



An
Bord
Pleanála

Inspector's Report ABP.301979-18

Development	Permission for restaurant and retention of car parking area.
Location	Strandfield, Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20180552
Applicant(s)	Omiplex Holdings ULC
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	As above
Observer(s)	None
Date of Site Inspection	17 th October 2018
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located on the southern outskirts of Wexford town along the Rosslare Road.
- 1.2. The appeal site is currently an overgrown site and is vacant. The overall size of the appeal site is 0.76 ha (1.877 acres) and the shape of the appeal site is almost rectangular.
- 1.3. The appeal site is located between an established multi-plex cinema and an existing access road that serves the cinema.
- 1.4. The appeal site is located on slightly higher ground than that of the adjoining site serving the cinema.
- 1.5. Karlogue Business Park is located on the opposite side of the public road (Rosslare Road) to the appeal site. This business park accommodates a relatively large building to the front of the site. This large building is 5 storeys in height and accommodates an office / insurance use.
- 1.6. The car park for retention is located to the rear of the site situated to the immediate rear (east) of the proposed restaurant. The car park is fully constructed and demarcated. The car park has pedestrian steps / access, public lighting and is landscaped.

2.0 Proposed Development

- 2.1. The proposed development provides for a restaurant and the retention of a surface car park.
- 2.2. The proposed restaurant has a floor area of 381 sq. metres.
- 2.3. The proposed restaurant is situated to the front of the appeal site which is located adjacent to the public road (Rosslare Road).
- 2.4. The maximum height of the proposed restaurant building is approximately 7.4 metres above ground level. The overall length of the proposed building is 21.5 metres and the two side elevations include signage at first floor level.
- 2.5. The proposed restaurant building will be finished in cladding.

2.6. The proposed car park provides for 146 no. car parking spaces and is located to the rear of the proposed restaurant building. The car park is fully constructed.

3.0 Planning Authority Decision

3.1. Wexford County Council decided to **refuse** planning permission for the following reasons;

1. The design and layout of the proposed development fails to meet the standard required for a building located at the junction with 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.
2. Insufficient information has been submitted to the Planning Authority in relation to how surface water will be dealt with on site to enable the Planning Authority to fully assess the impact of the development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. Inadequate information has been provided in relation to servicing arrangements for the development in relation to public water, public foul water. The proposed development may therefore be prejudicial to public health and contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. The main issues raised in the planner's report are as follows;

Area Planner

- Appeal site is zoned commercial and mixed use. Proposal acceptable in principle.

- In design terms the previous advice of the of the Senior Planner has been ignored. It is considered that a taller building on a smaller footprint would be more appropriate.
- The proposal would include a large blank façade.
- Japanese Knotweed is prevalent on the site.
- No details regarding storm water attenuation have been provided.
- The design of the proposed unit is identical to the unit proposed under L.A. Ref. 2016/0929.
- The proposed design is inappropriate for this high-profile site on the Rosslare Road.

3.3. Internal Reports;

- Environment; - Additional information sought for (a) a noise report, (b) a revised site layout map showing connections to public mains, foul sewer and storm water, (c) details of surface water attenuation, (d) revised drawing showing location of storage bins.

3.4. Third Party Observations

- None

3.5. Submissions

- None

4.0 Planning History

- L.A. Ref. 2016/0929 – Permission **refused** for restaurant / leisure facility and car parking. The reasons for refusal included; (a) the proposed leisure is incompatible with the zoning objective of the site, (b) poor urban design on a radial route and (c) insufficient information relating to traffic impacts on the junction.

- L.A. Ref. 2006/2419 – Permission **granted** for a seven-screen cinema and 136 no. car parking spaces subject to 15 no. conditions. The conditions standard for the nature of development proposed.

5.0 Policy Context

5.1. Development Plan

5.1.1. Wexford Town and Environs Development Plan, 2009 – 2015 (extended to 2019), is the operational Development Plan.

5.1.2. In accordance with the Town Plan the appeal site is zoned 'Commercial and Mixed Use'. The objective for this land-use zoning is '*to provide commercial and office developments. The Council will consider residential type developments where it can be demonstrated that they do not conflict with commercial / industrial development*'.

5.1.3. The road to the front of the appeal site is designated a Radial Policy.

5.1.4. Chapter 10 offers design guidance and the following is relevant;

- 10.4 Landmark Building
- 10.5 Gateway Buildings
- 10.6 Tall Buildings

6.0 The Appeal

6.1. The following is the summary of a first-party appeal submitted by Omniplex Holdings ULC.

- The previous application was for leisure and restaurant.

