



Development	Permission for change of use of existing building to retail use (by scheduled appointment only) and all associated site and ancillary works.		
Location	Gorey Corporation Lands, Gorey, Co. Wexford.		
Planning Authority Ref.	20230313. Wexford County Council.		
Applicant(s)	Robert Simpson.		
Type of Application	Permission	PA Decision	To grant permission
Type of Appeal	Third	Appellant	Toped Tep Limited, c/o Joe Doyle
Observer(s)	None		
Date of Site Inspection	11/07/2024	Inspector	Richard Taylor

Context

1. Site Location/ and Description.

The site comprises a former sports hall building with ancillary accommodation comprising a kitchen area, toilets, store, and access hall. It comprises a two-storey element with barrel vaulted roof and ridge height of 7.175 metres and also a single-storey element with a monopitch roof approximately 2.5 metres to eaves increasing to approximately 2.8 metres where it meets the two-storey element. There are three high level windows on the northern elevation of the two-storey hall section, with a further window within the kitchen area at ground floor. The building

is finished in smooth render with corrugated metal sheeting to the roof of both the two storey and single storey sections. The building has gross floor space area of 222.8 square metres and occupies the entire site. It was previously used as a badminton hall. There are two parking spaces demarcated immediately adjacent to the northern elevation.

The site is located off a laneway with direct access to Esmonde Street. The laneway varies in width between 8 and 9 metres along its length and includes a narrow footpath adjacent to the western boundary, varying in width between 1 and 1.5 metres. There are double yellow line markings along each side of the laneway and a speed restraint hump. The laneway traverses past the appeal site in a westerly and then northerly arrangement, narrowing to approximately 5 metres in width adjacent to the northern elevation of the appeal site building. There are tennis courts immediately adjacent to the west with a single storey building immediately adjacent to the north and use as a boxing club. There are additional tennis courts immediately adjacent to the north of this building, with a single storey tennis clubhouse beyond. Immediately to the north of the site on the opposite side of the access lane, there is a large broadly square shaped site that is mostly vacant save for a single storey building immediately opposite the appeal site. The building also appears to be vacant. To the east and immediately opposite the appeal site there is a further single-storey building with signage attached indicating that it is in use as a scout hall. The laneway boundaries of all of these sites to the west, north, and east of the appeal site all comprise metal paladin or railings approximately 2 metres in height.

There is a row of terraced dwellings to the south and southwest, with an undeveloped hard surfaced open site and access lane immediately to the south. The gable of the appeal site building forms the boundary.

The topography of the appeal site, access laneway, and immediate environs is broadly level.

2. Description of development.

Permission is sought for change of use of existing building to retail use (by scheduled appointment only) and all associated site and ancillary works.

The existing building comprises a footprint of 13.075 metres in width and 18.46 metres in length and is approximately 226 square metres in area.

The supporting plans indicate that the largest room, last used as a badminton hall, will be used for retail (by appointment) area storage. Internally this room is 17.86 metres in length and 7.175 metres in width with a floor area of approximately 128 square metres. The remaining space is to be used for ancillary accommodation including a staff/kitchen area, bin store, two small storerooms, and a reception area. This equates to approximately 89 square metres in area.

The elevations indicate that there are no alterations proposed to the building.

The application cover letter states the following:

The business model for this development is online sales of ladies' fashions, clothing and comparison goods. Goods shall be dispatched by post or collected by scheduled appointment. Collection shall be made by pedestrian access (on foot) to the property only during standard retail hours of 9:00 AM to 6:00 PM, Monday to Saturday.

3. Planning History.

Planning register number 20220836: Proposal: permission for change of use of existing building to retail use (by a scheduled appointment only) and all associated site and ancillary works. Refused for the following reasons (summarised):

1. The proposal by reason of design of the existing building, the lack of active St frontage: and current access arrangements, which gave rise to a substandard retail environment which would be complete to the objectives of the Gorey Town and Environs Local Area Plan 2017- 2023 (extended to 2026) and to Section 5.3 of the Retail Planning Guidelines 2012 and associated Retail Design Manual 2012...(and therefore) contrary to the proper planning and sustainable development of the area.
2. The proposal would prejudice... a key development site and opportunity site as identified in the Gorey Town and Environs Local Area Plan 2017- 2023 (extended to 2026) and be contrary to the objectives of the local area plan and proper planning and sustainable development of the area.

3. Insufficient information has been submitted on the nature of the retail use, hours of operation, access and parking arrangements, waste storage and disposal to (enable) full assessment...

4. It has not been demonstrated that the applicant has a legal right of way to use the laneway and footpath giving access to the site... and may therefore result in a traffic hazard and be contrary to the proper planning and development of the area.

4. National/Regional/Local Planning Policy (see attached)

- The Wexford County Development Plan 2022-2028 was adopted by the Elected Members of Wexford County Council at the Special Meeting of the Council held on Monday, 13th June 2022. The Plan came into effect on Monday, 25th July 2022. It has regard to national and regional policies in respect of retail and economic development.
- Chapter 3: Core Strategy: Table 3-2 County Wexford Settlement Hierarchy, Gorey Town identified as a Level 1 Key Town.
- Gorey was designated as a Key Town in the RSES which notes that it is an important and thriving town which is well placed to accommodate additional economic growth and become more self-sustaining. The town is performing very well in terms of retail and services. The town centre is vibrant and attractive, with some opportunities for brownfield and infill developments.
- Development Approach: In order to fulfil its designation as a Key Town in the RSES and in line with RPO 11 and RPO 25, the Council will:
 2. Focus on significantly increasing employment and economic development in the town to allow the town to become a Strategic Employment Location, be more self-sustaining and to counteract unsustainable commuting out of the county for jobs. While the Council will facilitate all types of economic development, there will be focus a strong focus on the ICT and technology sectors.
 3. Focus on maximising the economic opportunities offered by the location of the town on the Eastern Economic Corridor.
 4. Prioritise the development of brownfield and infill sites in the town centre and close to public transport corridors, and ensure the efficient use of those

central sites, achieving compact growth and higher residential densities, while also ensuring attractive and high-quality living environments.

