



An  
Bord  
Pleanála

## Inspector's Report PL07.248595

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<b>Development</b>	Change of use of existing forecourt to the front of unit for use as a location for occasional retail/commercial trading use and hot food take-away.
<b>Location</b>	Unit 6, The Mart, Galway Road, Clifden, Co. Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	17/366
<b>Applicant(s)</b>	Liam Keogh
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Paul Stewart
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17 <sup>th</sup> of August 2017
<b>Inspector</b>	Angela Brereton

## 1.0 Site Location and Description

- 1.1.1. The site of the Clifden Business Park/Mart carpark is located in the townland of Tullyvoheen within the town boundaries of Clifden. This site is on the south side of the N59-377 approach road, National Secondary road (i.e. Galway Road) on the eastern approach to Clifden town within the town speed limits at Tullyvoheen, Clifden, North Connemara. The Business Park/Mart site appears as an entity i.e. the carparking area is not subdivided. There is a single access from the road and a number of different uses including the 'Connemara Pony Sales' building and Mart. There is freestanding sign up advertising the various business uses close to the site frontage. There are a number of single storey units along the western side of the site. These include Clifden Tool and Plant Hire and Clifden Tyre Centre. The NCT unit is located in the south western part of the site. The Telecom Eireann site is to the west and there is a housing estate that is more elevated on the opposite side of the road. The Mart site is lower than the road.
- 1.1.2. The Connemara Pony Show was on the day of the site visit and the Mart site and the verge of the N59 and surrounding area were heavily parked. The Mart site included several horse boxes and made up temporary stalls for ponies. There were no hot food trading use or takeaway vans noted on the site at the time of the site visit c.3pm. The site is in the 60km/h speed limits.

## 2.0 Proposed Development

- 2.1.1. This proposal is for the change of use of the existing forecourt to the front of unit 6 for use as a location for occasional retail/commercial trading use, including the sale of hot food for take away consumption and all ancillary site works and services.
- 2.1.2. A letter has been submitted with the application from Stephen Dowds Associates relative to the proposed operations.
- 2.1.3. Site Location, Site Layout Plan showing the forecourt area and Floor Plans and Elevations showing Unit no.6 have been submitted with the application.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On the 11<sup>th</sup> of May 2017, Galway County Council granted permission for the proposed development subject to 6no. conditions.

- Condition no.5 is of note relative to the trading issue and is as follows:
  - (a) *Trading hours of the use hereby approved shall be confined solely to days and opening hours when the mart is open for sales of livestock only.*
  - (b) *The use hereby approved shall not be carried on any further days (outside of days when livestock is sold within the mart) without the written agreement of the Planning Authority. The applicant shall request any additional trading days in writing in advance of any such event.*

*Reason: In the interests of the proper planning and sustainable development of the area.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planner's Report

This had regard to the locational context of the site, planning history and policy and to the submissions made. The Planner considered that having viewed the use of this area for the sales as identified within the submitted details that it would not be unreasonable on the days when the mart is open for livestock sales. However, any days of operation above and beyond this period would not be considered an appropriate use of the subject site and would set an undesirable precedent for further such development in the surrounding area. Having considered the Land Use Zoning Objectives and Zoning Matrix 1 they recommended that permission be granted subject to conditions which include the restriction of the use of the area for use solely on the days that livestock sales are being carried out in the Mart. Any additional days would only be facilitated by the Planning Authority in exceptional circumstances (fairs etc) and the applicant would be required to seek permission from the PA 28 days in advance and not to carry out any operation on site without their written agreement.

### 3.3. Other Technical Reports

#### 3.3.1. Transport Infrastructure Ireland

They provide that they have no observations to make.

### 3.4. Third Party Observations

3.4.1. The Connemara Chamber of Commerce provides that they are in favour of this proposal as the business in question has been trading for a long time in the Clifden area and the new proposed site is a very suitable permanent location. They provide that the area in question has good footfall and it would complement the site in question.