- This previous application was refused permission as leisure was not a permitted use.
- Leisure use has now been omitted.
- The proposed design is in sympathy with the cinema design and an additional cinema patron facility.
- There is a 68% reduction in the size of this application over the previous application. The customers for the restaurant will be cinema patrons.
- There are no concerns expressed by internal departments.
- Since the cinema opened in 2008 car parking has been an issue.
- The principle of the proposed development is acceptable.
- It is submitted that to increase the height of the proposed building would restrict the view of the cinema building behind. It is contended that the existing cinema building is an attractive building in a landscape that can be considered largely as industrial buildings.
- It is submitted that the planner has recommended a taller building with a smaller footprint. This suggested floorplate is impractical for restaurant use as first floor restaurants are unpractical.
- The proposed restaurant faces the cinema exit / entrance as its main customers will be coming from the cinema.
- The proposed materials are in keeping with the main cinema.
- The submission includes a certificate from Greentown Environmental Ltd that no Japanese Knotweed was present on the appeal site.
- It is contended that any drainage concerns could have been dealt with by condition. The submission includes a certificate from a drainage engineer stating that the drainage design follows regulations.
- It is contended that the subject site is not a high profile / important site as it has remained undeveloped for 10 years.
- It is submitted that the present building is consistent in design terms with the cinema building. The cinema building adds vibrancy to the local area.

- The applicant has no control over public water. The proposed development would have no impact on the substantial foul sewer facilities that are available.
- The proposed car park addresses safety concerns.
- It is requested that the car park is granted planning permission and approve the application for a small restaurant to enhance and improve the facility for cinema patrons.

7.0 Responses

Second Party Response

The Local Authority submitted a response which is summarised as follows;

- The previous application (L.A. Ref. 2016/0929) was refused permission.
- The principle of restaurant and car parking is permitted in principle.
- The proposed design does not address the refusal reason in L.A. Ref. 2016/0929.
- In the previous application the Senior Planner noted the importance of the subject site located on a radial route into Wexford Town and in particular for tourists entering Wexford Town.
- The Planning Authority consider that the applicant's contention that the cinema building is 'the most attractive building in the area' and as such the proposed restaurant should follow the same design format is not logical. It is considered that this view is subjective.
- It is contended that the quality of a well-designed building at this location will provide a strong visual introduction to Wexford Town and would be deemed compatible with the principles of good urban design.

8.0 Assessment

- Principle of Development
- Design
- Surface Water / Drainage
- Appropriate Assessment
- EIA Screening

8.1. Principle of Development

- 8.1.1. The proposed development provides for a restaurant use and a car park situated to the immediate east of an existing cinema building. The appeal site zoned 'Commercial and Mixed Use' in accordance with the provisions of the Wexford Town Development Plan, 2009 – 2015 (extended to 2019). In accordance with the zoning matrix table as set out in the Wexford Town Development, both restaurant use and car park uses are permitted in principle within the 'commercial and mixed use' zoning objective.
- 8.1.2. It is notable in the previous application on the appeal site (appeal ref. 247532) that the proposal included a leisure use. However, the Board decided to refuse permission on the grounds that the proposed leisure use would 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). The proposed development excludes any leisure use and therefore in my view addresses refusal reason no. 1 in the Board's decision relating to appeal ref. 247532.
- 8.1.3. I would also note that the proposed restaurant use would generally be consistent with the pattern of development locally. Overall, I would conclude that the proposed restaurant use is acceptable in principle having regard to the zoning objective of the appeal site.

8.2. Design / Visual Impact

- 8.2.1. The significant issue in this appeal is the design and visual impact of the proposed restaurant building.
- 8.2.2. The Local Authority planning report, prepared by the Senior Executive Planner, concludes that the proposed restaurant is a box-type structure similar in style to the omniplex cinema on the adjacent site. The planner's report also considers that the proposed design is identical to unit 1 building proposed under planning application 20160929 which was refused permission having regard to its design.
- 8.2.3. The Local Authority refusal reason in the current proposal states, *'the design and layout of the proposed development fails to meet the standard required for a building located at the junction with a radial route (Rosslare Road) and would result in a poor urban form'*. In the planner's report in the previous planning application 20160929 the planner (Senior Planner) concluded that *'the subject site requires a much stronger design approach and needs to face the Rosslare Road. Single storey is not appropriate for this main approach road into the town. A taller building with a smaller footprint would be the preferred design solution'*.
- 8.2.4. This case was appealed to the Board (appeal ref. 247532) and although the Planning Inspector recommended a grant of permission the Board decided to refuse permission. The Board's second reason for refusal related to the design and principally that the proposal would result in a poor urban form. Although I would accept the current planner's comments that a precedent was set in design terms for the appeal site it is important to note that the previous development is not identical to the current proposal.
- 8.2.5. The previous proposal (appeal ref. 247532) comprised for 4 no. units with a collective floor area of approximately 1198 sq. metres which is significantly larger than the current proposal before the Board. The current and proposed restaurant has

a floor area of 381 sq. metres. This in my view is a significant reduction in scale and the previous decision by the Board, in my view, is not in effect a precedent for the current proposal.