The spatial planning framework for the town is set out in the Gorey Town and Environs Local Area Plan 2017-2023.

- 3.10 Retail: The Plan includes a Retail Strategy prepared in accordance with the Retail Planning Guidelines for Planning Authorities (2012). Table 3.5 County Wexford Retail Settlement Hierarchy. Gorey identified as a Level 2: Large Sub-Regional Towns with Appropriate Scale and Type of Retail stated as “Large to Medium scale convenience and medium scale comparison”.
- Objective CS06: To promote and facilitate the economic development of the Eastern Economic Corridor as an inter-urban regional economic driver, in particular, in Gorey Town...
- Objective CS10: To adopt a presumption in favour of development that can generate more jobs and activities within existing towns and villages in order to reduce the distances that people have to commute from home to work such as remote working hubs and subject to development complying with appropriate planning standards and achieving targeted growth.
- Objective CS14: To strengthen the social and economic structure of rural towns and villages by supporting the reuse of existing buildings and the regeneration of underutilised buildings and lands.
- Gorey Town Strategic Objectives:
- Objective GT01: To strengthen the role of Gorey Town as an economic driver leveraging its strategic location and accessibility to Rosslare Europort and the Eastern Economic Corridor (port, rail and road), build upon its inherent strengths including digital connectivity, skills, innovation and enterprise, tourism, culture and retail services.
- Objective GT02: To facilitate strategic employment development in the town to allow it to become more self-sufficient in terms of employment including development of opportunity sites and property solutions.
- Chapter 6: Economic Development Strategy:
- Strategic Economic Development Objectives: Objective ED01: To facilitate sustainable economic development, increase and improve job opportunities

and ensure that County Wexford provides an outstanding business environment.

- 6.6.5.1 Locations for Economic Development: The primary location for new commercial development will be in the four main towns. Commercial development in other small towns and villages shall be commensurate with their level in the Settlement Hierarchy.
- Place Objectives: Objective ED45: To direct commercial development to the settlements identified in the Settlement Hierarchy. Economic development proposals will be permitted within settlements on suitably zoned land or within towns and villages defined within the Core Strategy / Settlement Hierarchy, subject to the proper planning and sustainable development of the area.
- Objective ED50: To ensure retail development is located in accordance with the objectives contained in the Retail Strategy contained in Volume 8.
- Objective E53: To promote the re-use and regeneration of vacant buildings and the regeneration of obsolete and/or under-utilised buildings and lands that could yield economic benefits with appropriate uses, subject to the proper planning and sustainable development of the area.
- Large Town Objectives: Objective ED61: Gorey Town: Support the further development of the town as destination for retail including niche boutiques.
- Chapter 13: Heritage and Conservation.
- Wexford CC Development Plan Volume 2: Development Management Manual.
- Section 2 Common Principles for All Developments.
- Section 5 Enterprise and Employment Developments.
- Section 6 Transport and Mobility, including Table 6-7 Car Parking Standards.
- County Wexford Retail Strategy 2021-2027:
 - 1.6.5 Gorey Town & Environs Local Area Plan 2017-2023
 - 2.3 Online shopping.
 - 5.10 Residual Capacity: Comparison Non-Bulky Goods.
 - Table 5.13: Expenditure Available for New Retail – Comparison Non-Bulky Goods (Residual Surplus and Floorspace Capacity) sets out the residual capacity of comparison non-bulky retailing. Here, it is observed that Enniscorthy and Gorey are the only two catchment areas which exhibit an

immediate residual capacity for additional convenience floorspace (in 2020). However, the residual surplus is relatively minor at €533,000 and €694,500 respectively. This increases throughout the Plan period, in tandem with growth in available expenditure; reaching €33.1million and €44.4 million in 2027 respectively.

- 6.2.3 Gorey: Occupying, adapting and/or redeveloping vacant and derelict premises within the core retail area is the preferred and optimal solution for accommodating future retail development in Gorey as noted in paragraph 1 below, however other opportunities also exist for larger scale retail development in close proximity to these areas:

7. Site on Esmond Street (Car park and property to front) – proximity to existing retail, large site and adjacent to primary access routes.

