



An  
Bord  
Pleanála

## Inspector's Report

### ABP-321938-25

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<b>Development</b>	Continued use of the existing amusement and entertainment centre and associated site works.
<b>Location</b>	Duke Street, Castlebar, Co. Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	24496
<b>Applicant(s)</b>	SAF Leisure Limited
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	SAF Leisure Limited
<b>Date of Site Inspection</b>	16 <sup>th</sup> May 2025
<b>Inspector</b>	Sarah O'Mahony

## 1.0 Site Location and Description

- 1.1. The 0.0129ha site comprises a three-storey building situated on a laneway off Duke Street in Castlebar town centre. Duke Street is a secondary street connecting the Main Street (R310) to Market Square. The laneway in question comprises a 17m cul-de-sac which provides access to the site while also serving as a service yard/rear access to the adjacent larger retail units. The subject site is the only unit with active street frontage on the laneway.
- 1.2. The site currently operates as an 'amusement and entertainment centre' which is a form of casino on the ground and first floor while there is an apartment with independent access on the second floor.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for development which comprises the following:

*“Continued use of the existing amusement and entertainment centre and associated site works as previously granted under planning P20/547 ABP-308499-20.”*
- 2.2. No physical works are proposed.

## 3.0 Planning Authority Decision

### 3.1. Decision

A notification to refuse permission was issued by Mayo County Council on 28<sup>th</sup> January 2025. Permission was refused for one reason as follows:

*“The proposed development would be contrary to the Land Use Zoning Objective LUZ 1, as set out in the Castlebar Town and Environs Local Area Plan 2023-2029, to ensure that development progresses in accordance with the land use zoning objectives as set out in Table 11.1 and the Land Use Matrix contained in Table 11.2, where amusement arcades are not normally permitted. The continued use of the development would impact on the vitality, viability and environment of the town centre and would not provide for*

*appropriate town centre uses and would, therefore, be contrary to the proper planning and sustainable development of the area.”*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- The Planners report recommendation to refuse permission is consistent with the notification of decision which issued.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.
- The Case Planners report outlined how permission was recently refused due to non-compliance with the zoning matrix of the Castlebar LAP. It states: *‘It is considered that the entertainment and amusement centre at this location if continued would not add to the range of services within the town centre nor would it increase the vitality of vibrancy of the town centre.’*

#### **3.2.2. Other Technical Reports**

- National Roads Office: *‘The application does not raise any issues for the National Road system that needs to be addressed or conditioned’.*
- Roads Design: No objection subject to condition requiring the development to comply with car parking standards.
- Area Engineer: No report received.

### **3.3. Prescribed Bodies**

- Transport Infrastructure Ireland: Recommendation that the planning authority has regard to policy for development affecting national roads as well as Codes of Engineering works etc.
- Inland Fisheries Ireland: No response received.

### **3.4. Third Party Observations**

No observations received.

## 4.0 Planning History

- MCC ref. 20/547, ABP ref PL16.308499: Planning permission granted to change the use of retail shop to amusement and entertainment centre. The Planning Authority issued a notification to refuse permission for 3no. reasons relating to retail policy, the zoning matrix and impacts to residential amenity. Following a first party appeal, the Inspector recommended a grant of permission which was endorsed by the Board subject to 8no. conditions including no. 2 as follows:

*“2. This permission shall be for a period of three years from the date of this Order. The use of the unit as an amusement arcade shall then cease unless, prior to the end of the period, permission for its retention shall have been obtained.*

*Reason: To allow for a review of the development having regard to the circumstances then pertaining and in the interest of visual amenity.”*

The order was signed on 03<sup>rd</sup> February 2021.

- MCC ref. 23/450, ABP ref PL.16.319773: Permission refused for continued use of amusement and entertainment centre and associated site works as previously granted under P20/547 ABP-308499-20. The Planning Authority refused permission for 2no. reasons relating to non-compliance with the zoning objective and for impacts to residential amenity and value due to noise and general nuisance. The An Bord Pleanála Inspector recommended a grant of planning permission which was overturned by the Board and permission refused for the following reason:

