



An
Bord
Pleanála

Inspector's Report

ABP-313562-22

Development	Change of use of part of the ground floor area and fitting out of the premises for use as a Pizza Take Away facility
Location	Cavan Street, Oldcastle, Co Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	22252
Applicant(s)	Samuel Acatincai
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Mohammad Bashrat
Observer(s)	None
Date of Site Inspection	18 th October 2022
Inspector	Ian Boyle

1.0 Site Location and Description

- 1.1. The subject site has an address at No. 1 Cavan Street, Oldcastle, Co. Meath, A82 HW99. It comprises the ground floor level of an existing shop unit (beauty salon), which has a floor area of roughly 112sqm. The space is currently being used for exercise classes and physical training purposes (karate, kick boxing, etc.)
- 1.2. The property faces onto one of the main thoroughfares of the town. There is an access lane on the northern side of the building which leads into a yard at the back of the property. There are residential apartments above the ground floor level at first floor.
- 1.3. The character of the surrounding area is mainly commercial and retail.
- 1.4. The site has a stated area of approximately 0.62ha.

2.0 Proposed Development

- 2.1. The proposed development is for a change of use from 'shop' to 'pizza take away' at ground floor level of the subject property and ancillary site works.
- 2.2. It also comprises business identification signage on the existing fascia sign board in the form of corporate branding / logo and a new front entrance door.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a Notification of Decision to Grant Permission on 20th April 2022, subject to 8 no. conditions, which were standard in nature
- 3.1.2. Notable conditions are in relation to control of odour, noise, dust, vibration, etc. (No. 3), that the operation of the development is to be solely used as a pizza takeaway shop (No. 4), control of hours of operation (No. 5), control of signage (No. 6) and security shutters must be recessed behind the shop glazing and in a single colour matching the colour of the building (No. 7).

3.2. Planning Authority Reports

3.2.1. Planning Report

- The development is acceptable in principle, consistent with the County Development Plan and would not have an adverse impact on the surrounding area.
- There would be no overlooking of adjacent properties or potential impacts to amenity, daylight, overlooking or overshadowing.
- The positioning of the proposed flue would ensure that odour would be dispersed appropriately and not impact the first floor apartments.

3.2.2. Other Technical Reports

Transportation: No objection.

Water Services: No objection.

3.3. Third Party Observations

The Planning Authority received a single third party observation, which raised the following main concerns:

- Safe storage of gas bottles onsite.
- Insufficient space onsite for bin storage.
- Would lead to parking problems on the street.
- Amenity impact on residential units above the shop in terms of noise, anti-social behaviour, littering.
- Environmental impacts in terms of waste created.
- The application does not show the location of the proposed extract / external ducting.
- The proposed development would put further strain on existing food service operators in the town and there are already four pizza providers in Oldcastle – the objector confirms they are one of them. It would be difficult to maintain

current standards and keep the business going if permission is granted for the proposed takeaway.

4.0 Planning History

Reg. Ref. 991134: The Planning Authority granted permission in April 2000 for a two-storey shop unit with 2 no. apartments above and a 2-storey apartment building at the rear of the site.

5.0 Policy Context

5.1. Meath County Development Plan 2021-2027

Zoning

The appeal site is zoned 'B1 – Commercial Town or Village' under the *Meath County Development Plan 2021 – 2027* ('the Development Plan').

The use 'takeaway' is a permitted use. The proposed development is therefore consistent with this zoning objective.

Section 11.6.2 Fast Food / Takeaway Outlets

This section of the Development Plan states that fast food outlets have the potential to cause noise, littering and can detract from the amenities of an area. Therefore, proposals for new or extended outlets will be carefully considered, particularly in locations where a proliferation of such uses already exists.

DM POL 17: To assess the appropriateness of any proposal for a new or extended takeaway/fast food outlet on the potential cumulative effect of these uses on the amenities of an area and schools.

DM OBJ 55: To require that all proposals for new or extended fast food/takeaway outlets address the following as part of any pre-application discussion or planning application documentation:

- *The cumulative effect of fast food outlets on the amenities of an area.*
- *Opening/operational hours of the facility.*
- *The location of vents and other external services*

- *Advertising signage*
- *External seating.*

5.2. **Natural Heritage Designations**

No natural designations apply to the subject site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The Appellant raises similar issues and concerns as those outlined in the observation previously submitted to the Planning Authority (see Section 3.3 above).

