



An  
Bord  
Pleanála

## Inspector's Report RL03.RL3592

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### Question

Whether the use of a shop unit as a restaurant for the consumption of food on the premises is consistent with the conditions of UDC permission 27/1416 and is or is not development or is or is not exempted development.

### Location

No. 4 Woodquay, Ennis, Co. Clare

### Declaration

Planning Authority

Clare County Council

Planning Authority Reg. Ref.

R17-14

Applicant for Declaration

Michael Szymacha

Planning Authority Decision

Is Development and is not Exempt

### Referral

Referred by

Michael Szymacha

Owner/ Occupier

Downes & Howard

Observer(s)

None

Date of Site Inspection

18<sup>th</sup> of August 2017

Inspector

Angela Brereton

## 1.1. Site Location and Description

- 1.1.1. The site is located at the junction of Wood Quay and Cornmarket Street. The River Fergus is to the east. This is a single storey commercial block of units. The site which is the subject of this referral is currently vacant and located in unit 4. The adjoining unit to the east is occupied by Apache Pizza. The 'Saloon Wholesalers' unit is to the west. Two of the units (including the subject unit) remain unoccupied. The other occupied unit in this block is 'Makus Services'.
- 1.1.2. There is a service yard and bin area to the rear of the block. There is a high red gated hoarding along the side into the service yard area. There is a carparking area in front of the units. There are residential apartment blocks to the rear and commercial premises facing Cornmarket Street.

## 2.0 The Question before the Board

- 2.1.1. Whether the use of unit no.4 Woodquay as a restaurant for the consumption of food on the premises is consistent with the conditions of UDC permission 27/1416 at Unit no.4 Woodquay, Ennis, Co. Clare and is or is not development or is or is not exempted development.

## 3.0 Background - Referrer's Submission to the Council

- 3.1.1. The Question referred to the Council was by Michael Szymacha was : *Is the use of unit no.4 Woodquay, Ennis, as a restaurant for the consumption of food on the premises consistent with the conditions of UDC permission 21/1416?*
- 3.1.2. They referred the Council to correspondence on the planning file received on the 30<sup>th</sup> of March 1990 requesting clarification on the use of one of the units as a fast food restaurant. They provide that the response from the P.A dated 3<sup>rd</sup> of April 1990 confirmed that it is permitted to operate a restaurant under this permission provided there is no off-sales involved.

## 4.0 Planning Authority Declaration

### 4.1. Declaration

On the 22<sup>nd</sup> of May 2017, Clare County Council declared that the use of unit no.4 Woodquay, Ennis, County Clare, as a restaurant for the consumption of food on the premises, constitutes development and development which is not exempted development as defined with the Planning & Development Acts, 2000 (as amended) and associated regulations, and is not consistent with UDC permission 27/1416.

### 4.2. Planning Authority Reports

#### 4.2.1. Planner's Report

This had regard to the locational context of the site, planning history and to the issues raised. Their Assessment considered that it was not clear from the details submitted what question the applicant was asking regarding this premises. They noted that the applicant appears to be asking if the proposed use would comply with a condition of the previous permission. They did not consider this can be asked under a section 5 referral, because the purpose of section 5 referral is to determine whether some thing is or not development, and if so, is or is not exempted development. They recommended that Further Information be submitted to clearly state the exact question that is being asked of the P.A in the referral.

#### 4.2.2. First Party Response

Michael J Duffy submitted a response on behalf of Michael Szymacha which includes that his client considers the extant planning permission 21/1416 covers use as restaurant. They provide that this is clearly stated by the PA in correspondence on the planning file. Prior to committing significant resources to fitting out the vacant premises his client seeks a declaration that use as a restaurant is in accordance with the extant permission and therefore not development.

This also notes that the definition in S.I No.65/1977 – Local Government (Planning and Development) Regulations 1977 which applies to this permission and the change in some definitions introduced by S.I No.86/1994 – Local Government

(Planning and Development) Regulations, 1994. It provides that Mr Szymacha is advised these changes are not retrospective.

