



An
Bord
Pleanála

Inspector's Report

ABP-309645-21

Development	Change use of ground floor to a fast-food and hot food takeaway and include signage
Location	72 Market Street , Cootehill , Co Cavan
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	213
Applicant(s)	Rohit Singh.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Teresa Nevin.
Observer(s)	None.
Date of Site Inspection	13 th of May 2021
Inspector	Karen Hamilton

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	4
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Cavan County Development Plan 2014-2020	6
5.2. Natural Heritage Designations	7
5.3. EIA Screening	7
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Applicant Response	8
6.3. Planning Authority Response	8
6.4. Observations	9
7.0 Assessment.....	9
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	13
10.0 Conditions	13

1.0 Site Location and Description

- 1.1. The site includes a vacant commercial property fronting onto the main street, Market Street, Cootehill, Co. Cavan. Market Street forms part of Cootehill town core and is a busy street with a range of commercial/ retail and other services along either side. There is very little dereliction for property for sale or let along the street.
- 1.2. The last stated use in the property is for a hairdresser and all signage has been removed. The site is a mid-terraced property with a Chinese takeaway and a hardware shop on either side. There appears to be potential for residential on the upper floors although on-site inspection the upper floors appeared unoccupied. Access to the rear is provided via an alley way adjoining the Chinese takeaway.

2.0 Proposed Development

- 2.1. The proposed development would comprise of:
 - Change of use of an existing ground floor hair salon (58m²) to a fast food and Indian hot food takeaway,
 - Signage along the fascia,
 - Ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 9 no condition of which the following are of note:

C2: Hours of operation between 15:00 and 24:00 (hours) Monday to Thursday and between 15:00 and 01:30 on other days.

C4: Inclusion of a litter bin to the front of the proposed takeaway, maintained and emptied at least once a day by the proprietor/occupier of the premises.

C7: (i) Shop advertising shall be of handwriting type on timber fascia board \or similar) with lighting by external means. Plastic, internally illuminated, box fascia signs or

similar will not be permitted. Full details of all proposed signage associated with the development shall be submitted for written approval by the PA.

(ii) Full details of any lighting to the front of the unit shall be submitted to the PA prior to its installation.

(iii) No roller shutter shall be installed to the front elevation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planner reflects the decision to grant permission and may be summarised as follows:

- The policies of the county development plan in relation to takeaways, town core development and signage is highlighted.
- A breakdown of the planning history notes those takeaways permitted in the vicinity.
- 6 no. submissions are summarised.
- The planning assessment notes the number of takeaways in the core area, has regard to the cumulative impact on the street and recommended the inclusion of a bin at the front of the site to address any issue relating to litter.
- In relation to any development on the upper floors, it is noted that these areas are not included in the proposed development and any works would be subject to building control regulations.

3.2.2. Other Technical Reports

None received.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

Six no. submissions were received of which many of these were on behalf of fast-food operators in the vicinity of the site. The issues raised are summarised below:

- There are too many takeaways in Cootehill.
- Local businesses are struggling.
- There is a residential unit above and the proposed use is not appropriate.
- The proposal will lead to litter/ rubbish on the street.
- There will be unwanted odours.
- There is a need to support existing hairdressers.
- Rate paying business should be supported.
- There are enough takeaways in Cootehill to support the population.

4.0 Planning History

Reg Ref 06/330

Permission granted to erect a new shop front.

History in the vicinity of the site

Reg Ref 15/188

Permission granted for a change of use from retail unit to fast food takeaway. Currently operating as Apache Pizza, c.4 units to the north of the site. Operating hours are from 17:00 to 01:00.

Reg Ref 12/272

Permission granted for a change of use of from retail to Chinese takeaway on the opposite site of Market Square. Operating hours are from 08:00 to 01:00.

Reg Ref 89/18340

Permission granted for a change of use from retail to fast food takeaway and shop unit. Currently operating as the Oriental Express to the north of the site.

5.0 Policy Context

5.1. Cavan County Development Plan 2014-2020

- Cootehill Town is defined as a large town (Tier Two)

Zoning

The site is located on lands zoned as “Town Core” where it is an objective:

“Establishes the extent of the town core and identifies the most suitable location for a mix of retail, commercial, residential, cultural and social uses. The overall aim is to strengthen the vitality and viability of the town core by actively facilitating the reuse of existing buildings, as well as, brownfield and Greenfield sites. The emphasis will be on high quality urban design which does not detract from the existing urban framework”

- Takeaway /fast food outlet is permitted in principle

Town Core

CSP14 The priority areas for new shopping and commercial office development will be within the defined Town Core of Towns and Villages.

