



An
Bord
Pleanála

Inspector's Report ABP-315396-22

Development	Continuation of use to Wicklow Strength and Fitness Gym granted permission Planning Ref 19/142
Location	South Quay, Wicklow Town, Co. Wicklow, A67 X928.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	22/725
Applicant	Liam O'Toole
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party Appeal
Appellant(s)	Noreen Vize Carolann Murphy.
Observer(s)	None.
Date of Site Inspection	14-09-2023
Inspector	Adam Kearney.

1.0 **Site Location and Description**

- 1.1. The premises is a commercial warehouse structure located on the South Quay in Wicklow Town. The area can be characterised as mixed use with retail, hospitality, commercial warehousing and residential all evident. On the opposite side of the Quays are a number of larger warehouse structures offering a more industrial vista.

2.0 **Proposed Development**

The application seeks the Continuation of the use of a gym trading as Wicklow Strength and Fitness Gym which was granted permission under Reg Ref 19/142 on a temporary basis.

3.0 **Planning Authority Decision**

3.1. **Decision**

Grant Permission subject to 6 conditions

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planner's report recommended a grant of permission as provided for in the Chief Executive's order.

3.2.2. Other Technical Reports

None

4.0 **Planning History**

19/142 – Permission Granted (3 Years) for retention of existing use of premises as gym and for permission for new windows on northern elevation and for personnel door on western elevation together with all associated site works.

5.0 Policy and Context

5.1. Development Plan

Wicklow Town - Rathnew Development Plan 2013 – 2019 is the current land use framework for this settlement, subject to any overriding provisions of the Wicklow County Development Plan 2022-2028

Zoning Town Centre

Typically Permitted: Leisure Buildings

Preserve, improve and provide for Town Centre Uses

Wicklow County Development Plan 2022 – 2028

CPO 7.39

To provide for the development of facilities that will contribute to the improvement of the health and well-being of the inhabitants of County Wicklow and facilitate participation in sport and recreation.

CPO 7.40

Facilities for sports shall normally be located on designated active open space, close to towns or villages where they are easily accessed by sustainable mobility options. All efforts shall be made to locate new sports facilities close to existing community facilities, schools or areas of dense residential development.

5.2. Natural Heritage Designations

None in the vicinity

5.3. EIA Screening

Having regard to the nature and modest scale of the proposed development being the continued use of a leisure and fitness facility in an existing building, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental

impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- Shock waves and vibration emanating from the gym causing structural damage to No. 6 & No. 7 The Mall
- Mitigation measures not fit for purpose.
- Continued use of gym and dropping heavy weights may cause structural collapse.
- No adherence to opening times with activity noted late at night

6.2. Applicant Response

- Sets out the topography and structural make up of retaining wall
- No evidence to support structural defects.
- No complaints from other neighbours
- Offers front elevation image of appellants properties noting 'structurally intact'.
- Noise levels no higher than background noise
- Further mitigation measures unnecessary

6.3. Planning Authority Response

- None

6.4. Observations

- None

6.5. Further Responses

None

7.0 Assessment

7.1. I have read all of the documents and reports accompanying the file, have reviewed the drawings and have visited the subject site and the site of one of the appellants. I believe the primary issues relate to the following.

- Principle of development
- Impacts on Residential Amenity
- Structural impacts

7.2. Principle of Development

The subject commercial building was repurposed for leisure and fitness activity. The current zoning allows for leisure activities and the CDP actively encourages locating such facilities in urban centres.

The opening hours are set at 06.30 to 21.00 Monday to Saturday. The application appears to have sought the opening of the facility on Sundays and Bank Holidays, but this was withdrawn by way of further information.

I am satisfied that the location is suited to the operation of a gym and its town centre location lends itself to being accessible to a larger no. of people without creating car dependency.

7.3. Impacts on Residential Amenity

Having visited the neighbouring appellants dwelling and the back yard area, the proximity of the building the rear of the appellants dwellings is obvious with the roof of the gym below ground floor level of these dwellings located along 'Lower Mall'.

While I note there was acoustic testing undertaken on behalf of the applicant, I note that the location and timing of the testing was controlled by the applicant.

The fabric of the building with a corrugated metal roof without insulation is such that a level of noise transmission is inevitable.

While I am confident the issue around weights being dropped to the floor and associated noise and vibration has been resolved with the introduction of specialised flooring tiles, I am less convinced that more general noise associated with fitness classes including the playing of loud music would not cause a nuisance to neighbouring dwellings in closest proximity particularly early in the morning and later in the evening.

I believe it is necessary that there is recourse for independent noise testing afforded to the appellants as a mechanism of maintaining awareness among staff and patrons of the gym.

It may become necessary to further insulate the roof of the building if noise levels cannot be maintained within stipulated parameters.

7.4. Structural Impacts

I note the appellants have highlighted structural defects pertaining to cracking of concrete walls within their properties and I note the issue was raised by the agent acting for the appellant.

Having visited the Gym I did not encounter activity or equipment with the potential to cause such excessive vibration that would result in structural damage to neighbouring property. Also, such claims made in the absence of any data/evidence cannot be substantiated. I do not accept that day to day gym related activity would have resulted in structural cracking to adjacent properties albeit I accept that the appellants can demonstrate there is cracking, this cannot be linked to the operation of the gym.

8.0 Appropriate Assessment Screening

Having regard to the nature and scale of the proposed development and 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 give rise to a significant effect individually or in combination with other plans or projects on an European site and so it is possible to

screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

9.0 Recommendation

I recommend a Grant of Permission for the following reason.

10.0 Reasons and Considerations

Having regard to the existing structure and nature of the business it is proposed to continue, within a town centre location with an established mixed-use pattern of development it is considered that the proposed development would be in accordance with the Wicklow County Development Plan 2022 – 2028 and would be in accordance with the proper planning and sustainable development of the area.

11.0 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 hours of operation shall be restricted to 06:30 - 21:00 Monday - Saturday. Closed on Sundays and Bank Holidays.</p> <p>Reason: In the interests of adjoining Residential Amenity</p>
3.	<p>No amplified music shall be played on site before 08:00 or after 20:00.</p> <p>Reason: In the interests of adjoining Residential Amenity</p>

4.	<p>The noise level arising from this development shall not exceed 55 dB(A) Leq (1 hour) with a maximum peak of 65 dB(A) between 08.00 to 18.00 hours, when measured at nearest sensitive receptors.</p> <p>At all other times the noise level shall not exceed 45 dB(A) Leq (1 hour) measured at the same locations. No pure tones should be audible at any time.</p> <p>(b) As and when required by the Planning Authority a survey of noise levels at monitoring stations on adjacent properties (to be agreed with the Planning Authority) shall be undertaken by an agreed professional (at the expense of the developer) and the results submitted to the Planning Authority within one month of such a request.</p> <p>The results of such surveys shall include, inter alia: -</p> <ul style="list-style-type: none"> (i) Type of monitoring, equipment used, sensitivity or calibration evidence, and the methodology of the survey. (ii) Prevailing climatic conditions at the time of the survey. (iii) The time interval over which the survey was conducted. (iv) What machinery was operating at the time of the survey. <p>The results should be submitted to the Planning Authority within 2 weeks of the survey date in each case. If the noise survey has not been carried out, or the results not submitted to the Planning Authority within one month. the Planning Authority shall arrange to have such a survey carried out and the cost of the survey shall be recouped from the developer.</p> <p>Reason: In the interests of safeguarding the surrounding residential amenity.</p>
5.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>

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.

Adam Kearney

Planning Inspector

25th October 2023