- 6.3 Retail Planning Objectives, 6.3.1 Wexford County.
- 6.3.4 Gorey Town:
- Objective GY01: To protect and enhance the amenities of the town centre whilst ensuring that retail floorspace is developed in a sustainable manner that complements the improvement of the town overall.
- Objective GY02: To strengthen the role of Gorey as a Key Town, where retail is an integral part of the town's economy complementing an important array of amenities, vibrancy, liveability/quality of life and quality built environment.
- Objective GY03: To continue to support the retail core area based around the Main Street as a compact and attractive town centre with a strong retail sector with a particularly strong reputation for comparison goods. Any new retail expansion shall be restricted to the town centre area abutting the defined core area.
- Volume 8: County Wexford Retail Strategy 2021-2027.
- Table 5.15: Indicative Future Retail Floorspace Potential.
Gorey: Comparison Goods (Non-Bulky) (sqm) 2020: 63, 2021: 964, 2027: 4034, 2031: 6242.
- 5.13 Table 5.21: Indicative Future Retail Floorspace Potential (Cumulative) - Adjusted for Vacancy and Assumed 50% of Pipeline Supply.
In the Gorey Catchment Area: There is no additional capacity for comparison non-bulky floorspace in 2020. Approximately 12m² of identified capacity arises

by 2021, increasing to 3,081m² by 2027 and 5,290m² in 2031, if left unaddressed.

- Chapter 13: Heritage and Conservation.
- Volume 13: Natura Impact Report.
- Gorey Town and Environs Local Area Plan 2017 – 2023. Wexford County Council held on Monday, 9th May 2022 resolved in accordance with Section 19(1)(d) to defer the sending of notices under Section 20(3)(a)(i) and the publishing of notices under Section 20(3)(a)(ii) for the Gorey Town and Environs Local Area Plan for a further period of up to three years thereby extending the duration of the Local Area Plan.
- The Gorey LAP relates to the previous iteration of the Wexford County Development Plan 2013-19. This has now been superseded by the Wexford County Development Plan 2022-2028 but remains a material consideration as it has been extended until 2025 as discussed above.
- The site is within the LAP boundary as illustrated in Figure 3, and part of a “Key Development Site” in figure 5A, part of key development site ref: T15 in figure 9.
- Section 3: Urban Design Strategy.
- Section 4: Access & Movement.
- Lands to the northeast of the appeal site are identified as a car park in Map 2: Car Parking. This map also identifies 61 on-street parking spaces on Esmonde Street.
- Section 6: Economic Development Strategy.
- Unemployment recorded at 26% (1157 persons) in the 2011 census.
“unemployment, whilst improving, is a concern and a priority for the Council...”
- 6.4 Economic Development Strategy: “While all types of employment will be encouraged there is a strong focus on promoting (6 sectors listed) retail and its associated spin offs”
- 6.4.1 Locations for Economic Development: District 1 Retail core is the preferred location for retail development and its vitality and viability will be protected at all times...the Central Business Area will contain a more diverse range of uses including retail, business, civic administration, and residential.”

- Economic Development Objectives: EDS01: “to encourage and facilitate appropriate employment opportunities within the town...”
- EDS03: “to encourage and assist the redevelopment of already developed or brownfield lands 4 enterprise unemployment subject to compliance with land zoning objectives...”
- Section 7: Town Centre Development: Objective TC05: “to provide for a mix of uses in the town centre... including retail and commercial...”
- objective DS01: to encourage and facilitate the reuse and redevelopment of derelict land and buildings.
- Section 8: Retail, Map 6, site forms part of opportunity site designation 7.
3.3.1.4 Opportunity Sites.
- 8.1.2 existing retail structure: retailing is concentrated in the Main Street and has extended into the associated side streets... It has extended into Esmonde Street.
- 8.3 future retail development in Gorey: the aim is to protect and develop the vitality and vibrancy of the town centre or retail core. Five elements are listed to achieve this, including “diverse: it must provide a range of shops and experiences to attract shoppers and visitors.”
- 8.3.1 lists appropriate locations for retail, namely retail core, edge of centre, local community spaces, and opportunity sites.
- 8.3.1.4 the site forms part of an opportunity site listed at point 7. These sites must be considered before sites in other locations outside the town centre/further from the retail core.
- 4 retail objectives are listed including objective RS01 which seeks to protect the retail core and associated vitality and viability to ensure it remains the primary location for retail development.
- Table 18 summarises spare expenditure capacity for the catchment for convenience, comparison, and bulky goods. It identifies 1360 square metres capacity for the period 2019- 2022, and 2605 square metres for the period 2011- 2022 for comparison expenditure.
- Section 11: Land Use Zoning Matrix

5. Natural Heritage Designations

- Nearest natural heritage designations to the site are as follows:
- Special Protection Areas [site code]:
- Cahore Marshes SPA [004143]
- The Raven SPA [004019]
- Wexford Harbour and Slobbs SPA [004076]
- Special Areas of Conservation [site code]:
- Blackstairs Mountains SAC [000770]
- River Barrow And River Nore SAC [002162]
- Slaney River Valley SAC [000781]
- Kilpatrick Sandhills SAC [001742]
- Blackstairs Mountains SAC [000770]
- Blackwater Bank SAC [002953]
- Cahore Polders and Dunes SAC [000700]
- KilmuckridgeTinnaberna Sandhills SAC [001741]
- Buckroney-Brittias Dunes And Fen SAC [000729]

Development, Decision and Grounds of Appeal

6. PA Decision.

The first planning report dated 23.05.2023 recommended a refusal of permission. It concludes that the application is a re-submission of previous application reference 20220836. Further information was submitted as part of the application to address previous concerns. Retail use is open for consideration in this town centre and a central business area. The building does not lend itself to such use or to the regeneration of the overall key development site and opportunity site of which the site is part. The existing building is considered substandard for the proposed use. Insufficient information is provided regarding customers visiting the premises, access arrangements, parking and traffic issues as noted in a response from Roads section. The proposal would conflict with the objectives of the Gorey Local Area Plan and the proper planning and sustainable development of the area. A subsequent report by the Senior Planner dated 23.05.2023 disagrees with the conclusions of the first planning report and recommends further information is

submitted in relation to traffic, parking, deliveries and related road infrastructure issues.

