



An  
Bord  
Pleanála

## Inspector's Report PL93.248388.

---

<b>Development</b>	Change of use of Xtravision store to restaurant and takeaway.
<b>Location</b>	Glenville, Dunmore Road, Waterford.
<b>Planning Authority</b>	Waterford City and County Council.
<b>Planning Authority Reg. Ref.</b>	17/126.
<b>Applicant</b>	Sirgan Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Noel O'Brien.
<b>Observer</b>	Tony McMahon
<b>Date of Site Inspection</b>	25 <sup>th</sup> July 2017.
<b>Inspector</b>	Philip Davis.

## Contents

1.0 Introduction.....	3
2.0 Site Location and Description .....	3
3.0 Proposed development.....	4
4.0 Planning Authority Decision.....	4
4.1. Decision .....	4
4.2. Planning Authority Reports .....	4
4.3. Prescribed Bodies.....	5
4.4. Third Party Observations .....	5
5.0 Planning History.....	5
6.0 Policy Context.....	5
6.1. Development Plan.....	5
6.2. Natural Heritage Designations .....	5
7.0 The Appeal .....	6
7.1. Grounds of Appeal .....	6
7.2. Applicant Response .....	6
7.3. Planning Authority Response .....	7
7.4. Further Responses.....	7
8.0 Assessment.....	7
9.0 Recommendation.....	11
10.0 Reasons and Considerations .....	12
11.0 Conditions .....	12

## 1.0 Introduction

This appeal is by a local resident against the decision to grant permission for the change of use of a vacant dvd rental shop in a small mixed use commercial building to restaurant and takeaway. The grounds of appeal mainly relate to policy and amenity issues.

## 2.0 Site Location and Description

Dunmore Road (R683) is an urban regional road running south-east from the town centre of Waterford City towards Dunmore East. It is a busy main road featuring a mix of residential and commercial developments with concentrated nodes of commercial uses at major junctions. The appeal site is located close to a major roundabout junction (the Ardkeen roundabout) where the road meets an east bound road which runs around the University Hospital Waterford complex. The main entrance to the hospital is several hundred metres east of the Ardkeen Roundabout, on the R683. This Roundabout is just under 3 km by road from the town centre of Waterford City.

At the roundabout there is a mid-sized shopping centre with a variety of other smaller shopping units with free standing Aldi and Lidl foodstores in addition to a number of pubs and restaurants. The appeal site is on the Waterford City side, 75 metres west of the roundabout. On this stretch of road there are mostly large detached dwellings on the south side, and on the northern side there is (from the roundabout, west), an older pub called The Cove, a small mixed use building with retail at ground floor (including the appeal site), a single storey strip with a pharmacy and restaurant, a dwelling, a petrol station forecourt with another single storey retail strip behind this, with further west mostly residential.

The appeal site is a three storey over basement (two main storeys plus an attic level storey) freestanding block 'The Cove Centre' about 15 years old with apartments on the upper floor, offices on the first floor, and two retail units on the ground floor. One of the units is an existing wine shop and off licence, the appeal site is a vacant 'Xtravision' outlet. The floorspace of the unit is given as 1170 square metres. The site has a surface parking area to the rear with a number of informal parking spaces around the building.

### 3.0 Proposed development

The proposed development is described on the site notice as:

*Planning permission for change of use from former Xtravision store (zoned general business) to restaurant at ground floor level, with ancillary takeaway/home delivery and function catering to basement floor level, together with all associated site works to include new entrance doors at ground floor level to front elevation, new retractable awning at ground floor entrance to front elevation, new high level window at ground floor level to rear elevation, alterations to existing elevations to provide for new high level window at rear elevation to basement floor level, provision of external intake and extract ventilation from basement floor level to roof level to rear elevation, provision of external signage.*

### 4.0 Planning Authority Decision

#### 4.1. Decision

The planning authority decided to grant permission subject to 13 standard conditions.

#### 4.2. Planning Authority Reports

##### 4.2.1. Planning Reports

It is noted that the site is part of the Ardkeen/Farronshoneen District Service Centre and is zoned 'general business'. As such the proposed use is considered to be consistent with the zoning. Objections relating to anti-social behaviour are noted, but it is considered that the restaurant function mitigates this and that this is largely a matter for the Gardai to enforce. The proposed development was considered acceptable in principle. A shortfall of two parking spaces is noted – a development contribution to address this is recommended.

##### 4.2.2. Other Technical Reports

None on file

#### 4.3. Prescribed Bodies

No correspondence on file.

#### 4.4. Third Party Observations

None on file, but planning report notes three submissions, all objections.

### 5.0 Planning History

The planning report notes that the building was granted permission in **97/500311**.

There have been a number of Board decisions in the vicinity. In March 2017 the Board upheld the decision of the planning authority to grant permission for the change of use of a retail unit to an off-license in Ardkeen Shopping Centre (**PL93.247429**). There is a current appeal for the provision of a laundromat unit in the Topaz Station to the north-west of the appeal site (**PL93.248333**).