3.4.2. Connellan & Associates confirm that they act on behalf of Paul Stewart (the subsequent third party) and state they wish to make a submission in relation to the proposed development.

## 4.0 Planning History

4.1.1. The planning history associated with the mart development includes the following:

- Reg.Ref. PL7/5/75486 – Erection of a Livestock Sales Facility with services in the townland of Tullyvoheen – Connemara Livestock Sales Ltd – permission granted subject to conditions in 1988. ABP Ref. 55210 refers – This is referred to as the parent permission and a copy is included in the Appendix to the Referral Report below.
- 07.RL.3441 – The Board decided in exercise of the powers conferred on it by section 5(3)(a) of the 2000 Act, that the use of lands for the occasional provision of a mobile catering service (chipper van) at Tullyvoheen, Clifden, County Galway is development and is not exempted development. It is noted that the Referrer was the operator Mark Furniss.
- File EN15/003 refers to Enforcement History relative to unauthorised development prior to the submission of the Referral.

A copy of these Board decisions is included in the Appendix to this Report.

## 5.0 Policy Context

### 5.1. Galway County Development Plan 2015-2021 (as varied)

Section 2.6 refers to the Settlement Strategy Clifden is referred to as a 'Key Town'. It is provided that the Clifden LAP 2009-2015 has been extended until 2020.

Section 4.6 relates to the provision of Services Land Infrastructure relative to the designation of an appropriate amount of land for business and enterprise and industrial uses. *This is primarily provided for in the local context through the Local Area Plans, which facilitate the future economic expansion of County Galway in a structured and incremental fashion by way of designating sites for business and enterprise and industrial uses.*

Section 4.20 refers to Evening and Later Night Uses and includes reference to such activities including takeaways.

Chapter 13 provides for Development Management Standards and Guidelines and this supports the principle of universal access DM Standard 1(d) refers.

Table 13.5 illustrates the car parking standards for different types of development, which includes takeaways i.e 1car space per 18m<sup>2</sup> gross floor area.

DM Standard 9 provides Guidelines for Employment uses, including Industrial/Enterprise/Retail (Commercial). This also refers to circulation and parking areas.

### 5.2. Clifden Local Area Plan 2009-2020 (extended 2014)

This LAP had been made in accordance with the objectives of the GCDP 2009-2015 as varied and has been extended in 2014. Section 2.8 refers to Retail and Town Centre Uses having regard to the role of the town centre and the town's character as a planned town. Section 3.10.7 seeks to: *Support the role of the town centre as the principal commercial area within the town.* Section 5.4.1 refers to Town Centre/Commercial (C1) Zone.

Section 3.2.2 refers to Land Use Management Policies and Objective D8 seeks to promote the development of the town centre. D10 refers to Business and Enterprise (BE)(Refer to Maps 1A/B).

Section 3.6 refers to Transportation Infrastructure and 3.6.2 provides: *It is the policy of Galway County Council to ensure that the road and street network is safe and convenient.*

As shown on the Land-use Zoning Map the site is zoned for 'BE' i.e. Business and Enterprise purposes Section 2.10 refers.

Objectives TC13 and EIT2 seek to encourage high quality environments within the 'BE' areas.

Policy 3.13.1 seeks to promote Economic Development.

DM Guideline 5.2.2 refers to the Land Use Zoning Matrix – Appendix 1 refers. It is noted that a 'Take-away use' is *open to consideration* in the BE zoning.

Section 5.4.6 provides restrictions on take-aways.

Section 5.8.1 and Table 5.3 refers to the Car Parking Standards and 5.8.3 to Design and Layout of Parking areas.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. Connellan & Associates have submitted a Third Party Appeal on behalf of Paul Stewart. The grounds of appeal include the following:

- They contend that the development should be refused based on its casual trading nature and the fact that it is contrary to the proper planning and sustainable development of the area with respect to the relevant Development Plan policies/objectives and also to site specific issues of concern.
- They have regard to Background Issues and note that the original permission for the Mart at this location was granted in May 1988 by the Board Ref.PL7/5/75486 refers (Galway CC file ref.55210). The development included a restaurant in the Mart building. They enclose figures showing extracts from this application which include the layout. This development was for a 'livestock sales facility', with the site laid out for a building, and on-site carparking and truck parking.

