



An
Bord
Pleanála

Inspector's Report PL.26.247532

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| Development | Erection of four units for use as restaurant and/or leisure/entertainment use together with 146 car parking spaces and all associated works. |
| Location | Old Rosslare Road, Drinagh, Co. Wexford. |
| Planning Authority | Wexford County Council. |
| Planning Authority Reg. Ref. | 20160929. |
| Applicants | Omniplex Holdings. |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse. |
| Type of Appeal | First Party. |
| Appellants | Omniplex Holdings. |
| Observers | 1. Liz Moloney, Playzone. 2. Aileen O'Connor, Leisure Max. |
| Date of Site Inspection | 31 st January 2017. |
| Inspector | Dáire McDevitt. |

1.0 Site Location and Description

- 1.1.** The appeal site is part of the Omniplex development located along the R730 (Old Rosslare Road) at Drinagh on the southern edge of Wexford town. Access is via the existing access road to the Omniplex off the R730. The area is characterised by industrial/warehousing/office developments of mixed design, scale and finishes. The site is bounded by undeveloped lands to the east with access off the same access road. To the west is the Old Rosslare Road and Lime Kiln House directly opposite the site (office development). The Omniplex and associated carparking bounds the site to the north (within the same ownership) and the cinema access road forms the western boundary. Japanese Knotweed was observed on site at the time of inspection.
- 1.2.** Map, photographs and aerial images in file pouch

2.0 Proposed Development

- 2.1.** Permission is being sought for 4 units on a site with an overall area of 0.76 hectares.

- Unit 1: 381.2 sq.m
- Unit 2: 272.5 sq.m
- Unit 3: 272 sq.m
- Unit 4: 272.5 sq.m

To be used as restaurant and/or leisure/entertainment.

- 146 car parking spaces
- Covered pedestrian pathway.

Plans submitted with the application refer to a Restaurant Pavillion.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following three reasons:

1. *The proposed leisure use is not permitted with lands zoned for commercial use in the Wexford Town and Environs Development Plan. The development would therefore be contrary to Section 11.02 Land Use Zoning and Section 11.03 Zoning Matrix Table of the Wexford Town and Environs Development Plan 2009-2015 (extended to 2019) and contrary to the proper planning and sustainable development of the area.*
2. *The design and layout of the proposed development fails to meet the standard required for a building located at the junction of a Radial route (Rosslare Road) and would result in a poor urban form. The development would therefore be contrary to the proper planning and sustainable development of the area.*
3. *Insufficient information has been received relating to traffic impacts on the junction of the access road and the Rosslare Road. The proposed development could be prejudicial to traffic safety and contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Pre-Planning Consultation

20160188 (25th April 2016) and 20160330 (13th June 2016) refer to preplanning discussions. These discussions focused on the principle of the development, compliance with the land use zoning objectives and the design of the units. All considered acceptable in principle at pre-planning consultation stage.

3.2.2. **Planning Reports**

3.2.2.1. **Executive Planner Report (countersigned by the Senior Executive Planner) (4th October 2016):**

The main issues covered referred to the principle of the development, compliance with development plan policy, design and access.

A recommendation to grant permission was made.

3.2.2.2 **Senior Planner Report (12th October 2016)**

Overtaken the previous Planner's recommendation and recommended that permission be refused as the proposal would materially contravene the land use zoning attached to the site, inadequate information on access and inappropriate design.

3.2.3. **Other Technical Reports**

Forward Planning & Biodiversity Section (26th September 2016). Due to the extensive presence of Japanese Knotweed on site, Further Information was recommended on a management and mitigation plan.

Chief Fire Officer (5th September 2016). Fire safety requirements outlined.

3.3. **Third Party Observations**

There were four Third Party submissions to the application, the main issues are summarised below:

- Traffic concerns and impact on the adjoining road network.
- Over intensification of the Plan area.
- The proposal would undermine future development of the core town centre.
- It is a piecemeal development and not part of a Master Plan for the area.
- Over proliferation of Children's' Play facilities in the area.
- Would be contrary to the governments Smarter Travel 2009-2020.

- Would be contrary to section 11.10.04 of the Wexford Town and Environs Town Plan which seeks to prevent an excessive concentration of amusement centres in a particular area.
- Proposal would materially contravene the Town Plan and zoning for the site.
- Lack of information on proposed development and therefore carparking cannot be calculated.
- Would detract from the Visual amenity of the area.
- Development would have a negative impact on the other two children's Play area business in the town.
- Query the validation of the application on the grounds of fees paid and development description submitted notwithstanding that the Planning Authority deemed the application valid.