6.2. **Applicant Response**

- In terms of fire hazard / storage of gas bottles, this is not relevant. The building is of modern construction – in effect, a concrete box – and the original building has been issued with a fire safety certificate.
- The method of extraction would be virtually silent and is a modern heat recovery system.
- There is public parking available on Cavan Street. The opening hours are set out under Condition 5 of the Council's Decision. The proposed development is for a takeaway facility only and a large percentage of the business is order and delivery. Therefore, the development would not contribute to any significant demand on on-street car parking. There is also adequate space for deliveries.
- The Applicant operates other similar facilities elsewhere in the County and has been doing so for many years. There is adequate yard space to accommodate bins and for other storage purposes. There would be no environmental impact.

- The appeal relates to economic matters in the town. The proposed development would contribute to the overall economic performance and status of the area, including in terms of creating new employment.

6.3. Planning Authority Response

- The appeal has been examined by the Planning Authority and is satisfied that all matters outlined in the third party submission were considered in the assessment of the planning application as detailed in the Planning Officer's Report.
- The proposed development is consistent with the policies and objectives as outlined in the Meath County Development Plan 2021 – 2027.

7.0 Assessment

The main planning considerations are as follows:

- Principle of Proposed Use and Potential for Residential Amenity Impacts
- Car Parking
- Other Issues
- Appropriate Assessment

7.1. Principle of Proposed Use and Potential for Residential Amenity Impacts

- 7.1.1. The proposed development comprises a change of use of the existing ground floor of a commercial unit from shop / beauty salon to fast food takeaway. The main grounds of appeal submitted by the third party is that the principle of this change of use is unacceptable as there are too many takeaways and similar type operates in the town centre at present.
- 7.1.2. The Appellant submits that there are already four pizza providers throughout Oldcastle – I note that the objector states they are one of them – and that the proposed development would put further strain on existing food service operators in the town. It is asserted by them that it would be difficult to maintain current standards and keep their business going if permission is granted for the proposed

takeaway. [In this regard, I observed during my site inspection that there is an existing pizza takeaway outlet situated across the street ('Pizza Max').]

- 7.1.3. The subject site is in the town core of Oldcastle. The proposed takeaway use is a 'permitted use' under the 'B1 – Commercial Town or Village' zoning which applies to the site. The proposal is therefore acceptable in principle according to the zoning. I also consider that its location within the centre of town is an appropriate type setting for such a use.
- 7.1.4. It appears that the property is currently underutilised, and potentially vacant, as it seems the permitted use (beauty salon) is no longer in operation. During my site inspection, various promotional posters and advertisements were in the shop window for physical training classes taking place within the unit.
- 7.1.5. In my opinion, were the proposed use permitted to operate from this unit, this would comply with the zoning objective for the site, which seeks to promote activity within town centres and to improve facilities within. The Development Plan guidance for the B1 zoning states that the primary land use in this zone is employment generating, service and retail provision, and that town and village centres are characterised by a concentration of shops, services, meeting points and places of employment.
- 7.1.6. In relation to potential impact on residential amenities, I note there are existing residential uses in proximity to the appeal site. During my site inspection, I observed that there appears to be occupied apartments above the ground floor of the commercial unit in question. There is also an existing 2-storey apartment building to the rear of the site, which was permitted under Reg. Ref. 991134 in April 2000.
- 7.1.7. However, I reiterate that the site is situated within a town centre location where a vibrant mix of uses, including retail, services, and commercial employment is generally encouraged by the Development Plan. The proposed takeaway is of a modest size (112sqm), and there are some other takeaway, café and restaurant uses in the vicinity of the site. These uses are not excessive in my opinion however, and I note that there are also other shops present along this part of the street in the form of a butchers, travel agency, launderette and dry cleaners, newsagents, betting shop, hair salon, amongst others.