- There were many subsequent applications with the 'site' changing from a Mart site to a commercial business park. By the late 90's the 'Mart Site' had taken on the characteristics of the commercial business park that is there today. An extract showing the Site Layout from Reg.Ref.99/4745 is included. Reference is also had to the Layout shown in Reg.Ref.00/3697.
- These serve to show that while the applicant refers to the site as 'Clifden Mart' the site is in fact part of a developed commercial business park at this location. The application as submitted is therefore misleading.
- They also contend that the description of development as given in the Public Notices is misleading and information given in the application lacks clarification and is inadequate.
- The application arises out of enforcement action by the Council against an unauthorised chipper and this application is apparently to provide a pitch from which Mr Furniss can operate.
- He has a history of unauthorised trading in a mobile chipper van at this location, which they consider is relevant. This application seeks to accommodate the specific needs of his mobile food van business.
- They are concerned that sufficient details have not been given as to the nature and hours of the proposed usage.
- They have regard to the outcome of the Referral to the Board.
- They note that when Mr Furniss left the Mart site he set up another unauthorised operation in the chipper van on a piece of ground opposite the Garda Station up the road from the Clifden Business Park and enclose a photo showing this area.
- They note that operations of this casual business are governed by the Casual Trading Act of 1995, and also that areas of trading can be designated under section 4(1)(k) of the Planning and Development Act as amended.
- Galway County Council has designated Casual Trading Areas across the County and they include details also relevant to Clifden. This designated casual trading area is available to Mr Furniss to carry out his business on a Friday subject to licence.

- They provide details as to why the location of the site is unsuitable. These include relative to circulation/access, traffic hazard and fire safety.
- The siting of the proposed development would provide a fire hazard for Unit no.6. It would not comply with separation requirements as required by Part B of the Building Regulations. It would have fire safety implications and would endanger the health and safety of persons occupying and employed in the adjoining structure.
- The area shown in front of the building is not in compliance with the layout of the parking area/circulation space indicated for this area when submissions were made on file 99/4745 showing how parking was to be provided on site. The proposed development is in material contravention of the submission at that time and they include an extract showing a Site Layout Map.
- The proposed location of the van is not appropriate and would cause traffic hazard. It would also set an undesirable precedent for other such uses in the area and elsewhere.
- They have regard to footfall and to concerns about pedestrian safety, relative to crossing the busy national road from the housing estate opposite. They note that there is no public lighting in the business park.
- The proposal would materially contravene provisions in the Development Plan and in particular materially contravene land use zoning objectives in the Clifden LAP 2009-2020 and be contrary to planning policies and objectives.
- They have regard to the Planner's Report. They are concerned that if this unit were to remain vacant that it would be contrary to proper planning and development to allow this mobile unit to operate in the forecourt area.
- No consideration has been given to the planning considerations that arise from the impact on safety with respect to the development or the safe access and egress of the building.
- They have serious concerns relative to the enforceability of the restrictions imposed by the Council's Condition no. 5 and provide details on this. They consider that such a facility should either be located in the town centre or as part of a permanent restaurant facility on site.



- They request the Board to refuse planning permission for the development having regard to the proper planning and development of the business park, regard to the provisions of the DP for the area and site specific issues which render the development totally unsuitable and unsafe on the site.