Included in the four submissions were submissions on behalf of the Third Party Observers to this appeal (Playzone and Leisure Max). Issues raised are largely in line with the observations on the appeal and shall be dealt with in the relevant section of this Report.

4.0 Planning History

Planning Authority Reference No. 20062419. Permission granted in October 2006 for a seven screen cinema (1346 seat capacity) and 136 car parking spaces.

At the time it was not considered that the Cinema would materially contravene the Development Plan and further to a memo from the Director of Services the Material contravention process was not initiated and permission was granted subject to 15 conditions.

Addendum attached to the Schedule of conditions which stated “*The use of the adjoining lands for retail purposes would not be in accordance with provisions of the Wexford Town and Environs Development Plan 2002.*”

5.0 Policy Context

5.1. Wexford Town and Environs Development Plan (2009-2019)

The appeal site is subject to Land Use Zoning Objective **C1 (Commercial and Mixed Uses)** “*To make provision for commercial and mixed uses.*” *The purpose of this zoning is to provide commercial and office developments.*

Within this zoning objective Restaurant use is permitted in principle while leisure/entertainment is not normally permitted. In relation to the latter the Section 11.03 Zoning Matrix does allow for uses not normally permitted to be permitted in exceptional circumstances. It also allows for established or approved uses not conforming to the land use objective to be considered on their merits.

5.2 NRA Traffic and Transport Assessment Guidelines 2014

This documents set out the thresholds for Traffic and Transport Assessments.

5.4 Natural Heritage Designations

There are a number of European designated sites within the vicinity of the application site:

- Slaney River Valley SAC (site code 000781) c.220 metres east of the site
- Wexford Harbour SPA (site code 004076) c.220 metres east of the site.

There are none attached to the application site.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal address the reasons for refusal and are summarised as follows:

Background:

- The site is part of the Omniplex development and there is currently a shortage of car parking which results in roadside parking along the R730 (Old Rosslare Road). The current application came about following discussion with the Council to address the issue of parking on site to serve the existing development. Through these discussions the proposal was expanded to include the restaurant/leisure uses in the interest of flexibility and given the existing leisure/entertainment uses on site. The principle of the development and design was considered acceptable.
- Conflicting Reports on file. The Executive Planner (countersigned by the Senior Executive Planner) had no objection to the proposal and recommended that permission be granted subject to conditions. The Senior Planner subsequently overturned this recommendation and recommended that permission be refused for 3 reasons.
- Reasons for refusal on design and traffic grounds, yet no report received from the County Architect or the Roads Engineer.

Detailed response to each reason for refusal has been submitted as follows:

Land Use Zoning

- In accordance with Section 11.03 of the Town Plan the proposal complies with Development Plan policy and a Material Contravention is not required as there is an existing established use on site and the current application is for an extension/ancillary use.
- In the interest of clarity, the applicants are willing to accept a condition restricting the use of the units to restaurant use if required by the Board.

Design

- The roadside elevation contains a glazed element of horizontal emphasis in addition to signage as a focal point of vertical emphasis. A variation in cladding further breaks up the overall mass of the elevation.
- The design complements that of the adjoining cinema.
- There is a mixture of building forms and heights in the vicinity.
- Proposed height of 7.5m is designed to accommodate an internal mezzanine level if required by the end user.
- The site is not located on a prominent site along the Old Rosslare Road.
- The rear elevation is exposed and contains no windows. It is however staggered in an attempt to break up its overall mass. Detailed landscaping would further reduce the visual impact of this elevation.
- The overall area is characterised by a mixture of building types, forms and uses. The dominant building type and form is similar to the proposed, i.e one and a half storey, cladding finish, signage and adaptability of units for varying uses.

Traffic Safety

- The application was referred to the Roads Section at the time of assessment by the Planning Authority and no response was received.

- No reference was made to the requirement for a Traffic Impact Assessment (TIA) or traffic concerns at pre-planning stage.
- The applicant is prepared to submit a TIA if required by the Board.

At pre-planning it was highlighted that there would be no issue with a restaurant on site. Any issue with the proposed use of the units could have been addressed through a request for Further Information or by condition.

6.2. Planning Authority Response

Response received from the Senior Planner (22nd November 2016), the main issues reflect the reasons for refusal and are summarised as follows:

Use

The use is contrary to the Development Plan. Permission was granted for the cinema in 2006 and at this time the Planning Authority accepted the location although a town centre location would have been preferred if a site had been available. In the review of the Wexford Town and Environs Development Plan (2009), the zoning was amended to commercial use but does not include leisure.