8.2.6. The maximum height of the previous proposal facing northwards was 3.8 metres falling to 3 metres. The west elevation of the previous proposal was a consistent 3.8 metres above ground level. It was also notable that the site of the previous proposal was partially excavated and therefore the finished floor level of the previous proposal was below ground level. Therefore, the previous proposal was a low-rise single storey structure. I have described the design parameters of the current proposal in Section 2 above. It is notable that the height of the current proposal is approximately 7.4 metres above ground level. It is also notable that the site for the current development will be excavated and therefore the finished floor level will be situated below the existing ground level surrounding the site.

8.2.7. It is also notable that the no development plan policy objective pertains to the appeal site in term of design. I have reviewed Chapter 10 of the Town Development Plan, 2009-2015 (extended to 2019) and although there is guidance in relation to Landmark buildings and Gateway buildings the subject site is not designated any such status. As such the Local Authority are guiding the design of the proposed development in the management process.

8.2.8. Overall, I would conclude, having regard to the significant reduction in scale, that the design of the proposed development is acceptable having regard to the location of the appeal site.

8.3. **Drainage / Surface Water**

8.3.1. I would note that the second and third reason for refusal relates to inadequate information to surface water attenuation and connections to public mains, foul sewer line and storm water line.

- 8.3.2. The appellant submitted that these are issues that could be dealt with by condition. It is notable that the report from the Environment Section, dated 31st May 2018, recommends that additional information is sought in relation to surface water and drainage.
- 8.3.3. In relation to surface water drainage the appeal submission includes a submission from MB Associates, 'Chartered Structural, Civil and Environmental Engineers'. This submission confirms that the surface water from the car park drains to an infiltration blanket underneath the subject car park. The submitted drawing L01 demonstrates the surface water proposals. I would consider, based on the submitted drawings, that the surface water proposals are acceptable subject to a condition that the proposal provides for a petrol interceptor to treat the surface water.
- 8.3.4. In relation to foul drainage and water supply I note that the appellant submits that it is proposed to connect to the local services. I would recommend, should the Board favour granting permission, that this issue is dealt with by condition.

8.4. **Appropriate Assessment**

- 8.4.1. The appeal site is located approximately 200 metres to the east of two Natura 2000 sites, namely the River Slaney SAC (site code 000781) and the Wexford Harbour and Slob SPA (site code 004076).
- 8.4.2. The qualifying interests for the River Slaney SAC are as follows;
- Estuaries
 - Mudflats and sandflats not covered by seawater at low tide
 - Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)
 - Mediterranean salt meadows (*Juncetalia maritimi*)
 - Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
 - Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
 - Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)
 - *Margaritifera margaritifera* (Freshwater Pearl Mussel)

- Petromyzon marinus (Sea Lamprey)
- Lampetra planeri (Brook Lamprey)
- Lampetra fluviatilis (River Lamprey)
- Alosa fallax fallax (Twaiite Shad)
- Salmo salar (Salmon)
- Lutra lutra (Otter)
- Phoca vitulina (Harbour Seal)

8.4.3. The Wexford Harbour and Slobs SPA (site code 004076) has 34 qualifying interests, all of which are birds.

8.4.4. The surface water drainage proposals, as outlined in Section 8.3 above, will not add any additional run-off to local drains or ditches as such the surface water proposals from the proposed development will not be a source of pollution or contamination for the Natura 2000 sites. In addition it is proposed that foul drainage from the proposed development will be connected to the local services.

8.4.5. It is reasonable to conclude that based on the information on the file, which I consider adequate 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 any European Sites, i.e. site code 000781, and site code 004079 in view of the sites conservation objectives and a stage 2 AA is therefore not required.

8.5. **EIA Screening**

8.5.1. Based on the information on the file, which I consider adequate to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

9.0 Recommendation

- 9.1. I have read the submissions on the file, visited the site, had due regard to the Town Development Plan, and all other matters arising. I recommend that planning permission be granted for the reason set out below.

10.0 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 2009-2015 (extended to 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.

11.0 Conditions

1. The development shall be carried out and retained 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 unit shall be used solely for a restaurant use.

Reason: In the interest of clarity.

3. The disposal of surface water, shall comply with the requirements of the planning authority for such works and services and shall include petrol interceptors to treat surface water before entering ground level. Full details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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. 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.

9. 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 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) circulation aisles with a minimum width of 6 metres, landscaping within the boundary of the parking area,

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

10. 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.

Kenneth Moloney

Planning Inspector

22nd November 2018