*“1. The proposed development would be contrary to the land use zoning objective LUZ 1, as set out in the Castlebar Town and Environs Local Area Plan 2023-2029, to ensure that development progresses in accordance with the land use zoning objectives as set out in Table 11.1 and the Land Use Matrix contained in Table 11.2, where amusement arcades are not normally permitted. The continued use of the development would impact on the vitality, viability and environment of the town centre, would not provide for appropriate town centre uses and would, therefore, be contrary to the proper planning and sustainable development of the area.*

*In deciding not to accept the Inspector's recommendation to grant permission subject to conditions, the Board agreed with the Inspector that the application did not materially contravene a zoning that allowed this use that may be permitted, however, the Board did not consider that evidence of exceptional circumstances was offered to justify the 'not normally permitted' uses as set out under zoning objective LUZ1, having regard to Policies EDP10 and EDP 12, economic objective EDO 5, and retail objectives EDO 42, EDO 46 and EDO 50 as set out in the Castlebar Town and Environs Local Area Plan 2023-2029 and the Mayo County Development Plan 2022-2028."*

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The site is governed by the policies and provisions contained in the Mayo County Development Plan 2022-2028 (referred to hereafter as the CDP).
- 5.1.2. The following policies and objectives are noted:
- *EDP 12 To promote the reuse of vacant floorspace. Alternative uses shall be assessed on their own merits against the requirements of the proper planning and sustainable development of the area.*
  - *EDO 46 To maintain an appropriate mix of uses and to maintain the role of the town centre as a dominant commercial and retail centre, and prevent an excessive concentration of particular (single type) uses with the town centre areas of Mayo's towns and villages, for example bookmakers/betting offices; licenced premises, discount retail units, hot food takeaways, etc.*
- 5.1.3. Volume 2 of the Plan sets out the Development Management Standards and Section 5.1 refers to retail and commercial development. I note the following under section 5.2.1: *Retail/Commercial development should be in accordance with the fundamental objective to support the vitality and viability of the retail centre and must demonstrate compliance with the sequential approach.*
- 5.1.4. Section 5.9 refers to Proliferation of Uses and states the following:

*“In order to maintain an appropriate mix of uses and to maintain the role of the town centre as a dominant commercial and retail centre, the Planning Authority will prevent an excessive concentration of particular (single type) uses with the town centre areas of Mayo’s towns and villages, for example Bookmakers/Betting offices, Licenced premises, Discount retail units, hot food takeaways etc.*

*The planning authority will also resist the conversion of ground floor premises on the principal shopping areas to non-retail or domestic uses, with consideration given to hospitality sector uses on a case by case basis”*

## **5.2. Castlebar Local Area Plan 2023-2029 (LAP)**

5.2.1. There is one overarching general land use zoning for the entire town referred to as LUZ 1 which has an objective to *‘Ensure that development progresses in accordance with the land use zoning objectives as set out in Table 11.1 and the Land Use Matrix contained in Table 11.2.’*

5.2.2. The site is situated within lands zoned as town centre and Map 5.2 identifies the site as being situated within the inner town centre (retail). Therefore, the land use zoning objective for the site as set out in Table 11.1 is as follows:

*“LUZ 2 -To maintain and enhance the vitality, viability and environment of the town centre and provide for appropriate town centre uses.”*

5.2.3. Table 11.2 sets out the land use matrix and it provides that amusement arcades are ‘not normally permitted’ on ‘town centre inner’ lands. Section 11.5 of the LAP clarifies ‘not normally permitted’ as the following:

*“The subject use is generally incompatible with the written zoning objective and will not be favourably considered by the Local Authority, except in exceptional circumstances and in such instances, the development may represent a material contravention to the plan.”*

5.2.4. Objective EDO 5 is noted as follows:

*“Manage the over proliferation of certain undesirable uses such as fast-food outlets, amusement arcades, off licences, bookmakers, and of other non-retail*

*uses in the interest of protecting the vibrancy, residential amenity and public realm of Castlebar's town centre."*

### **5.3. Natural Heritage Designations**

The site is situated 4.2km southwest of the River Moy Special Area of Conservation and 5.8km east of Dambaduff Lough proposed Natural Heritage Area.

