



An  
Bord  
Pleanála

## Inspector's Report 03.248804.

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<b>Development</b>	Change of use from vacant retail unit to Asian restaurant.
<b>Location</b>	Unit 3, Gort Road Shopping Centre, Ennis, Co. Clare.
<b>Planning Authority</b>	Clare County Council.
<b>Planning Authority Reg. Ref.</b>	P17/267.
<b>Applicant(s)</b>	J.C.F Verdant Investment.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	P.K. Yeung and Others.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	21 <sup>st</sup> of September 2017.
<b>Inspector</b>	Karen Hamilton.

## 1.0 Site Location and Description

1.1. The subject site is a one of 8 units located within Gort Road Shopping Complex, a neighbourhood centre located along the main road (R458) to the north of Ennis Town, Co. Clare. The neighbourhood centre has a large Centra as an anchor store and the 6 smaller units along the east occupied by a range of uses including, hairdresser, butchers, pharmacy and pizzeria. There are additional units and services to the north of the site occupied in part by a medical centre and there is McDonald's store to the south. The subject site, Unit 3, is currently unoccupied and there is access to the rear. There is surface parking along the north and east of the site in addition to a basement carpark.

## 2.0 Proposed Development

2.1. The proposed development is for a change of use from vacant retail unit to Asian restaurant (204m<sup>2</sup>) with public seating on the ground floor and kitchen area on the first floor.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to grant permission with 5no conditions of which the following conditions are of note:

C 2- Details of all grease traps to be submitted and agreed and no air-conditioning equipment allowed on the façade of the unit.

C 3- All external shopfront and signage shall be submitted and agreed and no commercial bins shall be stored in the public area.

C 4- Full details of all waste storage, separation etc. to be submitted.

C 5- Details of the future occupier of the unit submitted and agreed prior to occupation.

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

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

The report of the area planner reflects the decision to grant permission and refers to the mix of uses within the unit and the impact of the proposed development on the vitality and viability of the town centre.

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

No reports.

### **3.3. Prescribed Bodies**

None requested.

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

Seven submissions were received and the issues raised are summarised in the grounds of appeal.

## **4.0 Planning History**

No relevant history on the subject site, adjoining Unit 2 Gort Shopping Centre.

### **16/792**

Permission granted for a change of use of vacant retail unit to restaurant/ pizzeria comprising of an element of sale of hot and cold food for consumption off the premises. Conditions relating to shopfronts, waste management and equipment on the façade of the building.

## **5.0 Policy Context**

### **5.1. Clare County Development Plan 2017-2023**

The site is located in Ennis and the plans and policies of both the County Plan and the Ennis Municipal District (Vol 3) are applicable.

The site is located within a **commercial** zoning where it is an objective to support a mix of uses and retailing is open for consideration on this zoning, provided that a sequential test is carried out and the lands are demonstrably the optimum location for the nature and quantum of retail development proposed.

#### **Appendix 2: Land use Zoning Matrix**

- Takeaway- open for consideration.
- Restaurant/ café- allowed.

**Neighbourhood centres** will be developed to provide a use of commercial, retail and community, to support the population of the area.

#### **Obj. V3(a)4**

d) To provide for neighbourhood facilities to serve existing neighbourhoods and those planned for growth;

#### Neighbourhood Centres **Obj.V3(a)8**

(a) To retain the vitality and viability of existing neighbourhood centres and local shops, ensuring their sustainable development;

b) To work to ensure that all residential areas have easy access to, and are adequately serviced by, local/neighbourhood facilities and services;

## **6.0 The Appeal**

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

The grounds of appeal are submitted from the owner of the Jade Cottage, a Chinese restaurant located in a similar neighbourhood centre located east of Ennis c 1.5km from the site. The appeal is also signed by three others who have similar businesses in Ennis and the issues raised may be summarised as follows:

- There is a lack of parking and access to the rear.
- There is no more demand for any food outlets in Ennis as it is well served by Asian and ethnic restaurants.

- The unit is unsuitable as it has no provision for outdoor grease traps and rear services.
- There is already traffic congestion in the area.
- There is no facility for bin storage.

## 6.2. Applicant Response

The applicant's response may be summarised as follows:

- There are communal bin storage areas provided, an onsite managed waste facility and there is a drop off points for all units with deliveries to the rear.
- A condition has been included in the grant of permission for the provision of grease traps on site, which will be provided by the developer.
- The planning system should not inhibit competition and the site is zoned as commercial.
- The proposed development will not have a negative impact on the vitality and viability of the town centre.
- The initial permission of 114m<sup>2</sup> generated a demand for 8 spaces the proposed public seating (66m<sup>2</sup>) requires 8.2 spaces. It is not envisaged additional parking is required.

## 6.3. Planning Authority Response

The planning authority response may be summarised as follows:

- The site is located within a commercial complex which operates as a neighbourhood centre and serves the Lifford Neighbourhood centre.
- The site is zoned as commercial where restaurants/ café is permitted in principle and it is noted there is a concern with regard the dilution of mix of uses as the fourth food outlet that this location although the retail unit is vacant for some time.
- Whilst the proposal is not retail, it complies with objectives of the plan to protect and enhance the vitality and mix of town centre activities.