Section 12.3:

- Facilitate and encourage the coherent and integrated renewal of derelict/un-used/underutilised sites and buildings, where appropriate.
- Strengthen and support the development of retail and service provision within Town Cores

Fast-food outlet/ Takeaway

Section 10.9:

The cumulative impact of a number of take-away restaurants in any particular area will be considered in the assessment of any application. Impacts such as noise, litter, disturbance, residential amenities, proximity to residential dwellings and traffic, will also be taken into consideration. The Planning Authority will control the opening hours of take away. Proposals for take-aways are generally permitted in appropriate locations as per the Zoning Descriptions except where;

- Development would be likely to prove detrimental to the amenities of nearby residential properties, to visual amenity and parking and which would result in traffic and litter problems which could not reasonably be controlled by use of planning conditions.
- The application has failed to demonstrate that a satisfactory ventilation flue could be provided that would not cause problems of noise and fumes for the occupiers of nearby properties and it would not be detrimental to the visual amenity of the area.
- A further change of use would seriously affect the retail vitality and viability of the defined retail centre due to an existing concentration of takeaway premises in an area.

Urban Design for Town Core

Section 10.7.1: Shopfront Design

- Internally illuminated facias and signs shall not normally be permitted.
- The design of the shopfront should be sympathetic to the scale and architectural character of the existing building and streetscape and shall not detract from it.
- The design, scale, colour and signage scheme should be submitted with the planning application for the replacement or alteration of shopfronts and for new shopfronts.
- Excessive use of illuminated plastic or neon signage will not be permitted.
- The use of locally sourced material e.g. timber, stone, glass and steel, are encouraged.

5.2. **Natural Heritage Designations**

None of relevance.

5.3. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of

significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by a resident of Cootehill and the issues raised are summarised below:

- There are already 4-5 takeaways in Cootehill.
- It is sometimes impossible to get parked.
- The permission isn't safe as there is only one staircase to the flat and if there was a fire there would be no safe exit.

6.2. Applicant Response

No response received.

6.3. Planning Authority Response

A response to the grounds of appeal has been received from the PA. The points raised in the grounds of appeal are addressed individually by the PA, as summarised below:

Number of takeaway outlets in the town

- The cumulative impact of similar fast-food outlets where considered.
- The site is within the town core and fast-food outlets are permitted in principle.
- There are six other takeaway establishments on the street, this is not considered excessive given the scale and variety of comparison and non-comparison along the street.
- There are several vacant premises and dead frontages along the street which have a negative impact on the footfall and commercial viability of the street.

- The PA assessment was based on the planning merits of the case.

Car parking issue

- It is considered there is no intensification of use on the site.
- Most of the takeaway use would be outside the daytime hours where the demand for parking is at least demand.

Access to residential use on the first floor

- The planning permission relates only to the ground floor.
- Access to the upper floors is regulated by the Building Regulations.
- Under Section 34(13) a person shall not be entitled solely by reason of a person to carry out any development.

6.4. **Observations**

None received

7.0 **Assessment**

7.1.1. The main issues in this appeal and can be dealt with under the following headings:

- Principle of a Fast-food outlet/ takeaway at this location
- Car parking
- Access to the first floor
- Appropriate Assessment

Principle of a Fast-food outlet/ takeaway at this location

7.2. The proposed development relates to the change of use of a ground floor commercial unit from hairdressers to fast food takeaway. The grounds of appeal consider the principle of this change of use is unacceptable as there are too many takeaways in town core at present.

7.3. The site is located in the town core of Cootehill. The overall aim of the town centre objective is to strengthen the vitality and viability of the town core by actively facilitating the reuse of existing buildings. Fast-food outlets and takeaways are

permitted in principle within the town core zoning. Section 10.9 of the development plan provides specific guidance for any proposals relating to fast food outlets/ takeaways.

- 7.4. The PA report and response to the grounds of appeal notes the location of the site within the town core, the current vacant use on the site and the cumulative impact of the takeaway on the surrounding area. The PA consider that there is currently a good range of comparison and non-comparison uses within the town core and to permit the takeaway would not have a negative impact on the town. The PA note that the cumulative impact was considered, and the proposal has been assessed on its planning merits.
- 7.5. I note the information contained in Section 10.9 of the development plan. The criteria for assessing proposals for takeaway include the cumulative impact of a number of take-away restaurants in any particular area, impacts such as noise, litter, disturbance, residential amenities and proximity to residential dwellings and traffic. Proposals for take-aways are generally permitted in appropriate locations except where the development:
- would be likely to prove detrimental to the amenities of nearby residential properties, to visual amenity and parking and which would result in traffic and litter problems which could not reasonably be controlled by use of planning conditions,
 - failed to demonstrate that a satisfactory ventilation flue could be provided that would not cause problems of noise and fumes for the occupiers of nearby properties and it would not be detrimental to the visual amenity of the area,
 - And a further change of use would seriously affect the retail vitality and viability of the defined retail centre due to an existing concentration of takeaway premises in an area.
- 7.6. In relation to compliance with these criteria, I note the number of takeaways in the vicinity of the site. The PA state there are c.4-5 along the entire Market Street. I note c. 3 of these are in the immediate vicinity of the site. I note the location of these current fast-food/takeaway outlets and it is my opinion that they do not have a significant negative impact on the visual amenity of the area. I note the design of the frontage of for the proposal, which I consider to be of a higher standard than the

current shop front and those properties. I consider the visual amenity of the area will be enhanced having regard to the proposed alterations. The Board will note condition no 7 of the grant of permission relating to materials and illumination etc, which I consider reasonable to protection the visual amenities of the surrounding area.