Design

The design does not address the main road. A mix of building types exist along the road. However, a higher standard is now required when lands adjacent to one of the main radial routes into town become available for development or redevelopment.

Traffic Safety

The Roads Senior Executive Engineer (SEE) has not commented on this application. The current junction handles significant movements of traffic but this is usually restricted to off peak. The intensification of movement at the junction may require improvements, this has not been assessed by the applicant. The applicant was not requested to provide a TIA at pre-planning – this was an error on behalf of the Council. However, on adjoining sites, the SEE Roads has requested a TIA. If the Board requests this, consideration should be given to the lands adjoining which are accessed by the same junction. It is the

Planning Authority's view that the intensification will require changes that would impact on the layout.

The form of the building does not reflect that of restaurant use. It has the appearance of retail units and is described as such on the drawings. Notwithstanding this fact, the Planning Authority assessed the development under the application title. This design does not provide for junction improvements that could be required for the development and future development. The leisure use is not permitted and would be better located in the town centre.

6.3. Observations

Two Observations received:

- Liz Moloney (Playzone).
- Aileen O'Connor (Leisure Max).

The main issues raised are summarised below:

- Negative impact on existing family entertainment business in the town.
- The site is 3.5km from the town centre where the proposed development should be located. The existing children's leisure facilities (Playzone and Leisure Max) cater for the car based clientele at the town's periphery and there is no need for a third facility at this edge of town location.
- All new Children's' Play facilities should be located within the town centre and accessible by a wider range of transport modes.
- Does not comply with Land Use Zoning objective and, therefore, would material contravene the Wexford & Environs Town Development Plan.
- Pre-Planning is not binding and cannot be relied on in any subsequent planning application.
- Query the validity of the file (fee and development description).
- Traffic Impact
- No TIA carried out.

- Due to lack of clarity on the proposed development description, the car parking requirement is unclear.
- Inappropriate design and negative visual impact.
- Request that a condition restricting the use to restaurant be attached if permission is granted.

7.0 Assessment

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 issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of the development.
- Design.
- Traffic
- Appropriate Assessment.

7.1. Principle of the development

7.1.1 In accordance with the zoning of the site as “C1.” (*to make provision for commercial and mixed uses*) restaurant use is ‘permitted in principle’ and leisure use will ‘not normally be acceptable’. Nonetheless, the provisions of the current Wexford Town & Environs Development Plan, in particular, Section 11.03 sets out that the expansion of established and approved uses not conforming to land use zoning objective will be considered on their merits.

7.1.2 The basis for the decision of the Planning Authority to refuse permission is that the use proposed is inappropriate in an area that is zoned C1 and would contravene the Plan. The existing use on the site is an Omniplex (leisure/entertainment), the proposed uses of restaurant/leisure/entertainment are complementary and ancillary to the main use (cinema). Therefore, in this context, I consider the proposed uses to be acceptable in principle under section 11.03 of the Town Plan and having regard to the established use on

site and the proposed uses under the current application the proposal would not contravene the plan.

7.1.4 Plans and particulars submitted with the application refer to 'Restaurant Pavillion' and the floor plans show each unit with kitchen and serving area. The use of individual units can be dealt with by condition in the event of a grant of permission.

7.2. Design

7.2.1 Chapter 3 of the Town Plan sets out the strategy for the development of Wexford town bases on an overall Masterplan. The application site is located within Master Pan Zone 17 'The Rocks'. The site has not been identified as a landmark site and no specific design guidelines have been prescribed for the site.

7.2.2 Permission is being sought for a mono pitch single storey (maximum height of 7.5m) structure. The height is to cater for possible mezzanine level if required by an end user at a later stage. Materials proposed are kingspan optimo cladding and glazing features. Covered steel canopies are proposed over pedestrian paths along the northern part of the site linking each unit. The finishes are typical of the general area and considered acceptable.

7.2.3 The Old Rosslare Road is an edge of town location which is characterised by a mixture of uses (office, warehouse, leisure/entertainment) which is reflected in the existing mix of design, scale and height of structures. Given the edge of town location and the existing mixed use pattern of development in the vicinity I am of the opinion that the proposal represents a design approach that reasonably addresses the Regional road and adjoining developments. The proposal would not be out of character with the existing pattern of development in the area and is, therefore, considered acceptable.