## 6.2. Applicant's Response

6.2.1. Stephen Dowds Associates response on behalf of the applicant, Liam Keogh includes the following:

- They note that the site is located beside the Mart site and the commercial enterprises thereon. It includes a very substantial car parking area which is busy at the time the Mart is in progress (less than 30 days per year) but largely empty the rest of the time.
- The planning application is for the use of the area in front of the unit for occasional retail/commercial trading use, including the sale of hot-food for take-away consumption. No change of use of the unit itself is proposed.
- The application is lodged by Mr Keogh the owner of the unit but it is envisaged that the permission will be taken up by Mr Mark Furniss who has previously operated a van for take-away food sales in the area. He will then park his van and operate from that area. The unit itself will be used to store his van. The application was made by the owner as is entitled and Mr Furniss is to operate the mobile unit.
- They have regard to the planning history and background and note the parent permission Reg.Ref.55210 for a 'Livestock Mart Facility'. They consider that the proposed usage is well within this overall permission.
- They have regard to enforcement action and to the Board's decision that the activity constituted development that is not exempted development. This planning application was submitted as a result of that decision and in order to provide a pitch on the Mart site from which Mr Furniss can operate.
- They note Mr Furniss has been in operation since 2004 then having acquired a 7 day casual trading licence from Galway County Council, but that was

limited by by-laws in 2009 and restrictions which include just trading on Fridays and at individual events and is not enough to sustain his business.

- This application is simply to allow the return of the 'chipper' for the sale of hot food for take-away consumption on a pitch at the Mart site.
- They contend that this is a minor change of use that fits in well with the established commercial use of the site.
- While not an ideal site from a business point of view, given the restrictions operating under by-laws, it is the best available to the applicant and will have little or no effect on amenities.
- The description of the application site at Clifden Mart is correct and is an area that is well known in the vicinity.
- This application is for a change of use of the site to a pitch for the sale of food from a vehicle. A vehicle is not a structure and plans of it are therefore unnecessary.
- It would be Mr Furniss's intension to operate normal take-away hours. They note the restrictions imposed by the Council in Condition no.5 and consider them onerous.
- The issue of trading opposite the Garda Station has no relevance to this application. They have regard to the implications of casual trading laws in this respect. This site is on private land and therefore the act and its provisions do not apply.
- The designated Casual Trading Area available in Clifden is not adequate for anyone in the business of take away food sales. In any case the existence of such an area is not a ban on activity elsewhere.
- They provide a response to Section 3 of the appeal relative to the impact on the proper planning and sustainable development of the area and a response to each of the contentions made.
- They note that the site is in commercial use zoned BE where take-aways are open to consideration, and have regard to trading and services in the area.

- They have regard to the history of the unit and note that unit 6 is currently vacant and that Mr Furniss will store his van (when not in use) in that unit. They attach a copy of Planning permission Reg.Ref.68631 which they provide is relative to storage facilities at that unit.
- They provide that the proposal will not cause a fire hazard as it will not be blocking egress from the existing unit.
- They consider that this type of use is minor and is appropriate in such a setting. In this instance the van will at times, trade in front of the unit; at other times, will drive to events and trade there.
- They contend that the Council's Condition no.5 is exceptionally restrictive and is unnecessary and they provide details relative to the operation of such. They consider that there is no reason to impose such a condition.
- They ask the Board to reject this appeal and to uphold the decision of the Council to grant permission for the development.

### 6.3. Planning Authority Response

6.3.1. They have not responded to the grounds of appeal.

## 7.0 Assessment

### 7.1. Principle of Development and Planning Policy

7.1.1. The application site is located within as shown on the signage at the entrance 'Clifden Business Park' which is also known as 'Clifden Mart'. While within the development boundaries of Clifden, this area is located outside of the town centre and retail core on the south side of the busy N59 National Secondary Road. The Land Use Zoning Map in the Clifden Local Area Plan 2009-2020 shows the application site is within the area zoned 'BE' i.e: Objective D10 provides: Business and Enterprise (BE) (Refer to Maps 1A/1B) - *Promote the development of business and enterprise uses, light industry/warehousing and the facilitation of enterprise park/office park type uses, incubation/start-up units and Small, Medium Enterprises, on suitable lands with adequate services and facilities and with a high level of access*