### **5.4. EIA Screening**

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- Lack of consideration given in the Local Authority's assessment to existing vacancy.
- No evidence provided to determine the development has had a negative impact on the area. No observations or objections were made to the application which demonstrates the well managed operation of the business. The development has traded successfully over recent years with no known issues. The application should be judged on its merits and not unfounded speculation that there has been a negative impact to vitality and vibrancy of the town centre. The development should be afforded an opportunity to trade like any other business.
- The site is suitable due to its lack of adjacent residential properties and semi-private courtyard. The development increases footfall and trade to the area in the evening and night time,
- The development has created 5no. permanent jobs and promotes economic development in the town centre in the form of a recreation and amenity service,

complying with objective LUZ 10. Investment in the building to establish the facility is estimated to be 4 times that of a retail service and demonstrates commitment to the town.

- The development does add to the mix and diversity of uses in the town centre and therefore contributes the vibrancy and vitality of the area.
- The existing site was vacant for many years and underutilised. The development invested in the building promoting 'much need progression' in the town and adding to the viability of the area by generating employment. Furthermore, the vitality of the town is enhanced due to the demographic of customers who use the facility now entering the town.
- Amusement arcade is the only land use type listed in the land use zoning matrix (table 11.2) which is listed as not normally permitted in any of the land use zones however a betting office is open for consideration in town centre lands. Dance halls and nightclubs are similarly open for consideration. The appeal considers a betting office is a similar land use and that the Local Authority has a significant unjustified bias against amusement centres. The appeal considers evidence has been provided to justify that the development has positively contributed by bringing investment, employment and a recreational service to the town.
- Policy EDP 14 of the CDP seeks to promote the reuse of vacant and underutilised properties and shop fronts which is what the development has done.
- There is existing vacancy in Castlebar town centre resulting in a loss of core town centre function, reducing employment and footfall in the town. Refusing permission for the development would further contribute to this issue by closing an existing business. The appeal submits there were 24no. vacant units on the adjacent main street in February 2025.
- Letter provided from the property owner outlining how the unit is not viable as a retail unit and was vacant for a period in excess of 10 years prior to its occupation as an amusement arcade.
- There is a historic precedent of granting permission for such development in the town but there is currently no proliferation of such development as only 1no. similar facility is stated to be in operation on Rush Street which is c.400m from the site.

- There is also a precedent in granting permission in appeals for similar town centre amusement arcades elsewhere.
- An Inspectors report for ref.319773-24 considered the development would not materially contravene the LAP and would not impact residential amenity.

## 6.2. Planning Authority Response

- No response received.

## 7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report(s) of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered relates solely to the principle of development.
- 7.2. The development comprises an existing amusement arcade type use on town centre lands where the relevant land use zoning matrix states that this land use is not normally permitted except in exceptional circumstances. Permission was granted on 02<sup>nd</sup> February 2021 under MCC ref. 20/547, ABP ref PL16.308499 for a period of three years only.
- 7.3. The Applicant was refused permission to continue the use of the facility under MCC ref. 23/450, ABP ref PL.16.319773. The Inspector recommended a grant of permission however the Board considered there was insufficient evidence of exceptional circumstances made to justify permitting a land use which is not normally permitted.
- 7.4. In my opinion, the complete exclusion of one land use type from a plan area, as has occurred in this occasion, is exceptional. Particularly when the best location for this land use type, which is similar in nature and character to a betting office or nightclub, is in a town centre in my view. Objectives such as EDO 5 of the LAP and EDO 46 of the CDP which seek to manage the proliferation of lower order town centre uses are in my opinion an appropriate mechanism to manage such uses and their frequency within the plan area.

- 7.5. During the site inspection I noted the presence of a similar casino type facility on the first floor of a nearby unit on the main street, while the appeal makes reference to another on Rush Street. A desktop survey identifies these three facilities as the only operational amusement arcades/casinos in Castlebar. There is no visual connection between the three sites and I do not consider this represents a proliferation of such uses for a town centre the size of Castlebar. I agree that control and oversight of such uses is appropriate in order to prevent a proliferation however I did not note any evidence of any existing over concentration of such uses. I also note that no observations or objections were made to the application.
- 7.6. The appeal in this case highlights existing vacancy on the adjacent main street of Castlebar and submits that in February 2025 there was 24no. vacant units. I also noted a high number of vacant units during the site inspection and note that Section 5.6 of the Castlebar LAP referenced a 2022 survey which found the town had a vacancy rate of 20% within town centre lands.
- 7.7. Section 5.6 of the LAP goes on to state *‘A concerted effort will be made through various funding mechanisms and careful control of new development to ensure that the core shopping areas in the town of all sizes are attractive, maintained and well serviced with infrastructure to secure their prosperity into the future.’*
- 7.8. I consider the applicant has put forward a compelling argument outlining how the development provides employment in the town and occupies an otherwise vacant unit. The location of the site is in my opinion suitable for such a land use as it is stepped back slightly from the core retail area and main street and therefore does not detract from higher order retail uses. It is also removed from residential properties.
- 7.9. I note objective EDP 12 of the CDP seeks to promote the reuse of vacant floorspace and states that alternative uses shall be assessed on their own merits against the requirements of the proper planning and sustainable development of the area. I consider the existing and proposed development would contribute to fulfilling this objective and that this alternative use, which has been in existence for four years has not demonstrably detracted from the vitality or vibrancy of the area. In this regard I do not agree with the Local Authority’s reason for refusal where it states *the continued use of the development would impact on the vitality, viability and*

