



An
Bord
Pleanála

Inspector's Report

PL 26. 248847

Development	Light industrial building and extension of internal access road and associated works and services.
Location	Ardcavan, Wexford Town
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20170518
Applicant(s)	J.A Boland & Sons (Wexford) Ltd.
Type of Application	Permission
Planning Authority Decision	To Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Ms. Edel Nolan
Observer(s)	No observers
Date of Site Inspection	27 th September 2017
Inspector	Erika Casey

1.0 Site Location and Description

- 1.1. The subject site is located to the north east of Wexford Town on the R741 Regional Road to Gorey. The general character of development in the vicinity is commercial, with a number of car sales garages located to the north and south of the site. There are also a number of one off rural dwellings in the vicinity of the site.
- 1.2. The subject site currently accommodates a vehicle testing centre. There is a large area of hard standing, surface car parking and a grass verge located to the west of the test centre. To the rear of the test centre there is a fenced compound that is used for the storage of vehicles. To the south of the site is a commercial premises which accommodates a stoneworks. To the rear of this premises, is a domestic dwelling which is owned by the appellant. This dwelling is screened from the subject site by a well established boundary hedge and wall.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a light industrial unit to the rear of the existing vehicle testing centre. The unit has an area of 153.45 sq. metres. The overall site area is 1.47 hectares. The unit itself has a maximum height of 5.55 metres. An entrance door, window and roller shutter door are proposed on the front elevation. Materials are pre-fabricated panels laid horizontally. 6 no. car parking spaces to serve the development are located to the west of the unit.
- 2.2. The development also provides for alterations and an extension to the internal road to serve the proposed unit. No amendments to the entrance to the R741 are proposed.
- 2.3. The existing sewage treatment plant on the site is to be decommissioned and foul drainage from the proposed unit and the adjacent vehicle testing centre will be directed to a proposed new settlement tank before being pumped to the main sewer line on the R741.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 To grant permission subject to conditions. Conditions to note include:

Condition 5: relating to the presence of Japanese Knotweed on the site. Prior to commencement of development, the applicant shall submit for the written agreement of the Planning Authority details of a 5 year programme for the control and monitoring of Japanese Knotweed on the site, with a detailed site management plan with the areas of Japanese Knotweed clearly identified.

3.2. Planning Authority Reports

3.2.1. Planning Report (14/06/2017)

- Proposal presents no design issues and principle of development acceptable.
- Screening assessment concludes that having regard to the limited extent of the proposed works and the substantial distance to the nearest Natura 2000 sites, no element of the proposed project alone or in combination is likely to give rise to any impacts on the Natura 2000 sites.

3.2.2. Other Technical Reports

Wexford District Office (07/06/2017): No objection subject to conditions.

Chief Fire Officer (16/05/2017): No objection subject to conditions.

3.3. Prescribed Bodies

- No reports received.

3.4. Third Party Observations

Edel Nolan (25/05/2017)

- Presence of Japanese knotweed on the subject site is of significant concern due to potential environmental impacts on adjoining properties.
- Eradication programme required and post treatment monitoring essential prior to granting of any planning permission.

4.0 Planning History

4.1 The most recent planning history relates to that of the site of the subject vehicle testing centre:

Application Reference 20053079: permission granted in April 2006 for a development comprising the demolition of an existing derelict house and

construction of a vehicle test centre, entrance, sewage treatment system and associated site road and footpaths.

Application Reference 20081555: Retention permission granted in October 2008 for a development comprising a compressor room, monolith sign, site lighting and signage.

Application Reference: 20091084: Permission was granted in September 2009 for a development comprising the retention of a boundary wall and a compound for the parking of cars and vans ancillary to the VTN Centre. Permission also sought for minor alterations to the internal road layout to the rear of the site.

- 4.2 There have been a number of other applications for retention permission on the subject site primarily relating to development comprising security fencing, signage, lighting, access road, boundary wall, compressor room, portacabin, car and van trade sales which have been refused permission – application references 20082237, 20080455, 20080454 and 20081591 refer.