*to the major road networks and to public transport facilities.* Objective Section 5.6.1 refers to and provides detailed criteria relative to Business & Enterprise and Tourism Development and includes: *Small scale enterprise is primarily encouraged on land designated for Business & Enterprise (BE) Zoning Objective including light industry.*

- 7.1.2. The Third Party contend that the proposal to site the mobile 'chipper van' in front of vacant unit no. 6 in the Business Park is not a suitable activity and would be materially contrary to the land use zoning and to planning policy and objectives. Also that it would seriously injure the amenities and depreciate the value of property in the Business Park and the general area including nearby residential by reason of its inappropriate siting, visual impact, loss of amenity, impact on circulation, pedestrian and traffic safety and fire safety implications. They contend that it would set an undesirable precedent for the siting of this type of mobile unit in this commercial business park area and elsewhere.
- 7.1.3. The First Party has regard to the extensive planning history of the site and to the long-term background of the mobile unit being sited in or adjacent to the Clifden Mart area. They contend that the current application provides a suitable location adjacent to a vacant commercial unit for a take-away service, and will limit nuisance as it is not adjacent to public houses etc. Also that it is not close enough to houses to create a dis-amenity. They consider that the addition of a very modest take-away sales outlet on this forecourt area is considered minor and will provide a service that will not detract from the amenities of the area or this part of Clifden Mart.
- 7.1.4. Regard is had to the issues raised relative to the suitability of the site and the impact on the amenities of the area in this Assessment below.

## **7.2. Material Contravention**

- 7.2.1. Regard is had to Planning and Development Act 2000 (as amended) and to the particular circumstances where a material contravention would apply. Section 34(6) sets out the procedure under which a planning authority may decide to grant permission for such a development. Section 37(2) of the 2000 Act provides the constrained circumstances in which the Board may grant permission for a material contravention. These include whether the development is of strategic or national importance, where the development should have been granted having regard to

regional planning guidelines and policy for the area etc, where there are conflicting objectives in the Development Plan or they are not clearly stated, or permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Plan.

- 7.2.2. In this instance the proposed development is clearly not of strategic or national importance. There is no policy or guidelines or such pattern of development in the area advising that such a development should be permitted on this site. It is not considered that the policies are conflicting or not clearly stated. DM Guideline 5.2.2 of the Clifden LAP refers to the Land Use Zoning Matrix – Appendix 1 refers. It is noted that a ‘Take-away use’ is open to consideration in the BE zoning. The notes that the Land Use Classes in the Land Use Zoning Matrix provide: *A use that is classified as Open for Consideration is one that the local authority may permit where it is satisfied that the suggested form of development will be compatible with the policies and objectives for the zone, will not conflict with permitted uses and conforms to the proper planning and sustainable development of the area, including the policies and objectives set out in the Plan.* It is noted that Objective EIT2 includes: *The Business and Enterprise (BE) zoning will be the primary focus of such uses, subject to the guidance provided in DM Guideline 5.2.2 - Land Use Zoning Matrix.*
- 7.2.3. Therefore, having regard to planning policy this proposal needs to be assessed on this basis as to whether it would be compatible with existing uses and the primary focus of the BE use and comply with the proper planning and sustainable development of the area.

### 7.3. **Regard to Background issues**

- 7.3.1. Reference has been made to the background history of the subject site. It is of note that the Council’s original permission Ref.55210, described as the ‘parent permission’ was subsequently granted subject to conditions by the Board Ref.7/5/75486 refers. It refers to the erection of a ‘Livestock sales facility with services’. This did not include any reference to an allowance made for such casual trading. This permission does not refer to or allow for casual trading or a ‘chipper van’ use other than in the context of exempted development as provided for in Class 37 of Schedule 2, Part 1 of the Planning and Development Regulations 2001(as

amended). As noted in the Referral Ref.RL07. RL3441 the extent of the 'chipper van' use does not comply with the conditions and limitations of this exempted development class.