#### 4.2.3. Planner's Response

They provide that it appears from the details submitted that reliance is had on a letter from Philip J Culhane and Co. Solicitors dated 29<sup>th</sup> of March 1990 which makes reference to a premises known as 'Viking Restaurant' but does not clarify the unit number as referenced in PL21/2416 as being a sufficient basis in planning law to conclude that permission is now not required for a change of use to a restaurant. They note that this letter is not accompanied by any map which would clearly identify the subject unit and could relate to any one of the five units. They further note that the UDC reply dated 3<sup>rd</sup> of August 1990 does not identify the specific unit number either and cannot now be used to argue that permission is not required for change of use to restaurant.

They have regard to the question asked and provide an assessment of the issues raised relevant to restrictions on exemption. They conclude that the proposed development constitutes development being a material change of use and is not exempted development.

## 5.0 **Planning History**

5.1.1. The Planner's Report provides an extensive history of the site and adjacent sites. This includes the following:

- 27/1416 – Permission granted subject to conditions to Ms. Downes & Howard (Car Sales) Ltd for the Provision of 5no. Shop Units. On the 30<sup>th</sup> of March 1990 Philip J. Culhane and Co. Solicitors queried if it was in order for his client to occupy the unit (unit no. not specified) as a fast food outlet. The P.A responded on the 8<sup>th</sup> of April 1990 that the permission extended to the use as a retail food outlet viz restaurant but does not extend to cover use as a shop for the sale of hot food for consumption off the premises.

Condition 8 stated if any shop is to be used as a retail food outlet the appropriate provisions for the Food Hygiene Regulations must be complied

with. There were no conditions prohibiting the use of the premises as a restaurant.

The Planner had regard to the correspondence and considered that it had not been clarified that 'The Viking Restaurant' related to the subject unit.

Note: The parent application is referred to as 21/1416 by the Referrer, however as confirmed by Clare County Council in their letter to the Board dated 10<sup>th</sup> of August 2017, 27/1416 is the correct reference number.

#### Adjacent site

- 08/111 – Permission granted subject to conditions by the Council to G.Reidy Catering Ltd for the change of use from retail unit to café facilities for the sale of hot and cold food and their consumption both on and off the premises at Unit A Woodquay Ennis.

A copy of this permission is included in the History file to this Report. The Site Layout Plan shows that this refers to the unit to the west of the subject site. This permission which was granted 24/11/08 has not been enacted and has now expired.

- 08/114 – Permission granted subject to conditions to the American Food Company for a change of use from retail unit to restaurant for the sale of hot and cold foods for consumption on the premises, for takeaway and delivery Unit C, Woodquay, Ennis – this was granted 24/11/2008. This is currently occupied by Apache Pizza and is to the east of the subject unit.

## **6.0 Policy Context**

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

This sets out the overall strategy for the proper planning and sustainable development of the functional area of Clare County Council over a 6year period. It replaces the CCDP 2011-2017 and Ennis Development Plan 2008-2014 (as varied). As a result of the implementation of the Local Government Reform Act 2014, this development plan incorporates the areas formerly within the jurisdiction of Ennis Town Council and Kilrush Town Council, both of which previously had their own development plans.

Section 1.4 notes that Ennis is the County Town and the administrative centre of County Clare. It is also designated as a Hub town in the National Spatial Strategy (NSS).

Section 2.4.4 notes that the objectives regarding the management of retail development in County Clare are contained in Chapter 7 of this development plan and in Volume 8 - Retail Strategy for the Mid-West Region 2010-2016. Objective CDP7.3 refers to Ennis Town Centre Retail Offer.

Section 7.5.6 refers to Evening and Later Night Uses that contribute to the vitality and viability of the town centre this includes restaurants and takeaways. Objective CDP7.15 refers.

Section 2.3.5 notes that Ennis will also have a dedicated local area plan prepared for it within the lifetime of this plan to support its sustainable development into the future.

6.1.1. Volume 3(a) –refers to Ennis Municipal District Written Statement and Maps

Section 1.7 refers to Retail Development and notes that the retail sector in Ennis is key contributor to the local economy and supporting a diverse and vibrant retail sector is one of the central aims of this plan.