5.0 Policy Context

5.1 Development Plan

5.1.1 The operative Development Plan for the area is the Wexford Town and Environs Development Plan 2009 which has been extended to 2019. The subject site is zoned Commercial/Mixed Uses (C1). It is stated that the purpose of this zoning is to provide commercial and office developments.

5.1.2 Section 11.09.05 of the plan sets out guidance regarding commercial development. It is stated that there will be a presumption in favour of industrial and commercial development located where infrastructure has been provided and in line with the principle of sustainable development.

5.2 Natural Heritage Designations

5.2.1 The Wexford Harbour and slobs SPA (site code 004076) and Slaney River SAC (Site Code 000781) is located approximately 0.1km to the east of the subject site.

6.0 The Appeal

6.1 Grounds of Appeal

Ms. Edel Nolan: adjacent dwelling to the south of site:

- Concerned regarding potential impacts of Japanese Knotweed on Special Areas of Conservation proximate to the site. State that the proposed planning condition requiring the applicant to submit a five year programme for the control and monitoring of this invasive species on the site is ineffective. The applicant should be required to eradicate Japanese Knotweed from the site before development commences.
- States that the Planning Authority did not carry out an appropriate assessment having regard to the location of the site within 100 metres of a Natura 2000 site. As the application did not include a Natura Impact Statement and Appropriate Assessment, it is inadequate.
- Under previous applications relating to the adjacent vehicle testing centre, there were proposals to discharge surface water from the site by way of a storm and surface water outfall into a watercourse which flows in the direction of the two nearby Natura sites. It is stated that the current application provides inadequate details regarding surface water discharge for the entire site. In the absence of this information, there is a potential hazard to the integrity of the Natura sites.
- As no specific use is proposed for the light industrial unit, there are concerns that it could potentially have a negative impact on the residential amenity of their property. Request that the siting of the unit be amended by way of condition. Also request that a condition be imposed requesting that the details of the intended use be submitted to the Planning Authority for their approval prior to occupation of the building.

6.2 Applicant Response

- The proposed development is fully in accordance with the planning policy for the area and is consistent with the character and pattern of development in the vicinity.
- An outline Japanese Knotweed Five Year Management Plan is appended to the appeal response which will form the basis of a more detailed plan to be submitted to the Planning Authority. This sets out measures to mitigate adverse ecological impacts that may arise and prevent the spread of the plant. It is submitted that with full and proper implementation of the Management

Plan, the species shall be contained and eradicated from the site. Specific measures will be put in place to protect the existing drainage ditch to the south of the site from contamination by Japanese Knotweed. Thus, there will be no impacts on the nearby SAC sites. It is stated that the most appropriate way to address this issue is by way of condition.

- Having regard to the scale and location of the development, there are unlikely to be any effects on environmentally sensitive sites in the wider area.
- The site is zoned under the Wexford Town and Environs Development Plan. The plan was subject to an EIA and AA screening.
- The Council as the Competent Authority undertook a screening exercise relating to the proposed development. This concluded that there is no potential for significant effects on Natura 2000 sites. The applicant was therefore not required to prepare and submit a NIS.
- Surface water from the site will be via soakway and will drain directly to the ground. Reference made by the appellants to historic planning applications are not relevant.
- Any future occupant of the building must be compliant with the stated light industrial use and be compatible to the zoning of the site. Light industrial use is clearly defined under Article 5 of the Planning and Development Regulations.
- The location of the building has been determined to ensure that the sites long term potential as a zoned commercial area can be fully realised. There is extensive screening along the boundary between the site and the adjacent residential dwelling. The appellants dwelling is located closer to the light industrial stone yard. It is considered that there will be no adverse impact to adjacent residences.

6.3 Planning Authority Response

- The Planning Authority has no further comments to make and respectfully requests that An Bord Pleanála uphold the Council's decision to grant permission in this instance.

6.4 Observations

- No observations received.

6.5 Further Responses

6.5.1 **Planning Authority:** No response received.