In recommending the granted permission, a subsequent planning report (22.08.2023) notes the following:

Referral responses were requested from the Senior Executive Scientist (environment), Irish water, and Disability Access Officer. No responses were received.

The Roads Area Engineer recommends refusal due to insufficient detailed information in relation to traffic turning movements, parking, deliveries, footpath connectivity, existing traffic and pedestrian movements associated with adjoining developments using the private access road.

Two observations received, one of which is the appellant.

The site is zoned within the central business area of the County Development Plan with associated policy considerations. The site also forms part of an Opportunity Site zoning within the Gorey Town and Environs Local Area Plan.

The proposal is subject to roads and recreational and community contributions under the Council Contribution Scheme.

The building is located in an area where retail is permitted and encouraged and will not have any adverse impact on the overall development of the opportunity site. The wider opportunity site has remained undeveloped for a significant time and no new proposals for redevelopment have been submitted.

The site is within an area where it is not necessary to provide off street parking and any shortfall would normally be charged as a planning contribution. There is a major public car park located 130 metres to the southeast of the site.

The proposal is not new build and does not involve any changes to the elevations and therefore does not have to address the street. The use is by appointment only and includes a large storage area. It is not envisioned as functioning as normal high street retailing but as a use better located in the core town centre. No alterations are proposed to the building and therefore there are no issues in relation to design.

Access is via a private laneway from Esmonde Street and the applicant has demonstrated a right of way with a Land Registry map. The lane previously served

a large car park and existing uses. A layout plan details traffic movements, footpath, and parking areas as part of a further information submission. The further information response states that the applicants' agent discussed the access, parking and related issues with the technician in the Gorey district. No further comments have been made by the road section on the additional information.

The report concludes that public access to the site will be limited and by appointment only. It is not a normal retail shop but an appropriate town centre location. The building is vacant, and the proposal will introduce an alternative use and prevents dereliction. Having regard to the limited activity on the site, which once also had a large car park operating from this access, the development would not have an adverse impact on traffic safety.

The PA issued a notification of decision to grant permission on 18th August 2023 subject to 3 conditions:

Development to be carried out in accordance with approved details;

Development contribution towards public roads infrastructure;

Development contribution towards community facilities.

7. Third Party Appeal. Grounds:

- The appellant is the owner of the access lane and surrounding lands including a former private car park. The appellant is in the latter stages of formulating a housing proposal for his lands.
- The subject application is identical to that refused under application reference 20220836, save for additional information confirming that the retail is ladies fashion and comparison goods, mainly online sales collection via prior appointment and by pedestrian access only 9:00 AM to 6:00 PM Monday to Saturday, access to the site for collection and delivery is on foot only, and all waste will be stored within the building.
- The decision to grant permission is highly questionable in the context of both the previous refusal and recommendations of the Executive Planner and Senior Executive Planner. The Senior Planner states "this is not a normal retail shop". The assessment that the use "is appropriate to be located in the town centre" is not quantified. No assessment has been carried out by the Senior Planner regarding the suitability of the existing building to accommodate the use.

Assessments by the Executive Planner and Senior Executive Planner deemed the building not fit for purpose.

- No details regarding the total number of delivery or collections generated by the proposal are included and the extent to which the proposal will lead to an intensification of delivery and collection vehicles cannot be accurately measured. The information submitted in response reiterated the information initially submitted. This does not constitute a reasonable basis for the grant of permission.
- The further information documentation should have been referred to the Roads Department for comment considering the further information was only concerned with traffic related issues and was issued as a response to the Roads Department's recommendation to refuse permission. No details confirming discussions took place with the area Roads staff were submitted by the applicant. The proposed development has not been properly assessed in terms of traffic impact and should be refused accordingly.
- It is stated that no pre planning discussions took place prior to the application being submitted. The applicants cover letter states that the Senior Planner attended the site on the 24.03.2023. This on-site meeting took place after the initial application was refused and prior to the lodging of the subject application and as such constitutes pre planning discussions which should have been formally recorded, minutes of which should have been placed on the planning file.
- Senior Planner comments stating that no new proposals have been submitted are disingenuous. The appellant is in the latter stages of progressing proposals for residential development on surrounding landholding and pre planning discussions have taken place with the Council including the Senior Planner.
- The proposed development is incorrectly described. CCTV evidence (appended) demonstrates the existing building is being used for the storage of women's clothing and fashion items and regularly receives deliveries. It is unknown if internet sales are being facilitated from the site but it is clear that the change of use has occurred and is no longer a badminton hall. The proposed development is inaccurately described and advertised as a retention

element is clearly applicable and should be invalidated on this basis and payment of an incorrect fee.

