



An
Bord
Pleanála

Inspector's Report

ABP-314240-22

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Development	The development consisting of the following: Permission for change of use from shop unit to bookmakers on the ground floor and all associated works.
Location	Athenry , Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	22311
Applicant(s)	Boyle Sports.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party
Appellant(s)	Michael Gardner.
Observer(s)	None.
Date of Site Inspection	5 th October 2023
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to an existing shop premises formerly “Fahys Centra”, which is currently vacant, located at North Gate Street in the medieval fortified town of Athenry, Co Galway. The premises is on the western side of North Gate Street and is adjoined by a residential dwelling to the north and public house to the south. The three bay building includes a shopfront at ground floor level with a separate entrance doorway accessing upper floor residential use. The building has a substantial footprint with a single and two storey rear return.
- 1.2. The immediate area on Northgate Street includes a number of mixed uses including residential properties, public houses, a fast food outlet, auctioneers and retail service uses and a number of vacant buildings are also evident. Athenry Heritage Centre is located at St Mary’s Church a short distance to the north east. A one way traffic system (northbound) operates on North Gate street with limited parking on the western side of the road in front of the appeal premises.

2.0 Proposed Development

- 2.1. The application involves permission for change of use from shop unit to bookmakers on the ground floor, alterations to windows on the front elevation and all associated site works, and signage. In response to the request for additional information it was clarified that it is proposed to repair and retain the shop front as is.

3.0 Planning Authority Decision

3.1. Decision

By order dated 4th July 2022 Galway County Council issued notification of the decision to grant permission and 10 conditions were attached including:

Condition 3 regarding shop front of sustainable timber. Single sign. No plastic signage or internal illumination. No outward opening windows to be installed to the façade.

Condition 4. Archaeological monitoring.

Condition 10. Development Contribution €5,448

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's initial report noted location within the ACA and along one of the main retail streets within the town centre. Concern was expressed regarding the number of bookmakers in the vicinity and limited active street frontage normally associated with such use. This to be balanced against the vacant nature of the building.

A request for additional information was recommended seeking justification for the proposed development in this prominent location and a demonstration of how the proposal will contribute to the active street frontage and overall viability of the town centre. A detailed shopfront design was requested.

Final report recommends permission subject to conditions.

3.2.2. Other Technical Reports

Conservation Officer's report notes the location within an ACA and the requirements of DM Standard 44 of the County Development Plan in relation to works within an ACA. Further information required regarding detail of existing and proposed shop front.

Subsequent report recommends that the material used for the repairs to the shopfront is of sustainable timber and signage to be agreed prior to commencement of works. No outward opening windows to be installed to the façade and construction of timber.

3.3. Prescribed Bodies

No submissions

3.4. Third Party Observations

Submission from the third party appellant objects on grounds of location within the walled medieval town and ACA. Inappropriate location and no need for an additional

bookmakers as two such premises already in the town. Proposal would result in exacerbation of traffic issues. Non retail use inappropriate.

4.0 Planning History

08/2634 Permission granted for 3 no satellite dishes to the rear yard at ground level to an existing office (class 2 use) as granted under PI 09/1718 formerly Fahy's Centra.

08/1718 Permission granted for change of use of ground floor restaurant to office use (class 2)

08/658 Permission granted for change of use of ground floor shop to restaurant change of use of part of first floor from retail /storage to office use (class 2/3) and new shop front to premises.

5.0 Policy Context

5.1. Development Plan

The Athenry Local Area Plan 2012-2022 refers.

The site is zoned town Centre / Commercial C1.

Objective LU 1 refers.

Objective LU1 – Town Centre/Commercial (C1) Promote the development of the Town Centre as an intensive, high quality, well-landscaped, human scaled and accessible environment with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail services, facilities and amenities to the local community and visitors to the town. The town centre and associated main streets will remain the primary focus for retail and service activity in the town.

Betting office is open for consideration within the C1 zoning as set out on Land Use Zoning Matrix. (page 15)

The site is within the Athenry ACA and within the zone of archaeological potential for Athenry Town (GA084-001)

5.2. **Natural Heritage Designations**

The site is not within a designated area. The nearest such sites include:

Galway Bay Complex SAC is circa 10km to the southwest.

Inner Galway Bay SPA circa 13km to the southwest.

5.3. **EIA Screening**

6.0 Having regard to the nature of the development comprising change of use of an existing premises it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

The appeal is submitted by Michael Gardiner, Northgate Street, Athenry owner of the adjoining dwelling. Grounds of appeal are summarised as follows:

- Given the location on medieval street with traffic congestion and limited parking this is not a suitable for bookmakers.
- Proposal contravenes economic objectives of the development plan.
- Appellants adjoining residence not taken into consideration.
- Two bookmakers operate nearby. The need for a third bookmakers has not been justified.