6.5.2 **Department of Culture, Heritage, and the Gaeltacht (19/092017):**

- On inspection of site, the National Parks and Wildlife Service found many more areas of knotweed on the site than was identified in the outline plan submitted by the applicant.
- The Department recommends that the applicant should revise the Japanese Knotweed management plan to take account of all the Japanese Knotweed in the landholding.

6.5.3 **The Heritage Council:** No response received.

6.5.4 **An Taisce:** No response received.

6.5.5 **The Appellant (08/09/2017):**

- The residential dwelling was constructed before it was zoned for commercial and mixed use development. The Board have a responsibility to protect the residential amenities of the dwelling and its curtilage.
- The Council failed to refer the application to the Competent Authority – the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs. No specialist advice taken regarding the eradication of Japanese Knotweed from the site.
- The outline Japanese Knotweed Management Plan provides an inadequate survey of the extent of Japanese Knotweed on the site. Concur with the plan that only when Knotweed has been eradicated that construction works can commence within exclusion zones on the site. Request planning condition ensuring eradication of Japanese Knotweed from the site.
- Screening report undertaken by the Planning Authority is inaccurate.
- Proposed surface water arrangements provide no details of sump which will be required to take all surface water from paved areas. Nor are any details

provided for a pumped system which would be required to discharge all surface water to the proposed soakaway. There may be run off from the lowest part of the site towards the EU Natura sites. There is potential for Japanese Knotweed to contaminate the Natura 2000 sites by surface and stormwater discharges.

- Condition requested restricting use to light industrial use.

7.0 **Assessment**

7.1 The main issues are those raised in the grounds of appeal and it is considered that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of Development and Land Use
- Invasive Species
- Appropriate Assessment

7.2 **Principle of Development and Land Use**

7.2.1 The subject development is located on the outskirts of Wexford Town in an area characterised by commercial development. The proposed unit is located to the rear of an existing vehicle testing centre. The site is zoned for Commercial/Mixed Uses. Having regard to the location of the site and its zoning, the principle of the development is considered acceptable at this location.

7.2.2 Concerns have been raised by the appellant that as the end user of the unit has not been identified, that there may be potential for negative impacts on the residential amenities of their property.

7.2.3 It is noted that permission has been sought for a light industrial building. This land use is clearly defined under the Planning and Development Regulations 2001 (as amended) and in this context it is considered that any future occupier must be compatible with this definition. Any use that is not in compliance would be subject to planning enforcement. In this regard, it is not considered necessary to impose a further condition seeking authorisation from the Council regarding potential occupiers or to restrict the use to "light industrial".

7.2.4 With regard to potential impacts on residential amenities, the scale and location of the development must be considered. It is a very modest unit with a floor area of c.

150 sq. metres. It is considered that the development is compatible with the zoning objective for the area and the pattern and character of development in the vicinity which comprises a vehicle testing centre and a stoneworks facility.

7.2.5 The appellants dwelling is located over 53 metres (from the closest point) from the proposed development. Furthermore, there is a very high screen hedge, trees and wall located along the southern boundary between the site and the existing dwelling which would significantly mitigate any potential negative impacts that may arise. Having regard to the foregoing, I do not consider that the proposed development would give rise to any adverse impact on the residential amenities of properties in the vicinity. It is not considered necessary nor appropriate to relocate the unit elsewhere within the site by way of condition.

7.3 Invasive Species

7.3.1 It has been identified that Japanese Knotweed is present on the subject site. This is an aggressive invasive species that can have significant adverse ecological and environmental impacts.

7.3.2 As part of the appeal response, the applicant has submitted an outline management plan setting out detailed measures as to how the Japanese Knotweed can be contained and controlled within the site to stop its spread as well as measures for its eradication. It is considered that this is a reasonable approach to the issue and will ensure that site can be developed in an appropriate manner.

7.3.3 The Department of Culture, Heritage, and the Gaeltacht have provided a written response to the appeal noting that the outline plan has not identified the full extent of Japanese Knotweed on the site and that it should be revised to take account the full extent of the infestation across the site. They note no other objections to the proposal.