Goal 3 Ennis Town Centre seeks to provide: *An Ennis with a strong and vibrant town centre with a diverse mix of retail, residential and other uses and an attractive public realm, which facilitates, encourages, and makes provisions for sustainable forms of mobility, access and permeability.*

Goal 4 Retail Development seeks to provide: *An Ennis with a vibrant and viable town centre, that has a retail and market offer of a quality, diversity, scale and function which fulfils all the shopping requirements of consumers from Ennis and the entire county.*

As shown on the Ennis Settlement Plan the site is within the town centre area and is within OP7 (Opportunity Site). As shown on the Opportunity Sites Map this is known as the West Clare Railway Greenway, trail head, Woodquay(area 0.18ha). The site is zoned Mixed Use and is identified for development of high quality, it is also within an ACA and it is provided that development proposals must complement the built heritage of the area. Also that due to the location of the area, directly adjoining the

River Fergus and in Flood Zones A and B, a Flood Risk Assessment shall be required as part of any planning application made in relation to the site.

## **7.0 The Referral**

### **7.1. Referrer's Case to the Board**

7.1.1. Michael J Duffy Consulting Chartered and Civil Engineer, has submitted this Referral on behalf of Michael Szymacha. This provides that he is of the opinion that permission 27/1416 as granted on the 14<sup>th</sup> of November 1984 entitles the use as a restaurant excluding use for take away food. This is on the basis that the definition of a 'shop' in Planning and Development Regulations at the time of the grant of permission included use as a restaurant, the explicit reference in condition no.8 and a letter confirming such use dated 3<sup>rd</sup> April 1990 on the planning file.

7.1.2. The Referral notes that the Referrer (referred to as the applicant) entered into a lease agreement for the subject property. He considered that the use of the subject premises as a restaurant is in accordance with the extant permission 27/1416 granted by Ennis UDC on the 14<sup>th</sup> of November 1984. They provide that it is clear from the definition of a 'shop' in the Planning and Development Regulations at the time of the grant and in condition no. 8 of this permission that use as restaurant is permitted. Furthermore that this interpretation is confirmed in a letter on the planning file dated 3<sup>rd</sup> of April 1990. They note that the applicant could not contemplate this business proposal if planning permission for a change of use was required with associated development contributions. He intends investing a significant sum of money in the fit-out of the unit and therefore requires confirmation regarding planning status. They provide that it appears that the PA is retrospectively applying a definition of shop which did not apply at the time of the grant of the extant permission.

They provide a list of Appended details for review, relative to the documentation that was submitted to the Council.

They ask the Board to review the decision of the planning authority.

### **7.2. Planning Authority Response**

There has been no response from Clare County Council to the Referral to the Board.

## 8.0 Statutory Provisions

In order to assess whether or not the activity constitutes development that is exempted development, regard must be had to the following items of legislation:

### 8.1. Planning and Development Act, 2000 (as amended)

Under **Section 2(1)**, the following is the interpretation of 'works':

"...includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

"unauthorised use" means, in relation to land, use commenced on or after 1 October 1964, being a use which is a material change in use of any structure or other land and being development other than—

(a) exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of this Act), or

(b) development which is the subject of a permission granted under Part IV of the Act of 1963 F17[or under section 34, 37G or 37N of this Act], being a permission which has not been revoked, and which is carried out in compliance with that permission or any condition to which that permission is subject;

Section **3 (1)** states as follows:

"In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."

Section **4(1)** of the Act states that the following shall be exempted developments for the purposes of this Act:

"(h) development consisting of the use of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;



**Section 4 (2)(a)** of the Act enables certain classes of development to be deemed exempted development by way of regulation.