### 6.0 Policy Context

#### 6.1. Development Plan

The appeal site is in an area zoned 'General Business' in the Waterford City Development Plan 2013-2019. In such areas, the following are considered acceptable uses:

*Betting Office, car park and park and ride facility, childcare facility, community facility, enterprise centre, funeral home, garden centre, guest house, health centre, home based economic activity, light industry, medical and related consultants, nursing homes, office, petrol stations, place of worship, public house, public service installation, residential, restaurant and takeaway, retail, showrooms, taxi office, telecommunications structures and equipment, traveller accommodation warehouse including retail warehouse.*

#### 6.2. Natural Heritage Designations

The site is approximately 350 metres south of the Lower River Suir SAC.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

- The appellant refers to the Development Standards in Variation no.1 to the City Development Plan and highlights aspects where the proposed development is considered unacceptable.
- It is submitted that extract ducting and other aspects are substandard and it has not been demonstrated that the restaurant will not cause smells and other nuisances to local amenity.
- It is argued that the proposed development is excessive in scale, but it is submitted that in reality the takeaway facility will form a significant percentage of the business, which will lead to unacceptable amenity impacts in the immediate area.
- It is argued that the rear carparking is too distant to be used by takeaway customers and there is insufficient parking to the frontage, so has the potential to cause significant traffic congestion.
- It is argued that there is an excess of such facilities in the immediate area – 6 in total already existing.
- It is submitted that there is insufficient litter control and waste facilities for the proposed development which will lead to significant litter problems for the area.

### 7.2. Applicant Response

- It is submitted that the issues raised with regard to extraction fans and amenity were dealt with under condition 6 and it is stated that the applicants will work with the centre management company and other tenants in the building to ensure a satisfactory solution is found to any noise/odour issues.
- It is noted that condition 3 limits trading times. It is noted that the planners report states that the proposed use is consistent with the zoning designation and the overall nature of the area. It is argued that the proposed development

will enhance the vitality of the overall neighbourhood centre by providing more choice and competition.

- It is argued that due to the dual usage of the site (offices by day, restaurant at night), and the overall level of car parking in the area, with pedestrian and cycle connectivity, it is submitted that there is no evidence for a shortfall in the area.

### **7.3. Observer**

- Under the newly adopted Waterford City Retail Strategy Ardkeen is listed as a 'district centre' and should develop according to consumer demand – it is argued that there is no evidence there is demand for another food outlet.
- It is noted that it is existing policy (POL 1.1.5) to protect the existing city centre – it is argued that the existing centre is being allowed to grow excessively.
- It is argued that the current Traffic Management System in the area is not working well due to the wide variety of uses feeding into a single roundabout in proximity to the hospital
- It is argued that there seems no relationship between the realities of a 70 seat restaurant and the existing layout and provision of parking.

### **7.4. Planning Authority Response**

The planning authority did not respond to the grounds of appeal.

### **7.5. Further Responses**

None

## **8.0 Assessment**

I consider that the issues raised in this appeal can be addressed under the following broad headings:

- Principle of development

- Pattern of development
- Residential amenities
- Traffic and parking
- Other related issues
- Appropriate Assessment and EIS

#### 8.1. Principle of development

The appeal site is in a 'general business' zoned area, in which restaurants and takeaways are considered acceptable in principle. This zoned area covers the main retailer developments around the Ardkeen Roundabout. I note that the adjoining areas immediately to the north of the site are zoned residential.

I note that with respect to takeaways, it is a stated objective (page 206 of the City Development Plan) to prevent an excessive concentration of such uses and to have regard to a number of considerations including residential amenities, the vitality and viability of shopping areas, traffic and litter.

I would conclude that the proposed development is therefore consistent with Plan objectives subject to the criteria set out in page 207 of the Waterford City Development Plan.

#### 8.2. Pattern of development

The site is a peripheral offshoot of a large, somewhat ad-hoc commercial area that has development over the last few decades around the Ardkeen Roundabout next to the campus of Waterford University Hospital. Early 20<sup>th</sup> Century maps show only the Cove Bar (next to the appeal site) in an area of open countryside and demesnes. The main shopping area is provided by the Ardkeen Shopping centre, which has a free standing building to one side with two restaurant outlets. The road running south from the roundabout provides access to a large bar/restaurant at the junction, in addition to further shops and banks and freestanding Lidl and Aldi foodstores. West of the appeal site, along the north side of Dunmore Road, there is a small strip of single storey retail outlets, and beyond a single dwelling there is a Topaz station with an L-shaped single storey structure with a number of retail and fast food units. The overall area seems to have developed in an ad-hoc manner



with mostly car-centric suburban/edge of town district centre type retailing, although I note that there are reasonably well laid out cycle lanes in the area and good footpaths connecting with the residential areas and hospital. In addition to a good range of foodstores and smaller independent businesses, there are a significant number of restaurants, including conventional sit-down restaurants, fast food outlets including a Supermac, a number of cafes, and several takeaway outlets. Although there are a few vacant units the commercial area seems in general to be thriving. The overall area certainly has a wide selection of restaurant/takeaway outlets, although it would be a very subjective issue as to whether there is an excess number in the area. Given the very significant amount of conventional retailing and office space in the vicinity I would not consider the area to be oversupplied with such outlets, although I would have concerns that the 'strip' that has developed on the north side of Dunmore Road west of the roundabout has what appears to be more than its fair share of takeaways due (presumably) to the ease of access by passing cars. But I do not conclude that the level is such that it would be sufficient to cause concerns over an excess concentration in one area.