- 7.3.2. Reference is also made to subsequent permissions in the Business Park e.g. Reg.Ref.99/4745 – new commercial unit/mot centre – Zaralight Ltd and Reg.Ref.00/3697 – oil service depot. It is not considered that these are relevant to the current application. However, it is noted that no specific mart premises 'site' or trading facilities was part of the planning record as shown on the site layout plans in these later applications nor any linkage of premises/site.
- 7.3.3. I would also note that an issue of a possible exemption under the provisions of the Casual Trading Act (Section 4(1)(k) of the Planning and Development Act 2000 as amended refers) would not arise as the mobile vehicle is not to be located on public land. It is noted that no documentary evidence has been provided that this is an area designated for such purposes. Indeed, it is clearly privately owned and not public land.
- 7.3.4. It is noted that the Third Party refers to the issue of unauthorised development and enforcement action that has been ongoing due to the siting of the chipper van in various locations, either within or proximate to the Mart. They also have regard to Galway County Council Casual Trading Allocations and provide a list of such. This notes that spaces are allocated on Fridays in Clifden. Issues relative to Casual Trading Allocations or Enforcement are not within the remit of the Board and are more appropriately dealt with by the Council.

#### **7.4. Regard to Proposed Usage**

- 7.4.1. The details submitted with the application have regard to the outcome of the Referral and provide that this proposal is for the use of the area in front of the unit for occasional retail/commercial trading use, including the sale of hot food for take-away consumption. The Site Plan shows the proposed siting is within the forecourt area in front of unit no.6 within Clifden Mart. It is of note that the Referral did not specifically refer to this site rather to the siting within the greater Clifden Mart area. It is provided in the current application that the operator will park his van in this space in front of the unit and operate from this area. Plans of the van are not included, and

it is provided that this would change from time to time. The unit is currently vacant and it is intended to use it for storage of the van when not in use. Floor plans and Elevations have been submitted showing the unit and it is provided that no change of use of the unit is proposed.

- 7.4.2. The First Party attach a copy of Planning permission Reg.Ref.68631 which they provide is relative to storage facilities at unit no.6. Also, that the use of the unit for storage of the van when not in use, is authorised under this planning permission. Condition no.2 of that permission provides: *The use of each store shall be agreed in writing with the Planning Authority (or in default of agreement with the P.A by reference to An Bord Pleanala) prior to the commencement of use.* In this case the storage of the van in this vacant unit has not been agreed as the authorised use. It of note that a number of these units are in use for car repairs, tool and plant hire or light industrial uses. It is not considered that the storage of a chipper van or a mobile takeaway unit would be the correct use for such a vacant unit in a business park. If the unit were to be occupied by a light industrial use or used as an associated storage area then the area where the van is to be located in front of the access doors should be available for loading/unloading or for associated parking.

## 7.5. **Regard to Condition no.5**

- 7.5.1. Condition no.5 of the Council's permission has been noted above. It provides restrictions on the use of the site and trading hours. The First Party consider that it is overly restrictive and would unnecessarily limit operations. Also, that if the take-away is acceptable when the mart is open and the site at its busiest, they cannot see why it is a problem at other times. They note that existing facilities are long open into the evening and consider that the proposed restrictions imposed by condition no.5 are overly restrictive and severe. Also, that normal restrictions imposed on take-aways to protect residential amenities prohibit late night opening (eg. shall not be open between the hours of 24.00 and 08.00) and would be prepared to accept such a condition. They contend that the Council's permission goes far beyond this and is so severe that it will prohibit the development on what is a suitable location for a take-away service and make it difficult for the operator to continue his business in the area.

7.5.2. The Third Party who is not in favour of the proposal, is concerned about the merits and enforceability of such a restrictive condition. Regard is had to Section 7.3.3 of the Development Management Guidelines 2007 which provides that Conditions should be enforceable and be capable of being complied with. It is not considered that a permission based on this condition would comply with either of these issues. It is recommended that if the Board decide to permit that it either be modified or omitted.