- The proposal fails to comply with section 22 (2) f of the Planning and Development Regulations. The Board are referred to the following case law:
 - Ruling in McCallig v An Bord Pleanála (no. 291 J.R./2011);
 - O’Keefe v An Bord Pleanála and others (1993) 1 I.R. 39;
 - Hynes v An Bord Pleanála and others.
 - In summary, it is argued by the appellant that the above rulings confirm that validity of an application is a matter for consideration by the Board.
- The development is poorly defined and described and the lack of accompanying information does not facilitate a reasoned and informed decision-making process.
- Citing the definitions of “shop, and “repository” within the Planning and Development Act, the appellant states that it is unclear from the information submitted which definition the proposed development is more closely aligned with. Assuming that the point of sale is online and not within the physical building, can the use be described as “the selling of goods by retail”?
- Visiting members of the public are to be restricted to appointment only suggesting public access is ancillary to the main use which is for the storage of goods and dispatch of online sales. In response to the further information the applicant describes the business model as “fully online for click and delivery.” The Senior Planner notes “this is not a normal retail shop.” The definition of a shop includes “for any other purpose appropriate to a shopping area”. Is the proposal appropriate for a shopping area?
- There is insufficient information to determine if this is the case and suitability of the use for this particular location. The proposal is influenced heavily by the total number of collections and deliveries to and from the site and the associated potential for regular or pedestrian conflict on the private access lane and congestion along Esmonde Street.
- It is not a shop but a repository for the storage and dispatch of goods where collection by members of the public will serve a limited catchment and is ancillary to the main use.

- The 2012 retail planning guidelines are outdated when it comes to online retailing and assume that internet sales are an add on to existing town centre-based retailing. The guidelines fail to anticipate the rise of the type of retailing when online becomes the only point of customer interaction and delivery is the primary or only method for goods to reach the purchaser. Such facilities require a different type of assessment to that of standard retail formats as they are not location specific in terms of customer shopping and movement patterns. They are, as described by the Senior Planner, “buildings to store, receive... goods and dispatch online sales”.
- As the proposed business model is to store and distribute goods from delivery vehicles, managing traffic to and from a retail repository becomes the primary consideration. Such facilities are better located on the edge of urban areas where the supporting transport network can accommodate high volumes of traffic while not contributing to congestion within settlement centres. A key principle of the guidelines is to secure competitiveness... by enabling proposals to come forward in suitable locations. The subject building is not a suitable location and will contribute to traffic congestion with no improvement to the retail offer.
- The County Retail Strategy acknowledges the growth of online shopping. It also appears to focus on the expansion to online platforms by existing high street retailers does not offer any policy advice in relation to the proposal. The proposal does not have customer circulation space for the display of goods and limited collection of goods purchased online will be available via prior appointment only. The proposal is more appropriately located outside the town centre where it will not contribute to traffic congestion and have appropriate scope to facilitate delivery and collection and distribution vehicles.
- The site forms part of a key development site and “opportunity site under the provision of the Gorey LAP”. It forms part of a collection of buildings in poor condition with a disused car park. The applicant is actively involved in land assembly. The reuse of an unfit for purpose former badminton hall should not take precedence over the redevelopment of wider lands as identified by the plan. The proposed use is not in compliance with the objectives of the development plan. The development is not a traditional retail formation geared

towards visiting members of the public and will not contribute to the retail offer of the town centre. The proposed development is not in accordance with the zoning provisions for the site as it does not contribute to the mix of uses which make a town centre an attractive place to visit, shop, and live.

- Traffic and access: the application is limited to the footprint of the building only and the applicant does not own any other lands outside the footprint of the building. There is nowhere to park or turn a vehicle within the site or along the private access lane. The proposal will generate significant numbers of journeys in terms of collections and deliveries. Whilst it is stated that deliveries will be twice weekly, no information is provided regarding the number of anticipated outward journeys other than to state that they will be collected by a parcel company.
- Esmonde Street is heavily trafficked due to neighbouring uses including a supermarket, retail park and secondary school. As stated by the Planning Authority, there is a public car park in front of the school which functions as a drop off and pick up point. On street parking is limited and mostly at full capacity throughout the day.
- Assuming parking is available, delivery or collection would require a journey of between 300 metres and 100 metres on foot using a hand sack truck. It is unrealistic to assume that every driver will adhere to such a restriction and not drive as close as possible to the building adding to congestion and pedestrian/vehicular conflict on the access lane. The restriction is unenforceable and beyond the scope of enforcement provisions of the planning and development act. It is not possible to take enforcement proceedings against the applicant for the actions of a delivery driver.
- The applicants are deliberately understating the potential impact of the development by not providing details of the anticipated number of outward journeys associated with the proposal. The further information request has not been adequately addressed and should be refused. It is unacceptable for the proposal to be located on backlands accessed via a private lane with no turning circle, loading bay and parking spaces where deliveries and collections are expected to be made on foot only. The main focus of the business is to dispatch goods via parcel delivery, the ability to accommodate delivery vehicles

is a fundamental requirement and permission should not be granted in the absence of a full assessment of traffic impact, in accordance with the roads section of the Council response.

- No details have been submitted regarding the total number of customers anticipated within a daily or weekly scenario. It is stated that not more than two members of the public will be in the building at any given time and that prior appointment is required has little or no impact on the potential number of visitors.
- No details of the number of employees are included and an assessment of the welfare facilities cannot be undertaken. There are also associated implications for fire safety, and contrary to standard practice, there are no comments on file from the Chief Fire Officer. There was insufficient documentation to determine the scale of the development. The extent to which the proposed retail activity is aimed at local, regional, national or European markets has significant implications regarding the scale of the development and associated number of outward packages.
- The proposed building is unsuitable. It is of poor construction and corrugated sheet roof similar to that of a large agricultural barn. The landholding is restricted to the footprint of the building which does not include a turning circle or loading bay. Two parking spaces to the rear cover fire escape doors. As stated in the initial refusal the building is not fit for purpose.
- There are no conditions attached which limit the development to the details submitted or parameters offered by the applicant. Conditions relating to the following should have been attached:
 - limiting delivery access to “on foot” only and within standard working hours;
 - limiting hours of operation to 9:00 AM to 5:00 PM;
 - limiting total number of customers on site at two persons only;
 - limiting type of retail to women's fashions items only;
 - limiting the scope of development to Internet sales and collection only;
 - limiting it noise emissions;
 - car parking contributions, which is not included despite references in the planning report.

