

An
Bord
Pleanála

Board Direction
BD-018057-24
ABP-317992-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/09/2024 and the totality of the file including the applicant's response to the Section 137 request were considered at a Board meeting on the 04/11/2024.

In this case the Board was not satisfied having, regard to the nature of the condition, that Section 139, an appeal against a condition, is appropriate. The Board decided the determination of the application, as if it had been made to the Board in the first instance, is warranted.

The Board noted that permission for development, 20181380, was granted in November 2018 this permission included lands the subject of the current appeal application. This permission was commenced, and works were carried out on the site on foot of this permission.

When the application the subject of this appeal was lodged with Wexford County Council 20181380 (May 2023) the 2018 permission was still live, the expiry date of this permission was the 11th of April 2024. The site notice described the development as follows; *Planning permission to amend part of the previously approved Phase 3 Masterplan as permitted under Planning Ref. 20181380.*

Since the application was first lodged the parent permission has lapsed. The applicant states in the response to the Section 137 notice that this is a "stand alone application", but this is not what was stated in the site notices and at the time of the application it did amend the 2018 permission.

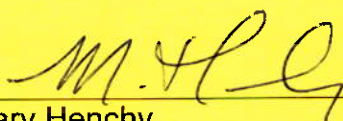
The Board decided to refuse permission, generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

Reasons and Considerations

The Board was not satisfied having regard to the nature of the condition, that Section 139, an appeal against a condition, is appropriate. The Board decided the determination of the application, as if it had been made to the Board in the first instance, is warranted.

The proposed development for a two-storey creche and single-storey commercial/retail building has been described as an amendment to the development as permitted under Planning Permission Reference no. 2081380. The expiry date for the duration of this planning permission has passed, and therefore, the planning permission ceases to have effect. It is considered that the Board is precluded from granting permission to amend the development as granted under Planning Permission Reference no. 2081380 as this permission ceases to have effect.

Board Member


Mary Henchy

Date: 04/11/2024