- 7.7. In relation to the cumulative impact, I note the location of those existing fast-food outlets and the significant range of services along the entire Market Street. Upon site inspection it appeared that the town core of Cootehill was busy, even during the restrictions specific to the Covid pandemic. I do not consider the current quantum of takeaway outlets is excessive relative to the overall quantum of comparison and non comparison premises along Market Street and it is my opinion that an additional fast food outlet would not have a significant negative impact on the functioning of the town core. In addition, it is noted the current property is vacant, where the previous use was a hairdresser. In this regard the proposed development would comply with the town core objective is to strengthen the vitality and viability by actively facilitating the reuse of existing buildings.
- 7.8. In relation to the impacts on the litter, I note condition no 4 of the grant of permission requires the provision of a litter bin at the front of the premises which is to be maintained and emptied at least once a day. I consider this condition reasonable to prevent any adverse impact on the surrounding area by way of littering.
- 7.9. In relation to impact on the residential amenities, I note the site is located within the town core and as such the impact on residential amenity is limited. Upon site inspection it appeared there is potential for a residential property on the upper floors. I note the inclusion of flue and ventilation has not been detailed in the application. The proposal includes fryers which may require additional ducting. Having regard to the scale of the proposal I do not consider any ducting associated with the fryers would have a significant impact on the surrounding area and the submission of details could be reasonably included as a condition on any grant of permission.
- 7.10. Therefore, subject to complying with other planning requirements as addressed in the following sections, the principle of the proposal is acceptable.

Car parking

- 7.11. The subject site fronts onto Market Street. Public parking is located along each side of Market Street and a parallel parking space is located directly outside the subject site. The grounds of appeal consider the proposed development will have an impact on the parking along Market Street. The response from the PA considers the proposal will not represent any intensification of use on the site and having regard to the use of the site as a takeaway, parking will be required outside normal business hours.
- 7.12. Table 4.7 of the development plan includes parking standards. The parking requirements for a takeaway is 3 spaces and hairdressers are not listed. The explanatory notes with table 4.7 state that where the parking standards do not cover the type of development proposed, the requirement shall be calculated relative to the most appropriate standards. I consider it reasonable to assume from the size of the ground floor (58m²) that 3 spaces would have been required for a hairdressers. In this regard I do not consider additional car parking should be provided and I consider the proposal complies with Table 4.7, where there is no intensification on the site.

Access to the first floor

- 7.13. The grounds of appeal have raised concern in relation to the access to the upper floors, in particular the potential impact on any fire escape. The response from the PA notes upper floor do not form part of the proposal. In addition, the PA note the safe access to the upper floors is governed by the Building Regulations.
- 7.14. I note both the existing and proposed floor plans include the location of the stairs to the upper floors in the centre of the building. The location of these stairs remains unchanged and the proposal does not include any alterations to the upper floors. I do note consider the proposal would represent a fire hazard and the applicant is required to comply with Building Regulations, separate to the requirements of S 34 of the Planning and Development Act, 2000, as amended.

Appropriate Assessment

- 7.15. 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 or projects on the conservation objectives of any European site.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to pattern of development in the vicinity, the nature, form and design of the proposed development and compliance with the provisions of the Cavan County Development Plan 2014-2020 relating to takeaways and development in the Town Core, it is considered that subject to compliance with the conditions set out below, the proposed development would not adversely affect the residential or visual amenity of the area. 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 in accordance with the agreed particulars. Reason: In the interest of clarity
2.	Prior to development full details of all signage shall be submitted to the planning authority for their written agreement and shall include handwriting type on timber fascia board (or similar) with external lighting.

	<p>No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the visual amenities of the area</p>
3.	<p>The hours of operation shall be between 15:00 hours and 24:00 hours Monday to Thursday and between 15:00 hours and 01:30 hours on other days.</p> <p>Reason: In the interest of the amenities of property in the vicinity.</p>
4.	<p>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.</p> <p>Reason: In the interest of visual amenity</p>
5.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, any change to the display panel, including any increase in the number of posters to be displayed, the scrolling mechanism or the internal/external illumination, shall be the subject of a separate application for permission to the planning authority.</p> <p>Reason: To enable the planning authority to assess the impacts of any such changes on the amenities of the area</p>
6.	<p>The developer shall control odour emissions from the premises in accordance with measures, including extract duct details, which shall be</p>

	<p>submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of public health and to protect the amenities of the area</p>
7.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health</p>
8.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>

Karen Hamilton
Senior Planning Inspector

17th of May 2021