The appellant and observer also raised the issue of the impact on the vitality and viability of town centres. Waterford City centre has certainly suffered over the last few years and there are significant areas of vacant and underused properties in the town, due presumably to a combination of economic issues and competition from out of town centres. I do not consider however that a change of use in the Ardkeen area would significantly impact on the city centre or other centres in the area.

### 8.3. Residential amenity

The former Xtravision is on the ground floor of a building with a wine shop next door, offices above, and apartments on the upper floor. It immediately adjoins (to the north) residential areas. The unit was clearly not built with a foot outlet in mind, and will need extra venting and other controls for noise and odour in addition to waste storage.

It is not clear from the application documents as to the precise nature and type of restaurant/takeaway is proposed, but from the layout I would consider a fast food or casual dining chain type operator to be most likely. The applicant has accepted the condition set by the planning authority restricting night time opening hours.

Proposals for extractor fans and other details are somewhat vague, and the planning authority were content to set these details to be agreed by condition. I am satisfied that there is sufficient space to provide all reasonable such provisions, although it is clear the applicant has to satisfy other non-planning requirements, such as agreements with the building management company. The presence of apartments above are a concern, but there are plenty of precedents for such outlets operating satisfactorily with apartments over. Having specific regard to the zoning designation and the overall layout of the building, I would concur with the view of the planning authority that the site is such that a change of use can be permitted without causing unacceptable levels of odour, noise or litter.

#### 8.4. Traffic and parking

There is no parking to the front of the building although there is a small paved area, bollarded close to the front to presumably to prevent such parking, but there is also a paved area of somewhat ambiguous status, likely to be used informally for parking. I also witnessed informal parking on the eastern side of the building during my site visit. There is a cyclepath along the road, so informal stopping is not legal but it is unclear as to whether this is a problem. The building has a surface carpark to the rear, which appears to be shared among all the buildings users according to private agreements. There is frontage parking on the adjoining commercial building to the west, and the Cove Pub has a small surface carpark to the rear. According to development plan criteria the site is 2 parking spaces short, and a development contribution was considered to address this. There is plenty of off-street parking in the shopping areas on and around the Ardkeen shopping centre and the two foodstores, but these are in private ownership.

I would concur with the appellant that a restaurant in this particular location is likely to draw a significant amount of traffic, either for sit down customers or takeaway. There is likely to be a problem that customers may not respect the various private car parks in the vicinity that are available – but the management of these is a matter for those owners.

I have little doubt that certain types of restaurant/takeaway could significantly increase car movements and parking in this area – although I note of course that a dvd rental shop almost by definition would attract a similar sort of short term parking demand, as would existing neighbouring uses – there is a wine shop and a late night

pharmacy on each side of the appeal site. While I would have concerns about the impacts, on balance I would consider that having regard to the existing permitted use of the site, the impacts would be acceptable so I concur with the approach of the planning authority.

#### 8.5. Other issues

There are no records on file or from other sources that the site is subject to flooding. The proposed development is subject to a standard S.48 contribution. There are no protected structures or recorded ancient monuments or areas of archaeological sensitivity likely to be impacted.

#### 8.6. Appropriate Assessment/EIS

The site is well within 500 metres of the River Suir SAC – this is to the north – this freshwater SAC follows the channel of the river. There is no evidence of watercourses on or close to the site connecting to the Suir. The proposed development is served by the city water and foul services. There are no indications that there are any pathways for pollution or other impacts to the SAC. I therefore consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002137, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

Due to the nature of the proposed development and its small scale the issue of EIS screening does not arise.

### 9.0 Recommendation

I recommend that subject to the conditions set out below the proposed change of use be granted planning permission for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

Having regard to the nature and scale of the proposed change of use and alterations and to the zoning designation of the area, it is considered that subject to the conditions set out below, the proposed development would not seriously injure the amenities of the area and would not constitute a traffic hazard and would otherwise be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. 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.

**Reason:** In the interest of clarity.

2. The hours of operation shall be between 07.30 hours and 11.30 hours Sunday to Thursday and between 07.30 hours and 12.30 hours on Friday and Saturday.

**Reason:** In the interest of the residential amenities of property in the vicinity.

3. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the amenities of the area.

4. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed

on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

5. Security roller shutters, if installed, shall be recessed behind the perimeter 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, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

6. 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 commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

**Reason:** In the interest of visual amenity.

7. 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.

**Reason:** In the interest of public health and to protect the amenities of the area.

8. 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.

---

Philip Davis  
Planning Inspector

3<sup>rd</sup> August 2017