7.3.4 Having regard to the additional information submitted by the applicant with the appeal response, I am satisfied that the management and removal of the Japanese Knotweed can be addressed and that this issue is most appropriately addressed by way of condition requiring the submission of a full detailed Management Plan prior to the commencement of development.

7.4 Appropriate Assessment

- 7.4.1 There are two Special Areas of Conservation in close proximity to the site. Wexford Harbour and Slobs SPA (site code 004076) and the Slaney River Valley SAC Site Code 000781 are located approximately 125 metres to the east of the subject site. Conservation objectives for the Wexford Harbour and Slobs SPA site include maintaining favourable conditions for certain species of bird life. Objectives for the Slaney River Valley SAC primarily relate to the restoration of favourable conditions for a number of aquatic species as well as the conservation condition of estuaries, watercourse, mudflats, sandflats, alluvial forests and oakwoods in the Slaney River Valley SAC. The Local Authority carried out a screening assessment and determined that the development would have no significant effects on these environmentally sensitive sites.
- 7.4.2 Having regard to the proximity of these Natura 2000 sites, it is considered necessary to carry out an Appropriate Assessment Screening exercise as part of this assessment. Concerns have also been raised by the appellant regarding potential adverse impacts on the SAC's.
- 7.4.3 The development itself is modest in scale with an area of c. 150 sq. metres. It is located on zoned serviced land in proximity to other light industrial premises. There are substantial agricultural lands which create a buffer between the site and the SAC's. Having regard to the location and scale of the development and its separation from the Natura 2000 sites, I am satisfied that the development will have no direct impacts on the conservation objectives of either of these two sites.
- 7.4.4 With regard to indirect affects, the source pathway receptor model must be considered to determine whether there is any potential link between the subject site and the SAC's.
- 7.4.5 It is noted that main drainage has recently become available to serve this site along the R741 and it is proposed to decommission the existing treatment plant on the site and remove the percolation area. The connection of the development to the public mains is welcomed and is considered an environmental improvement.
- 7.4.6 Concerns have been raised by the appellant regarding potential surface water drainage issues, particularly regarding the planning history of the site. It is noted that the adjacent vehicle testing centre is a permitted development and it is not

considered appropriate to revisit the drainage arrangements of this development as part of this assessment.

7.4.7 Surface water from the proposed light industrial units is to drain to ground via a new surface water soakaway. It is considered having regard to the size of the site and the limited scale of development that this is appropriate. Full details of the proposed surface water drainage arrangements can be agreed with the Planning Authority prior to the commencement of development. In this regard, I am satisfied that the development is unlikely to have any significant indirect effects on the SAC's conservation objectives.

7.4.8 With regard to potential contamination of the existing watercourse by Japanese knotweed, it is noted that the stream referred to by the appellants is located to the south of the site, a significant distance away from the affected areas. The outline management plan submitted by the applicant sets out measures to minimise the spread of the plant and it is considered that in this context impacts on the SAC's are unlikely.

7.4.9 It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites 004076 and 000781, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and the submission of a NIS) is not therefore required.

8.0 Recommendation

8.1 It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

9.1 Having regard to the location of the proposed development in an established commercial area and its zoning for commercial purposes, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area, would have no adverse environmental or ecological impacts and would 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. 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. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. Only clean, uncontaminated storm water shall be discharged to the surface water soakaway. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of proposed surface water disposal arrangements.

Reason: In the interest of public health and to ensure a proper standard of development.

3. 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 residential amenities of property in the vicinity.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This shall provide details of appropriate screen and boundary planting consisting predominantly of trees, shrubs and hedging of native species. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and in the interest of visual amenity.

5. Prior to the commencement of development on site, a detailed invasive species management plan which shall include details of a 5 year programme for the control, monitoring and eradication of Japanese Knotweed on the site, shall be submitted to, and agreed in writing, with the planning authority.

Reason: In the interest of the proper planning and sustainable development of the area.

6. 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. 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Erika Casey

Planning Inspector

28th September 2017