- 7.1.8. Furthermore, the hours of operation of the facility have been restricted under condition (no. 4) of the Planning Authority's Notification of Decision to Grant Permission ('NoD'), such that the takeaway must shut at 10pm (Monday to Sunday), which I consider reasonable. I do not consider the operation to be of such a large scale that is unbefitting of its town centre location, or that it would have a significant, negative impact on the surrounding area in terms of odour, fumes, noise, or other potential amenity impacts.
- 7.1.9. In relation to potential littering on foot of the new use, I consider that this issue can be adequately addressed by condition. The provision of a litter bin at the front of the premises could be problematic however, given the narrow width of the footpath at the front of the unit. Therefore, I consider that at least one litter bin, exclusively for customer use, should be provided internal to the premises, and which must be maintained and emptied daily. I consider such a condition would be reasonable and help to prevent any adverse impact on the surrounding area by way of littering.
- 7.1.10. The proposal includes a commercial pizza oven and other cooking apparatus. Despite the third party concerns that the application does not show the location of the proposed extract / external ducting, I note that this is clearly depicted on the submitted plans and particulars accompanying the application.
- 7.1.11. The proposed southern (side) elevation shown on Drwg. No. B2204 shows the location, extent, and general size/scale of the proposed ducted system that is to be installed. I have noted that positioning and height of the flue, which is above the eaves level of the building, and consider this would help to ensure that any potential smell or odour is diffused and dispersed appropriately upon exiting the vent at the top.
- 7.1.12. Condition No. 3 attached to the Planning Authority's NoD seeks to control emissions in relation adverse malodour, smell, fumes, etc., including for people in residence nearby and I recommend that such a condition should also be applied by the Board in the event permission is granted.
- 7.1.13. Specific details of the proposed ventilation and extract system has not been provided as part of the application, however. I note also that the Council's EHO did not provide a report on the application. Therefore, I consider that the submission of

further such details could be reasonably included as a condition as part any grant of permission that is issued.

- 7.1.14. In summary, I consider that a new takeaway use would reasonable and appropriate, and given the zoning, is a permitted use in this location. Therefore, I conclude that the proposed development is acceptable in principle and consider that it would have a significant negative impact on the residential amenities of the area.

7.2. Car Parking

- 7.2.1. The Appellant states that the proposed development would cause adverse car parking problems in the town.
- 7.2.2. The subject property fronts onto Cavan Street – one of the main thoroughfares in Oldcastle town centre. Public parking is available along both sides of this street. During the day of my site visit, which was around mid-day on Tuesday, 18th October, 2022, I noted that there was ample on-street car parking available, including directly outside and opposite the premises.
- 7.2.3. I do not consider that the proposed use (takeaway) would generate any greater parking demand than the existing use (shop) and conclude that any such demand would be mainly outside of typical daytime business hours.
- 7.2.4. The interdepartmental report prepared by the Council's Transportation Department raised no concerns and did not object to the proposal.

7.3. Other Issues

- 7.3.1. The Appellant raises various concerns in relation to inadequate bin storage, safe storage of gas bottles onsite and the creation of waste in terms of having an environmental impact.
- 7.3.2. In relation to bin storage, I note that the Proposed Site Layout Plan accompanying the application shows a sizeable and dedicated outdoor space for this purpose in the 'waste bins area'. This is a dedicated external yard enclosed by sliding gates. There is space for three waste receptacles. Access from the premises is via the northern side of the building, which is a short walking distance for staff transferring waste and rubbish from the kitchen, and elsewhere within the unit, to the waste collection area.

- 7.3.3. The safe storage, management and disposal of waste is also required to be in accordance with relevant industry standards; and I do not consider that given the small scale and nature of the proposed development, which is a small to moderate sized pizza takeaway, that there would be potential for significant or excessive environmental impacts.
- 7.3.4. In terms of the potential storage of gas bottles onsite, I do not consider this to be a planning matter that is required to be assessed by the Board. The safe storage and handling of such items is the subject of a separate code, which is not dealt with under planning.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and small scale of the proposed development, which is a change of use from shop to takeaway with minimal physical changes, in an established urban and serviced area; and the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, 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. I recommend that planning permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the *Meath County Development Plan 2021-2027*, including the 'B1 – Commercial Town or Village' zoning that applies to the site, the location of the site within an established town centre setting, and the pattern of development in the surrounding vicinity, it is considered that, subject to the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would not be prejudicial to public health, and 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>The developer shall control odour emissions from the premises in accordance with measures, including extract duct details, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of public health and to protect the amenities of the area</p>
3.	<p>The hours of operation shall be between 0800 and 2200, Monday to Saturday and between 1000 and 2200 on other days.</p> <p>Reason: In the interest of the amenities of property in the vicinity.</p>
4.	<p>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 prior to the operation of the development. This scheme shall include the provision of litter bins and refuse storage facilities. Reason: In the interest of visual amenity.</p>
5.	<p>Security roller shutters, if installed, shall be recessed behind the glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising.</p> <p>Reason: In the interest of visual amenity.</p>

6.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
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Ian Boyle
Planning Inspector

20th October 2022