7.3 Traffic

7.3.1 The applicant has outlined in the appeal that the proposed development came about following discussions with the Council to address issues with parking at the Ominplex, notwithstanding that the parking associated with the Cinema

complies with Development Plan standards. The additional carpark (146 spaces) was discussed at pre-planning stage as was the complementary nature of the uses to the Cinema which would result in a minimal increase in traffic movements to/from the overall site.

7.3.2 The Senior Planner (Memo of the 12th October 2016) raised the requirement for a Traffic Impact Assessment (TIA). This was not raised with the applicant at pre-planning stage. Concerns were also highlighted in relation to the design capacity of the junction of the access road with the R730 to cater for additional traffic movements that would result from the proposed development.

7.3.3. The requirement for a TIA is set out in the NRA Traffic Assessment Guidelines 2014 and applies to development in proximity to national roads and the impacts these developments would have on the transport network. Thresholds are set out in Table 2.1 for development that would automatically require a TIA. These include traffic to and from development that would exceed 10% of the traffic flow of the adjoining road or 5% where the location is sensitive. The threshold also refers to leisure facilities in excess of 1000 sq.m. Having reviewed the applicable thresholds, I am satisfied that the current proposal does not fall within the mandatory remit for a TIA. Subthreshold criteria as set out in Table 2.3 can be applied to developments where the type and volume of generated traffic on National Roads may be of a nature to raise concerns on road safety and road infrastructure. This does not apply in the proposed development and a TIA is not required to be carried out.

7.3.4 I am satisfied that the proposal does not require a TIA and the junction of the access road and the R730 can cater for the additional traffic movements associated with the development of the application site. There is no Report on file from the Roads Engineer. I am satisfied that the issue of traffic management can be dealt with by condition in the event of a grant of permission.

7.4 Other Issues

7.4.1 The impact of a potential uses on existing business in the area was raised by the observers. Specific details have not been submitted for individual uses of

the units. However, I am satisfied that the issue of use can be dealt with by condition in the event of a grant of permission.

7.4.2 The presence of Japanese knotweed on site and its control and management can be dealt with by condition in the event of a grant of permission.

7.5 Appropriate Assessment

7.5.1 The closest Natura 2000 site is the Slaney River Valley SAC (site code 000781) c. 220m to the east and Waterford Harbour SPA (site code 004076) c. 220 metres to the east of the site.

7.5.2 Having regard to the nature and scale of the proposed development and the location of the site in a fully serviced built up urban area, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the nature, extent and design of the proposed development, to the general character and pattern of development in the area and to the provisions of the Wexford Town & Environs Development Plan 2009-2019. it is considered that, subject to compliance with conditions set out below, the proposed development would not be out of character with the area or constitute a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The permitted units shall be used solely for restaurant/leisure or entertainment uses.

Reason: In the interest of clarity.

3. This order shall not be construed as granting permission for any additional floor areas at "mezzanine level" within the buildings hereby permitted. No mezzanine floor development shall be carried out without a further grant of planning permission.

Reason: In the interest of clarity.

4. Details including samples of the materials, colours and textures of all the

external finishes, signage and lighting to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

8. Appropriate controls shall be put in place to ensure that the proposed

works do not result in the spread of invasive alien species such as Japanese Knotweed (*Fallopia japonica*). A detailed site Management Plan outlining a 3-5 year programme for the control and monitoring of Japanese Knotweed on the site shall be agreed with the Planning Authority prior to the commencement of development.

Reason: In the interest of controlling invasive species.

9. A comprehensive landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) Details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) Proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) Details of proposed street furniture, including bollards, lighting fixtures;
- (d) Detail of all boundary treatment;
- (e) The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of protecting the character of the area.

10. Parking for the development shall be provided in accordance with a detailed parking layout which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The layout shall provide for:

- (a) 139 number standard sized parking spaces which shall be not less than 2.4 by 4.8 metres;

- (b) 5 number parking spaces which shall be reserved for persons with impaired mobility, which shall be not less than the dimensions set out in the document "Building for Everyone - a Universal Design Approach" (National Disability Authority).
- (b) circulation aisles with a minimum width of 6 metres,
- (c) landscaping within the boundary of the parking area,
- (d) lining or other method of demarcation of the individual spaces.

Reason: To ensure a satisfactory parking layout in the interest of pedestrian and traffic safety and of visual amenity.

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

Reason: in the interest of public health

12. Prior to the commencement of development, the developer shall submit, and obtain written agreement of the planning authority to, a plan containing details of the management of waste (and, in particular, recyclable materials) within the development including the provision of facilities for the separation and the collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

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

3. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

4. 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.

Dáire McDevitt

Planning Inspector

8th February 2017