*environment of the town centre and would not provide for appropriate town centre uses and would, therefore, be contrary to the proper planning and sustainable development of the area.*

- 7.10. Further, I consider permitting the proposed development would be acceptable and would not contravene the LAP as exceptional circumstances are demonstrated. I consider it would be appropriate to grant permission however a condition should be attached again limiting the lifetime of the development to a temporary five year period to enable a review of its suitability at a later date in light of the exceptional circumstances present at this moment in time.
- 7.11. I note the Local Authority's Roads Department report which recommends a condition is attached requiring car parking standards to be adhered to. I do not recommend however that such a condition is attached as no issues have been raised regarding a shortage of car parking. Additionally, the nature of the use is more aligned with evening and night time hours when demand for car parking is much reduced and therefore I consider there would not likely be any impact on the availability of car parking in the town centre if permission was granted.

## **8.0 AA Screening**

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located 4.2km southwest of the River Moy Special Area of Conservation and the proposed development comprises continuing operation of an existing amusement arcade. No nature conservation concerns were raised in the planning appeal.
- 8.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows:
- The lack of any proposed works,
  - The significant distance from the nearest SAC and lack of connectivity, and
  - Taking into account screening report/determination by Mayo County Council.

- 8.3. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.4. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## 9.0 **WFD Screening**

- 9.1. The subject site is located in Castlebar town centre approximately 100m east of the Castlebar River. The proposed development comprises continuance of use of an existing amusement arcade. No physical works are proposed. No water deterioration concerns were raised in the planning appeal.
- 9.2. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 9.3. The reason for this conclusion is as follows:
- The nature of the proposed development which does not comprise any physical works, and
  - The 100m separation distance between the site and the Castlebar River and the lack of hydrological connections.
- 9.4. **Conclusion**
- 9.4.1. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 10.0 Recommendation

I recommend that planning permission is granted subject to the conditions outlined below.

## 11.0 Reasons and Considerations

Having regard to the location and character of the site and surrounding area in an urban area together with the provisions of the Mayo County Development Plan 2022-2028 including objectives EDP 12 and EDO 46 as well as the provisions of the Castlebar Local Area Plan 2023-2029 including Objective EDO 5, land use objectives LUZ 1 and LUZ 2 and the provisions of table 11.2, it is considered that, subject to compliance with the conditions set out below, the scale and nature of the development is acceptable and would not seriously injure the vitality and viability of Castlebar Town Centre. The development is, therefore, in accordance with the proper planning and sustainable development of the area

## 12.0 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>Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission Register Reference ref. 20/547, ABP ref PL16.308499 unless the conditions set out hereunder specify otherwise.</p>

	Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.
3.	<p>This permission shall be for a period of five years from the date of this Order. The use of the unit as an amusement arcade shall then cease unless, prior to the end of the period, permission for its retention shall have been obtained.</p> <p>Reason: To allow for a review of the development having regard to the circumstances then pertaining and in the interest of visual amenity.</p>
4.	<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, 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.</p> <p>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.</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.

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Sarah O'Mahony  
Planning Inspector

28<sup>th</sup> May 2025

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	321938-25
<b>Proposed Development Summary</b>	Continued use of existing premises as an amusement arcade.
<b>Development Address</b>	Duke Stret, Castlebar, Co. Mayo.
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.  <input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2,	

<p>Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
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<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
<b>Yes</b> <input type="checkbox"/>	<b>Screening Determination required (Complete Form 3)</b>
<b>No</b> <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_