. The proposals for alterations to the external facades of the two existing buildings in order to facilitate the proposed change of use on the appeal site are relatively minor. These alterations include:

- Replacing the existing double doors on the front elevation with a large roller shutter door and a steel pedestrian door,
- Replacing the door and windows on the front elevation with hardwood door/windows, and
- Adding signage to the front/north, east and west elevations.

7.2.2. I note the comments of the Conservation Officer of Kerry County Council regarding the proposal to insert a hardwood door and window into the existing house. On the day of my site inspection, these were boarded up as the building appeared not to be in use. I note that one of the two first floor windows is shared with the house to the west of the appeal site – this is demonstrated on the submitted first floor plan – and the applicant may not have the relevant consent to insert a new window here. I consider that, whether permission is forthcoming or not, this will not impact the legibility of the buildings on the street. I also consider the proposed finishes to be appropriate within this designated Architectural Conservation Area and I recommend that the Board include a condition requiring this.

7.2.3. Similarly, I note the comments of the Conservation Officer of Kerry County Council regarding the proposal to insert a roller shutter door and I agree with the contention that this would not be the most visually appropriate feature at this location. In the event of a grant of permission, I also recommend that the Board include a condition requiring alternative treatment of this door.

7.2.4. I also note the proposed signage on the north, east and west elevations. I consider that the signage on the north, front of the building, would be acceptable, subject to agreement of type with the Planning Authority. However, I consider the high-level signage on the east and west elevations unnecessary within the designated ACA and such that, in my opinion, it would act primarily as advertising for the use/business and would be detrimental to the character of the ACA. I recommend that the Board include a condition omitting this signage on the east and west elevations.

7.3. **Appropriate Assessment**

Having regard to the nature and scale of the development proposed and the absence of any direct or indirect pathway between the appeal site and any European site and the separation distances to the nearest European sites ((Kenmare River SAC (Site code: 002158) and Mucksna Wood SAC (Site code: 001371))), 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 permission for retention of the development be granted for the following reasons and considerations, subject to conditions.

9.0 Reasons and Considerations

Having regard to the zoning objectives for the site under the Kenmare Functional Area Local Area Plan 2010-2016 (as extended), the provisions of the Kerry County Development Plan 2022-2028, to the pattern of development in the area and to the town centre location of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely impact on the character or mix of uses in the town centre, and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, 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, 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>No change from this permitted use or increase in the area to be used shall take place, unless authorised by a further grant of planning permission.</p> <p>Reason: In the interests of clarity and residential amenity.</p>
3.	<p>The proposed indoor sports, dance/fitness and gaming facility shall not operate outside the period of 1000 to 2200 hours Monday to Sunday inclusive.</p> <p>Reason: In the interest of general amenity.</p>
4.	<p>The signage proposed on the eastern and western elevations shall be omitted in their entirety from the proposed development. Otherwise, details</p>

	<p>of materials, colours and textures of the signage on the front elevation, hardwood window and door, and roller door for the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity and the protection of the integrity of the Architectural Conservation Area.</p>
5.	<p>Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the visual amenities of the area</p>
6.	<p>The sound levels from any loudspeaker announcements, music or other material projected in or from the premises shall be controlled so as to ensure the sound is not audible in adjoining premises or at two metres from the frontage.</p> <p>Reason: In the interest of the amenities of the area.</p>
7.	<p>Revised details demonstrating the provision of two car parking spaces on-site, one of which shall be a universal access space, in lieu of the three spaces indicated on the site layout plan submitted to the Planning Authority on the 21st day of December 2021 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of traffic safety and universal access.</p>
8.	<p>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. The contribution shall be paid prior to the</p>

	<p>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 the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 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.</p>
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Liam Bowe
Planning Inspector

15th September 2022