- In the absence of any limiting conditions their permission is overly flexible and may facilitate future retail use which is unacceptable for this location.
- Limitation on deliveries to twice a week and on foot only is not practical to enforce. The end user cannot be held responsible for the actions of a delivery driver. The restrictions on the number of customers at any given time is not reasonable to monitor and/or enforce.

8. Applicant Response

8.1 property: the property is in the heart of Gorey, off Esmonde street with many retail outlets nearby. The property is zoned Central Business Area (CBA). The entrance is easily accessible by a wide pathway and road approximately 50 metres from Esmonde street. It is in pristine condition due to some essential upgrading works being carried out (photos appended). The internal layout is well proportioned with easy access to and between all rooms. There is a disabled access and emergency exit from the main hall.

8.2 change of use application: Correspondence dated 24th March 2023 set out additional information regarding the business model, right of way, road infrastructure regarding accessibility and parking. The Senior Planning Officer visited and viewed the area on the 24th of March 2023. A request dated 17th of May 2023 was issued regarding road infrastructure regarding turning movements and deliveries and pedestrian access. We were advised that the area was visited and viewed by the County Council Roads Planning Engineer (correspondence attached).

8.3 Use/Environment: A current business service water bill from Irish water is attached. There has been little usage as the property has been empty and vacant to date. Use of water and sewerage when in operation will be used by no more than six to eight people during the hours of 9:00 AM to 6:00 PM Monday to Friday. The facilities are fully functional and in excellent condition.

8.4 Business plan: the plan and format is to provide a retail service in ladies fashions and occasional wear, fascinators and related accessories. Also to create an online sales and marketing section via social media platforms. A section of the hall will be used as a studio for photo shoots with models and props. They aim to provide employment for between six and eight people. The applicant has more than 40 years experience in ladies fashion and have established a relationship

with many retailers throughout Ireland and abroad. The applicant has surveyed and researched the environs of Gorey, and it is a major destination town on the east coast for ladies fashions and occasional wear, related clothing, and accessories. The town provides hospitality, hotels, and associated accommodation. The property is ideally located in the heart of Gorey.

8.5 The trustees of the boxing club have advised that a lease agreement was created with Saint Aidan's daycare for a period of five years and for a rental fee per year around March- April 2022. The applicant has observed many buses and delivery vehicles transporting patrons in and out of the clubhouse daily Monday to Friday. This has not resulted in any issues regarding using the road, parking, and manoeuvring.

8.6 Use of property: The appellant has provided photo images suggesting that the property is used for deliveries and retail sales. This is false as evidenced by internal photographs attached dated 1st October 2023.

8.7 Appellant's site: The appellant operated a fun fair and carnival on his property throughout the month of August 2023 (photos attached) and throughout 2022 and 2023 including the Saint Patrick's festival week fun fair and summer festival fun fair. The applicant observed numerous vehicles on the appellant's property and was open to the public with a significant number of visitors on a Sunday in August 2023. The access road would have been heavily used to transport the fun fair and associated vehicles which contradicts the appellant's assertions regarding parking and roads usage for turning movements etc.

8. PA Response

- No further comments received.

Environmental Screening

10. EIA Screening –

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

11. AA Screening -

Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

2.1. Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The main issues, therefore, are as follows:

- (a) Validity and Description.
- (b) Principle of Development & Policy Issues.
- (c) Opportunity Site implications.
- (d) Traffic and Access.
- (e) Supporting Information.
- (f) Suitability of Building for Use.
- (g) Amenity Considerations.
- (h) Conditions.
- (a) Validity and Description

2.2. The applicant contends that the change of use has occurred, providing evidence comprising CCTV images demonstrating the delivery and collection of parcels to the appeal property. In addition, they consider that the business is principally for storage and any associated business is incidental to the storage use. The applicant refutes this assertion and includes photographic evidence of rooms within the building dated 1st of October 2023. A water services bill from Irish water dated 31st July 2023 is also included.