## 7.6. Impact on the Character and Amenities of the Area

7.6.1. The Third Party concerns relative to this issue have been noted in their grounds of appeal. Regard is also had to the First Party response to the issues raised. It is considered that in view of distance, the proposed siting would not impact adversely on the amenities of nearby residential property. It is noted that the closest residential development is on the opposite side of the road (N59) from the subject site. The Clifden Business Park site is on a lower level and the units are set back from the site boundaries.

7.6.2. Issues have been raised relative to the impact on circulation, pedestrian and vehicular safety. It is of note that DM Standard 9 of the Galway CDP includes: *Care should be taken in the laying out of parking areas to avoid conflict between the movements of customer's vehicles, goods vehicles and pedestrians.* The proposed siting would interfere with the parking/loading area in front of this unit and most likely the adjoining units. It was noted on the day of the site visit during the Connemara Pony Show that the Mart site was very heavily parked including with a number of horse boxes therein. However, such public events are occasional on this site, and the First Party provides parking in generally light. In the case of events, livestock sales days etc. the proposed mobile van would provide a fast food take-away service but it is considered would also have some impact on circulation and parking within the Mart/Business Park site.

7.6.3. The issue of fire safety has been raised relative to the proximity of the mobile takeaway van to unit no.6 and adjoining units and to circulatory issues. While noted and of importance relevant to compliance with current fire safety standards, this issue is not within the remit of the Board and is more appropriately dealt with under separate remit by the relevant authority.



- 7.6.4. The Third Party consider that if a take away food service of this nature is required for the business park then it should be located as part of a restaurant from a permanent structure on site. Otherwise it should be located in the town centre (section 2.8 and 3.10.7 refer). Such would be preferable, although not what is applied for in the subject application.
- 7.6.5. It is considered that the proposed siting for the takeaway van is unusual and one that would not generally be seen as such in the context of a commercial/ business park setting. Rather if sited there at all, it would be on an authorised pitch either closer to the town centre or perhaps in a more suitable location in the periphery of the park and not on the forecourt area which is to provide the loading bay/parking area in front of the said unit. It also considered that such a siting and storage of the van in this unit, albeit now vacant, would limit the future viability of the unit and would set an undesirable precedent and it is not in accordance with the proper planning and sustainable development of the area.
- 7.6.6. Therefore, it is not considered that the proposed development which includes use of this site in front of Unit no.6 would be compatible with or in accordance with the Business and Enterprise Land Use Zoning and as such it would be contrary to Objectives D10 and EIT2 of the Clifden Local Area Plan 2009-2010.

## **7.7. Appropriate Assessment**

- 7.7.1. As shown on the Specific Objectives Map of the Clifden LAP 2009-2020, the site is proximate to The Connemara Bog complex cSAC and to The Twelve Bens/Garraun Complex cSAC. It is proximate to the Owenglin River which runs to the south of the Business Park/Mart site. A Screening Report relative to AA has not been submitted with this application. However, having regard to the nature of the proposal for a mobile takeaway unit, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. Having regard to the documentation submitted, to the planning history, planning policy and objectives and to the submissions made including from the First and Third

Parties, and to my site visit, it is recommended that permission be refused for the reasons and considerations below.

## 9.0 Reasons and Considerations

1. Having regard to the 'BE' land use zoning of the site, the objective of which is to provide for the creation and protection of business and enterprise uses, and facilitate opportunities for employment creation, it is considered that the proposed development, which includes a change of use of the existing forecourt area of Unit no.6 to accommodate the occasional use of a mobile takeaway unit, and the storage of the said facility within this unit, would not be compatible with the uses in the said zoning. It would impact on circulation and parking area contrary to DM Standard 9 of the Galway County Development Plan 2015-2021. It would also detract from/limit the use of this unit and forecourt area and would contravene the said zoning objective and would be contrary to Objectives D10 and EIT2 of the Clifden Local Area Plan 2009-2020, would set an undesirable precedent and be contrary to the proper planning and sustainable development of the area.

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Angela Brereton,

Planning Inspector

4<sup>th</sup> of September 2017