- There is ample delivery access to the rear of the site
- There is no additional requirement for parking on the site.
- The planning system should not inhibit competition.

#### 6.4. **Observations**

None received.

#### 6.5. **Further Responses**

The appellants responded to the grounds of appeal and the issues raised may be summarised as follows:

- The initial objection is reiterated.
- A map is attached to illustrate an overprovision of restaurants within the existing shopping centre including, Mc Donald's, Pizzeria, hot food counter in the super market, restaurant to the north, planning permission for a restaurant over the supermarket.
- There are problems with parking on site during peak times.
- There are serious issues in relation to the amount of grease released from Asian restaurant.

### 7.0 **Assessment**

7.1. The main issues of the appeal can be dealt under the following headings:

- Principle of development
- Impact on the surrounding area
- Appropriate Assessment

#### **Principle of development**

7.2. The site is located in a neighbourhood centre within a commercial zoning, where takeaway is open for consideration and restaurant/ café are permitted uses. The subject is located c. 1km from Ennis Town Centre and there is a Mc Donalds to the

south, a pizzeria in the adjacent unit and a restaurant/café on the northern side of the neighbourhood centre. The grounds of appeal argue the provision of another restaurant will have a detrimental impact on the town centre and neighbourhood.

- 7.3. Objective V3 (a)4 and V3 (a) 8 of the Ennis Municipal Plan (Vol 3 of the county development plan) provides guidance and support for neighbourhood facilities which serve existing neighbourhoods and enhance and support the vitality and mix of town centre activities. There are no specific objectives in the development plan restricting the conversion of retail in neighbourhood centres. This centre serves the Lifford neighbourhood and whilst the proposal removes a retail unit, I consider there is a suitable range of facilities currently on site e.g. hairdressers, large Centra, bookmaker's, pharmacy etc. In addition, there is a medical centre to the rear of the site. The pizzeria in unit 2 was not open during the day and similar to the proposed development I consider it would support an evening entertainment market. This aside I consider the proposed development would support the existing uses in the vicinity and based on the scale of the Unit and distance from the town centre I do not consider it would have a negative impact on the vitality and viability of centre.
- 7.4. Based on the zoning and the commercial nature of the site I have no objection to the principle of the use site as restaurant subject to complying with other planning requirements as addressed in the following sections.

#### **Impact on surrounding area**

- 7.5. The subject site, Unit 3, is two and half storeys and located within a neighbourhood centre to the north of Ennis. Unit 2 contains a pizzeria and Unit 4 has a bookmaker. The proposed development includes public seating, toilets and a service area on the ground floor with the kitchen and staff area on the first floor. The grounds of appeal argue the proposed development does not include the provision of sufficient car parking, waste storage or space for delivery and the use will have a negative impact on the surrounding area.
- 7.6. Grease trap and ducting: The proposed development does not include a provision for a grease trap, the proposed extract duct connects to an existing extract vent above the first floor on the rear elevation. Condition No 2 requires the submission of grease traps for the written agreement of the planning authority and restricts the erection of

an extractor fans or equipment on the façade. I consider the inclusion of a similar condition reasonable to control the discharge.

- 7.7. Waste: There is a laneway to the rear of the neighbourhood centre with unrestricted access. The grounds of appeal argue there is insufficient details with regard the waste disposal. The applicant submits there is currently a communal waste facility with a designated person for co-ordinated management on site and I noted the rear alley was free from any waste from adjoining units. Condition No 4 requires the submission of waste storage details including recycling, which I consider reasonable.
- 7.8. Shopfront: The signage on the façade of the adjoining units is of a high quality and includes individual raised lettering. The submitted plans refer to a name plate with raised gold letters on a dressed limestone background, although no illustrations are submitted. Condition No 3 requires the submission of details for the shopfront and signage which I consider reasonable.
- 7.9. Delivery's and Car parking: As stated above there is a laneway to the rear of the neighbourhood centre, there is sufficient space and turning areas at either end of the rear laneway to accommodate delivery vehicles. There is a large surface carpark to the north and east of the neighbourhood centre and a basement carpark assessed from the rear of the site. The retail unit required the provision of 8 spaces, whereas, based on public seating of 66m<sup>2</sup>, the restaurant would require 8.2. Based on the current provision of access and parking on site and the scale of the proposal I do not consider the traffic generated from the proposed development would have a significant negative impact on the traffic flow on the site or surrounding area.

### **Appropriate Assessment**

- 7.10. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on the conservation objectives of any European site.



## 8.0 Recommendation

- 8.1. I recommend that planning permission should be granted for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

Having regard to the commercial zoning objective, the pattern of development in the vicinity and the scale and nature of the proposed development, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area or residential amenity of the adjoining dwellings or have a serious negative impact on the vitality and viability of Ennis Town Centre. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 out in accordance with the agreed particulars.

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

2. 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/visual amenity.

3. a) Details of the grease trap to be provided within the curtilage of the site and submitted to, and agreed in writing, with the Planning Authority prior to commencement of the development.  
b) No air conditioning extractor fans or other apparatus shall be mounted on the façade of the premises.

**Reason:** In the interest of public health and proper planning.

4. A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health

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Karen Hamilton  
Planning Inspector

04<sup>th</sup> of October 2017