- 2.3. The CCTV images provided appears to indicate three different visitors to the site on 4th September 2023, one in the morning and 2 in the afternoon. On the 10th of September 2023 there appears to be one person at the property at 12:00 PM with a second person outside of the property at 12:35 PM. A further 3 images are provided indicating persons in close proximity to the appeal site, however these are not timed or dated and do not conclusively demonstrate that deliveries/collections are being exchanged at the appeal site. I consider that this evidence is limited. It does not conclusively demonstrate that a change of use of the building has occurred, and that the proposal is operational. The delivery of mail or parcels does not constitute development, and the evidence provided is limited in timescales and occurrences. The applicant's photographic evidence post-dates the CCTV images provided by the appellant and there is no evidence of any activities relating to the business being undertaken. I also note the water services bill included as evidence by the applicant. This covers the period between 3rd of August 2022 and 27th April 2023 for which I consider nominal charges where applicable. The appellant has not provided any other evidence to support their assertion. There was no visual evidence from a site visit that the business was operating at the time. Based on the evidence presented, I am not persuaded that the business is operating at this location and that a retention permission application should have been sought.
- 2.4. The appellant also contends that the proposed business is not a shop and therefore the description of the proposal is inaccurate. They consider the proposal is a repository for the storage and dispatch of goods where collection by members of the public will serve a limited catchment and is ancillary to the main use.
- 2.5. The supporting information provided by the appellant is limited in scope in relation to this issue. The appellant has not provided any detailed evidence to substantiate the nature of the business is predominantly for storage purposes to the extent that any other activities are ancillary. The Council Senior Planner notes that the proposal is “not a normal retail shop”.
- 2.6. The Planning and Development Act defines a shop as “a structure used for the carrying on of any retail trade or retail business wherein the primary purpose is the selling of goods by retail...”. It is clear from the evidence that the proposal involves the sale of goods, albeit there will be a significant storage element of those goods and the medium of sale would be via online platforms. To my mind, the wording of

the definition, “any retail trade or retail business wherein the primary purpose is the selling of goods by retail”, allows for the nature of the proposal. Any retail operation will include space for stock. It is not unreasonable for this to vary depending on a range of factors including nature of goods sold, the physical characteristics of the building from which trade is undertaken, and the location of the site. Given that the proposal involves sales, I consider that it is more akin to a shop than a repository as argued by the appellant. Customers will visit the site to collect purchased items. This would not normally be the case for a repository business. I therefore conclude the description is sufficiently accurate and the application is valid.

(b) Principle of Development.

- 2.7. The appellant refers to the Retail Planning Guidelines 2012 and the associated discussion therein regarding E-commerce and Internet sales. They argue that the site is not an appropriate location and should be located at the edge of the urban area like distribution centres. Both the applicant and the Council refer to the site being within the zoned Central Business Area, where retail convenience and comparison are “open for consideration” subject to Section 8: retail. The site forms part of a “key development site” and an “opportunity site” in the Gorey LAP and the Wexford CDP 2022-2028.
- 2.8. The key policy considerations in relation to the proposal are set out above. The site immediately abuts the retail core and is within the Central Business Area. Both the LAP&CDP state that retail use is open for consideration within this area. The proposal is further supported by the economic development and retail sections of the CDP. The proposal will create a small number of employment opportunities, which is encouraged by Objective ED45: which seeks to “direct commercial development to the settlements identified in the Settlement Hierarchy. Economic development proposals will be permitted within settlements on suitably zoned land or within towns and villages defined within the Core Strategy / Settlement Hierarchy, subject to the proper planning and sustainable development of the area.”
- 2.9. Objective ED50: seeks to ensure retail development is located in accordance with the objectives contained in the Retail Strategy contained in Volume 8.
- 2.10. Objective E53: seeks to promote the re-use and regeneration of vacant buildings.

- 2.11. The proposal is supported by these objectives in particular, but also the wider policy within both the CDP and LAP. Both plans highlight the requirement to direct economic and retail development towards and within the town centre of Gorey in the related sections.
- 2.12. The proposal is modest in scale, with approximately 128 square metres of the building allocated towards the proposed use with the remainder for ancillary facilities. The applicant's evidence confirms non-bulky comparison goods will be sold. The LAP identifies expenditure capacity for comparison goods during the plan period. This is further updated within the CDP which states that there is capacity for comparison (non-bulky) goods at 5.13 Table 5.21 within Volume 8. On this basis I am satisfied that the proposal will not adversely impact on existing retail facilities within Gorey.
- 2.13. I therefore conclude that the proposal is appropriate for the location and compliant with relevant policies.

(c) Opportunity Site implications.

- 2.14. The appeal site is located within a wider opportunity site in both the Gorey LAP and CDP. The appellant states that they are in ownership of a large portion of the opportunity site and is engaged in land assembly with a view to undertaking redevelopment for residential purposes and has engaged with the council in pre planning discussions. The appellant contends that the proposal would compromise the redevelopment of the opportunity site.
- 2.15. Whilst the appeal site is within the wider opportunity site it is not within the ownership or control of the appellant. It is an existing building located in the southwestern corner of the wider redevelopment site. The proposal would not compromise the redevelopment of the opportunity site, as a whole, due to its location within the wider zoning. This must be weighed against other objectives within the LAP and CDP that promote the reuse and redevelopment of both vacant buildings and sites. At the time of writing the opportunity site does not benefit from a consented permission, notwithstanding preliminary discussions between the appellant and the Council. To withhold permission on this basis would be contrary to the objectives that support the reuse of vacant buildings. If permission were granted, it would not have the effect of compromising the opportunity site and that redevelopment. It would have no physical

or other effect compared to what currently exists at the appeal site and immediate environs. The appeal site could still form part of a wider redevelopment scheme in the future subject to an acquisition process between the relevant parties at the time. I therefore conclude that the proposal would not compromise the zoning and relevant policy objectives for the site.

(d) Traffic, access, and parking.

