



An
Bord
Pleanála

Inspector's Report

ABP-318748-23

Development	(a) Retention of increased floor space of 48 sqm at first floor level to existing private members gaming establishment granted under Ref: 22/048.and (b) permission for 20 no. gaming machines.		
Location	First floor unit, The Gem, Poplar Square, Naas, Co. Kildare.		
Planning Authority Ref.	2360293.		
Applicant(s)	Glangan Events Limited.		
Type of Application	Permission for Retention, and Refusal	PA Decision	Split.
Type of Appeal	First Party	Appellant	Glangan Events Limited.
Observer(s)	None		
Date of Site Inspection	9 th April 2024.	Inspector	Des Johnson

Context

1. Site Location/ and Description.

1.1 The site is located on the southern side of Poplar Square, at the north-eastern end of the Main Street in Naas, Co. Kildare.

1.2. The appeal site is a two-storey building in a terrace of buildings. It displays a fascia sign “The Loft Casino Club”. The private members establishment occupies the first floor, with access at ground floor level off Poplar Square. The appeal premises has a fire exit to the rear leading on to John’s Lane.

1.3 The Main Street in Naas includes a wide range of commercial premises, Church, and Court House. Adjoining the appeal premises there is a betting shop and kebab shop.

1.4 The appeal premises was closed at the time of inspection.

2. Description of development.

2.1 The proposal is for the retention of increased floor space of 48 sqm at first floor level to existing private members gaming establishment granted under Ref: 22/948.and for planning permission for 20 no. gaming machines.

2.2 The gross floor area of the existing building is stated to be 220 sqm, and the site area is 0.025ha.

2.3 The applicant is stated to be the occupier of the premises. A letter of consent for the application proposal is submitted with the application.

3. Planning History.

3.1 Reference 22948 – permission granted for (a) relocation of existing private members club granted under file Ref: 18/1051 from its current location to this proposed unit (b) change of use of existing first floor restaurant to a private members gaming establishment with entrance at ground floor level (c) proposed advertising signage to the existing timber shop front. The permission is subject to 11 conditions.

Condition 4 requires that the use shall not entail the installation of any gaming machines or video machines within the premises, nor shall the site operate as an amusement arcade. The reason for the condition is “In order to safeguard the amenities of the area”.

4. Planning Policy

4.1 The Kildare County Development Plan 2023-2029 came into effect on 20th January 2023. It is a policy of the Plan to prevent excessive concentration of specified uses including Amusement/Gaming Arcades. Section 15.13.7 of the Plan sets out criteria for the assessment of applications for proposals for such uses.

4.2 The Naas Local Area Plan 2021-2027 came into effect on 1st December 2021. The site is zoned for Town Centre uses with the objective to protect and provide for the future development of the town centre. The site is in an Architectural Conservation Area and a Zone of Architectural Potential.

5. Natural Heritage Designations

- Mouds Bog SAC & pNHA 0 c.8.5km to the west. Qualifying Interests – Active Raised Bogs, Degraded Raised Bogs, Depressions on peat substrates.
- Red Bog, Kildare SAC & pNHA – 8.6km to the south east. Qualifying Interests – Transition Mires & Quaking Bogs.
- Ballynafagh Bog SAC & pNHA – 10.6km to the north west. Qualifying Interests - Active Raised Bogs, Degraded Raised Bogs, Depressions on peat substrates.

Development, Decision and Grounds of Appeal

6. PA Decision.

6.1 The planning authority issued a split decision, granting permission for the retention of the increased floor area of 48 sqm, and refusing permission for the proposed 20 no. gaming machines.

6.2 The grant of permission for retention is subject to two conditions. Condition 1 relates to standard compliance. Condition 2 requires the 49 sqm authorised to be used as private gaming space and, other than the departure being authorised, the development is to be in accordance with Ref: 22/948, and any agreements entered into thereunder.

6.3 The reason for refusal states that to permit the gaming machines would contravene materially a condition of an existing permission (Ref: 22/948) and

would therefore be contrary to the proper planning and sustainable development of the area.

6.4 The Planner's report states that the premises is an existing private members gaming establishment with access from Poplar Square. The relevant planning permission is Ref: 22/948, and condition 4 of that permission which requires that the use shall not entail the installation of any gaming machines or video machines within the premises, not shall the site operate as an amusement arcade. The reason for the condition is to safeguard the amenities of the area. The site is located in an Architectural Conservation Area and Zone of Architectural Potential. Internal reports raise no objection to the proposed development. The area to be retained extends into space previously indicated to be back of house area, including a manager's office and a staff area. A revised location for the manager's office is provided. Having regard to the planning history, the additional space for retention is acceptable. The proposal for 20 no. gaming machines would contravene materially a condition of an existing permission. A split decision is recommended.