## 8.2. **Planning and Development Regulations, 2001(as amended)**

**Article 5 (1), Part 2** provides interpretations for the purposes of exempted development. This includes:-

‘shop’ means a structure used for any or all of the following purposes, where the sale, display or service is principally to visiting members of the public –

- (a) for the retail sale of goods,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use, and “wine” is defined as any intoxicating liquor which may be sold under a wine retailer's off-licence (within the meaning of the Finance (1909-1910) Act, 1910), 10 Edw. 7. & 1 Geo. 5, c.8,
- (e) for hairdressing,
- (f) for the display of goods for sale,
- (g) for the hiring out of domestic or personal goods or articles,
- (h) as a launderette or dry cleaners,
- (i) for the reception of goods to be washed, cleaned or repaired,

but does not include any use associated with the provision of funeral services or as a funeral home, or as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except under paragraph (d), or any use to which class 2 or 3 of Part 4 of Schedule 2 applies;

**Article 6 (1)** provides: Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

**Article 9 (1)** provides: Development to which article 6 relates shall not be exempted development for the purposes of the Act—

(a) if the carrying out of such development would—

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.

**Article 10(1)** provides: Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

(a) involve the carrying out of any works other than works which are exempted development,

(b) contravene a condition attached to a permission under the Act,

(c) be inconsistent with any use specified or included in such a permission...

*Part 1 of Schedule 2: Exempted Development - General*

**Class 14 of Schedule 2 Part 1** relates to *Exempted Development – Changes of use* and this includes development consisting of a change of use:

(a) from use for the sale of hot food for consumption off the premises, or for the sale or leasing or display for sale or leasing of motor vehicles, to use as a shop,

(d) From use to which class 2 of Part 4 of this Schedule applies, to use as shop.

**Part 4** relates to Exempted Development – Classes of Use.

Class 1 – Use as a shop.

## 9.0 **Assessment**

### 9.1. **Is or is not development**

9.1.1. Having Regard to Sections 2(1) and 3(1) of the Planning and Development Act 2000 (as amended) it is considered that the use of a shop unit as a restaurant for the consumption of food on the premises at No.4 Woodquay, Ennis, constitutes

development and the carrying out of works inside the retail premises for the conversion to restaurant use.

## 9.2. **Is or is not exempted development**

- 9.2.1. Having regard to the planning history and documentation submitted it needs to be examined as to whether or not a change of use has occurred and if any change of use is *material* and therefore development.

Article 5 (1), Part 2 of the Planning and Development Regulations, 2001 (as amended) provides an interpretation of a “shop” for the purposes of exempted development. A “shop” means a structure used for inter alia the retail sale of goods or the sale of sandwiches or other food or of wine for consumption off the premises, where the sale of such food or wine is subsidiary to the main retail use and where the sale, display or service is principally to visiting members of the public. This definition does not include any use as a hotel, a restaurant or a public house, or for the sale of hot food or intoxicating liquor for consumption off the premises except where the sale of food or wine is subsidiary to the main retail use as described above. Therefore the use as a restaurant is explicitly excluded from the description of what constitutes ‘shop’ use.

## 9.3. **Restrictions on exempted development**

- 9.3.1. Under Article 10 (1), development consisting of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, subject to conditions. Class 1 of Part 4 of Schedule 2 refers to “Use as a shop.” This does not refer to Restaurant use or provide they are interchangeable. Class 14 of Schedule 2 Part 1 relates to *Exempted Development – Changes of use* and as noted above this provides an exemption for a change of use from use for the sale of hot food for consumption off the premises to a shop. It does not provide exemptions for the other way around.

Article 10(1) also provides that the development should not:-

*(a) involve the carrying out of any works other than works which are exempted development,*

*(b) contravene a condition attached to a permission under the Act,*

*(c) be inconsistent with any use specified or included in such a permission, ...*

9.3.2. In the subject case the Referrer considers that the parent permission relative to this site - 27/1416 as granted on the 14th of November 1984 entitles the use as a restaurant excluding use for take away food. In this case permission was granted for the *Provision of five shop units*. They refer in particular to Condition no.8 which provides: *If any of the shop unit is to be used as a retail food outlet the appropriate provisions of the Food Hygiene Regulations must be complied with*. As noted in the Background information above and in the Referrer's case to the Board they note legal correspondence relative to the use of premises known as 'The Viking Restaurant'. The Referrer also considers that the legislation at the time this permission was granted in 1984 allowed for a change of use from shop to restaurant as exempted development. However it is of note that this Referral is relative to the change of use as currently proposed and the previous legislation has been superceded by the current planning legislation as referred to in the Statutory Provisions Section above.