- A previous application 10/971 was refused based on preponderance of existing bookmakers within the immediate vicinity and proliferation of non-retail activity.
- Local Authority has recently acquired building opposite for civic and community use which is incompatible with the proposed betting use.
- No retail impact assessment was carried out.
- Proposal contravenes Government Town Centre First policy to encourage residents into towns.

7.2. Applicant Response

7.2.1 The submission by John Madden and Associates Chartered Engineers responds to the appeal as follows:

- Majority of Boyle Sports patrons will avail of public car parks and arrive on foot and will visit other shops and services in the vicinity further contributing to the viability of the town.
- Proposal to rejuvenate this derelict unit will benefit neighbours.
- There are two bookmakers in the town however there used to be three.
- As Boyle Sports is classified as retail use there is no contravention of economic development objectives of the County Development Plan.
- Retail impact statement not necessary. Active use will ensure maintenance of the building.
- It is intended to upgrade the apartment on the upper floor of the site for residential use.
- Use as a betting shop with residential overhead will help to sustain the vitality and viability of this town centre area of Athenry.

7.3. Planning Authority Response

7.3.1 The Planning Authority did not respond to the grounds of appeal.

8.0 Assessment

8.1. Having considered the application and appeal I consider that the key issues relate to the principle of development and impact on residential and other amenities of the area. The issue of Appropriate Assessment Screening also needs to be addressed.

8.2. As regards zoning the site is within the area zoned Town Centre / Commercial C1 in the Athenry Local Area Plan 2012-2022 and the objective is to

“Promote the development of the Town Centre as an intensive, high quality, well-landscaped, human scaled and accessible environment with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail services, facilities and amenities to the local community and visitors to the town. The town centre and associated main streets will remain the primary focus for retail and service activity in the town.”

Betting office use is open for consideration within this C1 zoning as set out in the land use zoning matrix. I would consider that the proposed use as a betting office is an appropriate use within this C1 zoning and therefore the principle of the proposed use is acceptable subject to detailed matters and in particular impact on the amenities of the area. I note that this area has a number of mixed uses and I consider that the provision of a viable and sustainable use for the building would best protect the physical fabric and vitality of the area.

8.3. As regards allegations of a proliferation of such uses I note the concerns raised and that the proposal would be the third such betting office in the town of Athenry. The established betting premises at Cross Street and at the corner of Burke’s Lane and Market Square. In the event of permission all three bookmakers premises would be

within a 100m walking distance of one another within the town core. I also note that the appeal building has been vacant for a number of years and is in need of repair and there are a number of vacant buildings within the town core. I consider that the provision of a viable and sustainable use for the building would best protect the physical fabric and the vitality of the area. Having regard to the mixed use character of the area I consider that the issue of proliferation of such uses is unproven.

8.4 As regards the possible impact on the residential amenity of adjoining properties and the amenities of the area in terms of noise and general disturbance, I consider that the proposed use is not likely to give rise to significant disturbance or undue impact on the residential amenity or the amenities of the area. As regards visual impact and site context within the heritage town of Athenry and specifically within the Architectural Conservation Area I consider that a high quality timber shopfront and simple signage is appropriate to ensure a positive contribution to the streetscape. I acknowledge that betting offices have in the past had a strong tendency to result in dead frontages and this should be avoided. The avoidance of internally illuminated signage also should be addressed by condition. As regards compatibility with other mixed use including residential and civic community uses I consider that there is no evidence that the proposed use as a bookmakers would give rise to conflict or incongruity.

8.5 Regarding the issue of Appropriate Assessment having regard to the minor nature of the proposed development and to the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 **Recommendation**

9.1. I recommend that permission for the proposed development be granted subject to conditions and for the reasons and considerations set out below.

Reasons and Considerations

Having regard to the location of the site within the town centre of Athenry on a site zoned Town Centre C1, it is considered that the proposed use as a bookmakers would not result in an excessive concentration of such uses in the area, would not impact negatively on the vitality and viability of the town centre, would not have an adverse impact on the residential or other amenities of the area and therefore would comply with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 8th day of June 2022, 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.

Reason: In the interest of clarity.

- 2 The proposed shopfront shall be in accordance with the following requirements:
 - (a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering.
 - (b) Lighting shall be by means of concealed neon tubing or by rear illumination,
 - (c) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,
 - (d) external roller shutter shall not be erected. Any internal shutter shall be only of the perforated type, coloured to match the shopfront colour.
 - (e) no adhesive material shall be affixed to the windows or the shopfront.

Reason: In the interest of visual amenity.

3. Prior to commencement of development the developer shall submit and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

4. The developer shall facilitate the protection of archaeological materials or features which may exist within the site. In this regard the developer shall employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works and provide arrangements, acceptable to the planning authority for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

5. Site development and building works shall be carried out only between the hours of 08:00 to 19:00 Mondays to Fridays inclusive, between 08:00 to 14:00 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.

Reason: In order to safeguard the residential amenity of property in the vicinity.

6. 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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Bríd Maxwell
Planning Inspector

12 April 2023