7. First Party Appeal

7.1 The grounds of appeal relate to the refusal of permission for the 20 gaming machines and may be summarised as follows:

- As permission exists for a Private Members Gaming Establishment, the appellants believe that the addition of 20 gaming machines do not constitute a material change of use
- The gaming machines would simply add an extra facility to the premises
- The premises is not an amusement arcade. It is not open to the public and is only used by signed up approved members. The Gambling Regulation Bill is due to be enacted within the next three months and will regulate all gambling premises.
- Naas would not be overpopulated with gaming machines if permission is granted.

8. PA Response

8.1 The planning authority confirms its decision.

Environmental Screening

9. EIA Screening

Having regard to the nature of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

10. AA Screening

Having regard to the nature and scale of development, location in an urban area, and absence of connectivity to any European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European site.

2.0 Assessment

- 2.1. The proposal is for (a) the retention of increased floor space of 48 sqm at first floor level to existing private members gaming establishment granted under Ref: 22/048. and (b) permission for 20 no. gaming machines. The planning authority issued a split decision, granting permission for the increased floor area, and refusing permission for the proposed 20 gaming machines. The grounds of appeal relate to the refusal of permission for the proposed gaming machines.
- 2.2. I agree with the planning authority's decision to grant permission for the retention of increased floor space. The area to be retained is small in area, and its use as part of the private members gaming establishment would not give rise to any significant impacts on the amenities of the area. I consider that the key issue in this appeal relates to the refusal of permission for the proposed 20 gaming machines.
- 2.3. The appeal premises is located in an Architectural Conservation Area and Zone of Architectural Heritage. As the installation of the proposed gaming machines would not involve any changes to the exterior of the building, I conclude that there would be no impact on these Development Plan designations.

- 2.4. The premises is the subject of a relevant planning history. In 2022, the planning authority granted permission for the relocation of a private members club to this premises, including a change of use of an existing first floor restaurant to the private members gaming establishment. Condition 4 of the permission (Reference: 22948) required that the use shall not entail the installation of any gaming machines or video machines within the premises, and that the premises shall not operate as an amusement arcade. The reason for the condition is “to safeguard the amenities of the area”. The condition was not appealed. I submit that the current proposal to install 20 gaming machines would clearly contravene materially that condition. However, the current proposal effectively challenges the requirement for the prohibition on the installation of gaming machines. I accept the appellants contention that this is not an amusement arcade.
- 2.5. The appellants contend that the proposal for 20 gaming machines would not constitute a material change of use of the premises and would simply provide an extra facility being made available to members of the private gaming establishment. I submit that the application for permission is necessitated by Condition 4 of Reference 22948. A key consideration is the impact on the amenities of the area, which was the reason given for the imposition of Condition 4.
- 2.6. I consider that the appellants have not provided any convincing evidence of any material change in circumstances since the permission granted under Reference 22948, which would overcome the requirements of Condition 4 and the reason for its imposition. I consider that the installation of 20 gaming machines would be likely to give rise to additional activity on the premises, resulting in increased impacts on the amenities of the area. In these circumstances, I recommend that permission be refused for the proposed 20 gaming machines for reason of material contravention of a condition of an existing permission.
- 2.7. In terms of environment assessments, having regard to the nature of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

- 2.8. Having regard to the nature and scale of development, location in an urban area, and absence of connectivity to any European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European site.

3.0 Recommendation

- 3.1. I recommend a Split decision. I recommend that permission be granted for the retention of increased floor space of 48 sqm, and that permission be refused for the proposed 20 gaming machines.

4.0 Reasons & Considerations

Grant of permission for retention

Having regard to the existing use of the premises as a Private Members Gaming Establishment, the town centre location, and the provisions of the Kildare County Development Plan 2023-2029, and the Naas Local Area Plan 2021-2027, it is considered that, subject to compliance with the following conditions, the retention of the additional floor area would not seriously injure the amenities of the area or of property in the vicinity, and would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained in accordance with the plans, particulars and specifications submitted to the Planning Authority on 11th October 2023, except as amended or altered by conditions of this permission.

Reason: In order to clarify the development to which this permission relates.

2. This permission authorises the retention of additional 48 sqm floor space at first floor level to be used as a private members gaming space. Apart from this departure, the development shall remain in accordance with the terms and

conditions of permission granted under Reference 22/948, and any agreements entered into thereunder.

Reason: In the interests of clarity and orderly development.

Refusal of permission

Having regard to the existing permission relating to this premises under Reference 22/948 and Condition 4 and the reason for its imposition, it is considered that the installation of 20 gaming machines would contravene materially a condition of an existing permission, and would therefore be contrary to the proper planning and sustainable development of the area.

Note: In the event of the Board not agreeing with this recommendation and deciding that permission can be granted, I recommend that consideration be given to a reduction in the number of gaming machines and wider distribution of the machines in the premises.

Des Johnson

Planning Inspector

9th April 2024.

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.