9.3.3. The Planner's Report notes that the units were numbered 1 to 5 with no. 1 being located closest to Cornmarket St. and no.5 being located closest to the River Fergus. Also that the letter from Philip J Culhane and Co. dated 29th of March 1990 makes reference to the premises known as 'The Viking Restaurant' but does not clarify the unit number. They note that the letter is not accompanied by any map which would clearly identify the subject unit. It is noted that such a map has not been included in the Referral to the Board.

9.3.4. Regard is had to the planning history of the adjoining sites which would have been part of the parent permission Ref.27/1416. In this case as noted in the Planning History Section above the units on either side of the subject site obtained permission from the Council for change of use from retail to café use or restaurant, takeaway and delivery. In the case of Ref. 08/111, which refers to the unit to the west permission was granted for the change of use from retail unit to café facilities for the sale of hot and cold food and their consumption both on and off the premises at Unit A Woodquay Ennis. This permission was not enacted and is currently occupied by a hair and beauty shop 'The Saloon Wholesalers'. In Ref. 08/114, which referred to the

unit to the east permission was granted subject to conditions to for a change of use from retail unit to restaurant for the sale of hot and cold foods for consumption on the premises, for takeaway and delivery Unit C, Woodquay, Ennis – this was granted 24/11/2008. This is currently occupied by Apache Pizza and is to the east of the subject unit.

- 9.3.5. Therefore the planning history of the adjoining units which were included in the original permission for the retail units in Ref.27/1416, shows that they subsequently had to apply for permission for a change of use from retail. It is not considered that the case for the change of use relative to the subject unit is any different. It is noted that the subject unit is vacant and it is not known whether it has ever been in retail use, although it is the permitted use. Therefore having regard to the above it is considered that this proposal would require planning permission as it would involve a material change of use and would not constitute exempted development.

#### 9.4. **Regard to Precedent Cases**

- 9.4.1. **RL3481** – In this case a Question was asked as to: Whether the change of use of part of the unit from a toy shop to use as a coffee shop at Unit 1A Airside Retail Park, Crowcastel, Swords is or is not development or is or is not exempted development. The Board conclusion included, that having regard to the nature and layout of coffee shop is akin to restaurant use which is expressly excluded from the definition of ‘shop’ under Article 5(1) of the said Regulations, as amended. They considered that this constituted a material change of use and is therefore ‘development’ within the meaning of section 3 of the Planning and Development Act 2000, and noted that there are no provisions in the Act or Regulations whereby such development would be exempted.
- 9.4.2. **RL3425** – In this case a Question was asked as to: Whether the change of use of a premises from retail use to a coffee shop at Saint Patrick’s Street, Cork is or is not development or is or is not exempted development. The Board concluded that the use of this premises as a ‘shop’ as defined in Article 5(1), as amended, because of the scale, nature and layout of the coffee shop is more akin to a restaurant use which is expressly excluded from the definition of a ‘shop’ under Article 5(1) of the Planning and Development Regulations, 2001, as amended. Also that the change of use of the premises from use as a shop to use as a coffee shop raises issues that

are material in terms of the proper planning and sustainable development of the area and is, therefore 'development' within the meaning of Section 3 of the Planning and Development Act, 2000.

9.4.3. **RL2939** - In this case the Question that was asked was as to whether a change of use from a shop to use as a coffee shop/bistro (restaurant) at the corner of Shop Street and North Quay, Drogheda, County Louth, is or is not exempted development. The Board noted that the use as a shop and use as a coffee shop/bistro (restaurant) do not fall within Article 5(1) of Part 2 of the Planning and Development Regulations or the same Class of Use under Part 4 of Schedule 2 of the said Regulations, which does not provide any exemption in relation to change of use from a shop to coffee shop/bistro (restaurant). They therefore concluded that that the proposed change of use is development and is not exempted development.