- 2.16. The appellant states that the application is limited to the footprint of the building and that there is nowhere to park or turn a vehicle within the site or access lane. The proposal will generate significant traffic and whilst it is stated that deliveries will be twice weekly, there is no information on anticipated outward journeys. It is unrealistic to assume that deliveries will occur by hand with vehicles using on street parking facilities at Esmonde Street and the local area is subject to heavy traffic. The Roads Technician has recommended refusal.
- 2.17. The Council Senior Planner report concludes that “having regard to the limited activity on site, which once had a large car park operating for this access, I do not consider that the development would have an adverse impact on traffic safety. The issues have been discussed with the area road staff but no confirmation of this has been received.”
- 2.18. The applicant notes that a day care facility is operating within the adjacent boxing club house. They have observed minibuses and delivery vehicles transporting patrons to and from this facility. They also highlight that fun fair and carnival events have been operating from the appellants site for temporary periods within the last two years without detrimental impact to traffic, access and safety.
- 2.19. The Council sought further information in relation to traffic, access and parking issues. There is no evidence on file that further advice was sought from the Council Roads Technical expert. The applicant states these matters were discussed with the Councils’ roads representatives. However, there is no response in writing confirming that the information is acceptable, and that the proposal will not adversely impact on traffic and related issues.
- 2.20. The appellant asserts that the proposal would result an unacceptable intensification of traffic on the access road and locality. I note that the appellant’s site was previously used as a car park, which is discussed in the LAP for the opportunity site

zoning and acknowledged in both the planning report and the appellant's evidence. I have not been provided with any planning history relating to the appellants site, however it is clear that this site was subject to a reasonably sized car park facility which is no longer operational. Access would have been a consideration as part of the zoning process for the site during the LAP process. From on-site observations the access lane in question is the only conceivable means of access to the opportunity site. The access lane and adjacent properties with frontage to Esmonde Street are outside of the zoning.

- 2.21. The access lane includes a footpath along its western boundary. The updated site layout plan submitted by the applicant as part of the further information request demonstrates that there is sufficient width for two-way traffic. The appellant correctly identifies that parking spaces immediately adjacent to the northern elevation of the appeal building are outside of the appeal site. However, they are clearly marked out on the surface as parking spaces. These facilities would remain regardless of the outcome of this appeal. In relation to parking provision, I note that parking requirements for the proposal do not significantly differ from the existing use as a sports hall. I consider that this use would generate a number of trips which would be similar or greater than the appeal proposal.
- 2.22. Taking all of these factors into account, including the adjacent historic car parking use, I do not consider that the proposal would adversely impact on traffic or road safety in the locality. I do not consider the delivery and collection arrangements to be unacceptable given the location of the site within the Central Business Area and adjacent to the retail core in which similar arrangements are commonplace.
- (e) supporting information.
- 2.23. The appellant considers that insufficient information has been submitted to facilitate a reasoned and informed decision-making process, particularly in relation to the scale of development and associated implications for traffic and safety.
- 2.24. The appellant in their supporting information has detailed the number of employees, floor space, and layout. They have indicated that there will be two deliveries a week.
- 2.25. Whilst I agree that the extent of supporting information is limited, it is sufficient to make a determination on the application. The impacts of the proposal have been considered above taking account of other material considerations.

(f) suitability of building for use.

2.26. The appellant considers that the proposed building is unsuitable for the proposal stating that it is of poor construction, does not include a turning circle or loading bay, and two parking spaces to the rear cover fire escape doors.

2.27. I do not agree that the building is in poor condition. It is not derelict and there are no indicators of serious defects. The applicant has identified this site as suitable for the proposed use based on their needs and any physical or layout issues are a matter for the applicant to address if required, and in accordance with any relevant regulations. As stated above, policy supports the re-use of existing buildings and regeneration of sites. I do not consider that the proposal is of sufficient scale to require a turning circle or loading bay. Turning and manoeuvring of vehicles can be facilitated on the adjacent access lane. The parking spaces referred to are outside the application boundary. I do not therefore consider permission can be withheld on this ground of appeal.

(g) Amenity considerations

2.28. For clarity and completeness, I am satisfied that the proposal will not adversely impact on the amenity of any adjacent properties due to the nature of the use proposed, separation distances available, and location within the town centre.

(g) conditions.

2.29. The appellant considers that further conditions are necessary for the proposal as follows:

- limiting delivery access to “on foot” only and within standard working hours;
- limiting hours of operation to 9:00 AM to 5:00 PM;
- limiting total number of customers on site at two persons only;
- limiting type of retail to women's fashions items only;
- limiting the scope of development to Internet sales and collection only;
- limiting noise emissions;
- car parking contributions, which is not included despite references in the planning report.

- 2.30. The Council have not included any of these conditions within their decision. The Council have attached the standard condition relating to development being carried out in accordance with the submitted details, and two further conditions for development contributions in accordance with the Council's scheme.
- 2.31. I do not consider that any of the conditions suggested by the appellant are necessary in this case given the historic use of the site and its location within the Central Business Area. The nature of the use and associated operations is appropriate for the location of the site and there are no factors that would merit application of restrictive conditions as suggested. Whilst the planning report refers to parking contributions, this is not included within the final list of conditions. I therefore conclude that the planning report recommendation for a parking contribution was not endorsed.

3.0 Recommendation

- 3.1. I recommend that permission for the development be granted.

4.0 Reasons & Considerations

Having regard to the information submitted with the application and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with zoning objective for the site as set out in the Wexford County Development Plan 2022 – 2028, the Gorey Town and Environs Local Area Plan 2017- 2023, and all other material considerations, would not be injurious to the amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the planning authority on and further information date stamped 26/07/2023, 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 interests of clarity.

2. 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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Richard Taylor

Planning Inspector

25/07/2024