9.4.4. **RL2827** – In this case the Question that was asked was as to whether a change of use from a restaurant to a retail shop at the Regency Airport Hotel, Swords Road, Dublin is or is not exempted development. The Board concluded the said change of use comes within the scope of Class 14 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, in accordance with Article 6 of the said Regulations relating to exempted development, and the development is not restricted by Article 10 of the 2001 Regulations. Therefore they decided that in this case the said change of use from a restaurant to a retail shop is exempted development. This is of interest in that it shows the exemptions apply relative to the opposite scenario to the subject case but are not interchangeable.

9.4.5. Copies of the Inspector's Reports and Decision Notices relative to the above referral cases are attached to this Report.

## 9.5. **Appropriate Assessment**

9.5.1. This site is located adjacent to the River Fergus which forms part of the Lower River Shannon SAC. Therefore as provided relative to OP7 (Volume 3(a) –refers to Ennis Municipal District Written Statement) *in future development proposals on this site shall be subject to screening for appropriate assessment by the Council and a Natura Impact Statement will be required, should the Council determine that an appropriate assessment is required. Due to the proximity of the site to the river*

*corridor, future development proposals must demonstrate, through a light spill modelling study, that there will be no negative impacts on bat habitats or commuting corridors.*

- 9.5.2. Regard is had to the AA Screening Report carried out by the Council relative to this site. This notes the proximity of the Lower River Shannon SAC site code 002165, and has regard to the qualifying interests/special conservation interests relative to the SAC designation. This concludes that due to the nature of the proposed development i.e change of use from retail to restaurant, there is no potential for significant effects to European sites.
- 9.5.3. Having regard to the nature and scale of the development proposed relative to this Referral and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

## 10.0 Recommendation

- 10.1. I recommend that the Board should decide this referral in accordance with the following draft order.

**WHEREAS** a question has arisen as to whether the use of unit no.4 Woodquay as a restaurant for the consumption of food on the premises is consistent with the conditions of Ennis Urban District Council permission 27/1416 at Unit no.4 Woodquay, Ennis, Co. Clare and is or is not development or is or is not exempted development:

**AND WHEREAS** Michael Szymacha requested a declaration on this question from Clare County Council and the Council issued a declaration on the 22nd day of May, 2017 stating that the matter was development and was not exempted development:

**AND WHEREAS** Michael Duffy on behalf of Michael Szymacha referred this declaration for review to An Bord Pleanála on the 2nd day of June, 2016:

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended.
- (b) The definition of ‘shop’ under article 5(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Articles 6(1), 9(1) and 10(1) of the Planning and Development Regulations, 2001 as amended, and Class 1 of Part 4 of Schedule 2 of these Regulations,
- (d) The planning history of the site, including planning register number 27/1416, whereby planning permission was granted for five number shop units, which included the unit on the subject site, in particular the restrictions imposed by Condition no.8 of that permission.
- (e) the pattern of development in the area, which includes the permissions granted for the change of use from retail relative to the units on the adjoining sites.

**AND WHEREAS** An Bord Pleanála has concluded that:

- (a) the the use of the subject premises as a restaurant does not constitute use as a “shop” as defined in Article 5(1) of the Planning and Development Regulations 2001, as amended, because a restaurant use is expressly excluded from the definition of ‘shop’ under Article 5(1) of the said Regulations, and
- (b) the change of use of the subject premises, from use as a shop to use as a restaurant raises issues that are material in terms of the proper planning and sustainable development of the area and this change constitutes a material change of use having regard to the considerations outlined above relative to planning permission reference 27/1416 and the conditions therein and is, therefore,



“development” within the meaning of section 3 of the Planning and Development Act, 2000, and

(c) There are no provisions in the Act or Regulations whereby such development would be exempted.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the said use of the subject unit at no.4 Woodquay, Ennis, Co. Clare as a restaurant is development and is not exempted development.

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Angela Brereton,  
Planning Inspector

7th September 2017