



An
Bord
Pleanála

Inspector's Report ABP-303498-19

Development	Change of use from retail warehouse, for the provision of 9 no. screen cinema. Construction of entrance and emergency exits.
Location	Unit 2 Cleveragh Retail Park, Cleveragh Drive, Cleveragh Demesne, Cleveragh, Co Sligo
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	18382
Applicant(s)	Coogee Park Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Coogee Park Ltd.
Observer(s)	None.
Date of Site Inspection	12 th March 2019.
Inspector	Sarah Lynch

Site Location and Description

- 1.1. The appeal site is located within the Cleveragh Retail Park which is located c. 1.7km to the south east of Sligo town centre. The site is directly south west of the Garavogue River and is bounded to the south by the Sligo Racecourse which is separated from the site by a 2.5 metre block wall
- 1.2. The appeal site comprises a corner unit within this small retail park of 6 units which provides for largely retail uses at present, with the exception of a café and office unit at the entrance to the site and gym.
- 1.3. The site is accessible to both the front and the rear. The front of the unit faces onto a large shared car park and the rear abuts a hard-surfaced service area utilised by all units.
- 1.4. The unit is of contemporary box type design, finished in metal effect panel sections which includes large panels of glazing within the front elevation and insulated cladding to the rear elevations.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Change of use of existing retail warehouse to 9 screen cinema.
 - 250 sqm extension to rear.
 - New entrance to front of unit.
 - 5 New fire exits

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the proposed change of use.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The final planners report was consistent with the decision of the planning authority, further information was requested in relation to the following:

- Impact assessment of the proposed development on the vitality and viability of Sligo town centre.
- Sequential approach analysis, demonstrating suitability of site.
- Assessment of pedestrian links to site from town centre.

3.2.2. Other Technical Reports

- Road Section – no objections.
- Waste Enforcement Section – no objections subject to standard conditions.
- Environment Section – no objections subject to standard conditions.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

One submission was made by Declan Brassil Ltd on behalf of Omniplex Cork Limited and can be summarised as follows:

- Reference is made to a number of refusals of cinemas in retail parks due to the potential to adversely affect a town centre.
- Condition no.2 of parent permission restricts the sale of goods to retail warehousing.
- Scale of cinema and quantum of displaced retail warehousing would undermine the vitality and viability of the town centre.
- Material contravention of zoning objective.
- No justification or sequential approach submitted.
- Use would generate different trip generators.
- Use would have little synergy with retail uses.

4.0 Planning History

04/37 – Permission was **granted** for the development of 6 retail units subject to standard conditions, of relevance is condition no. 2 as follows:

The retail warehouse development shall be solely for the sale of bulky comparison goods (non-food).

A number of permissions for alterations to units have been granted within the retail park. The following application is of relevance:

05/133 Permission was **granted** for the change of use of unit 4 to catalogue retail store for the sale of both bulky and comparison goods.

12/48 Permission was **granted** for change of use from retail warehouse to specialist frozen foodstore.

14/233 Permission was **refused** for the change of use of unit no. 1 from toys sales to retail use for sale of branded bargain household and confectionary goods.

5.0 Policy and Context

5.1. Development Plan

Sligo and Environs Development Plan 2010-2016

The zoning and objectives of the Sligo and Environs Development Plan 2010-2016 have been incorporated into the Sligo County Development Plan 2017-2023 following the abolition of Sligo Borough Council in 2014 and the establishment of a single planning authority with jurisdiction over the entire county. The written statement and the objectives maps pertaining to the SEDP have been appended to the Sligo County Development Plan 2017-2023.

The appeal site is subject to the C2 – Commercial and mixed uses zoning objective which seeks to, ‘promote the development of a mix of uses centred on retail, office space, high density housing, high amenity open space and compatible uses’.

- Section 3.2 - Broad Aims
- Policy BA-1 - Supporting balanced economic development.
- Policy BA-2 - Carefully managing development patterns.

- Section 5.2 - City Structure - The city centre's role as a hub of commercial activity must be retained and consolidated especially by encouraging a diverse mix of uses, particularly of the retail and leisure type, complemented by residential and office uses.
- Policy SP-ECON-1 - Facilitate and encourage the business, enterprise and industrial development of Sligo as a Gateway City and economic growth driver for the North-West.
- Policy SP-ECON-5 - Ensure that employment-related development is maintained and consolidated, in particular with regard to the city's promotion as a major centre for retailing, services, tourism and culture.
- Policy SP-RP-1 - Consolidate Sligo's role as a regional shopping centre and Gateway City
- Policy SP-RP-5 Ensure that retail development is accessible by both public transport and private car, so as to ensure accessibility to all groups of the population, particularly the elderly and families with young children.
- Section 6.4.1 - Business, industry and technology parks – BITP (Cleveragh).
- Section 6.5.3 - Challenges for Sligo City.
- Section 6.5.4 - Sligo's catchment and future growth in retail floor space
- Policy SP-MOB-2 Integrate transportation planning and land-use planning in order to reduce the need to travel (

Sligo County Development Plan 2017-2023

- Section 4.5.4 Sligo City – Primary Retail Centre
- SP-RP-1 - Consolidate Sligo City's role as a regional shopping centre and the Primary Retail Centre (Tier 1) in County Sligo.
- Policy P-RP-5 - Discourage inappropriate out-of-town shopping facilities that detract from the vitality, viability and/or character of existing town and village centres.
- Policy P-RP-6 - Facilitate the reuse of existing vacant retail outlets in towns and villages.

Project Ireland 2040 - National Planning Framework

Sligo is identified as a regional centre which plays an important role in the future growth and development of the north western region.

- Section 1.3 Shared Goals our National Strategic outcomes
- Section 3.3 Northern and Western Region – strong emphasis on compact growth development approach.

Draft Regional Spatial and Economic Strategy for the Northern and Western Regional Authority.

This strategy aims to provide regional level strategic planning and economic policy in support of the implementation of the National Planning Framework and provide a greater level of focus around the National Policy Objectives and National Strategic Outcomes of the NPF.

- Section 3.6 – Grow globally competitive urban centres of scale that shall be compact, connected, vibrant and inclusive places for people and for businesses to grow.
- Chapter 2 – Regeneration and consolidation will be prioritised, within a short walking distance of the urban core.
- Section 3.5.2 - Cleveragh Regional Recreation and Amenity Park.

Guidelines for Planning Authority Retail Planning Guidelines 2012

- Section 4.7 Edge of Centre Retailing
- Section 4.8 Out of Centre Retailing

5.2. Natural Heritage Designations

- The Lough Gill SAC is located c. 130 metres to the north west of the appeal site. This SAC is separated from the appeal site by a public park, public road and carpark.
- The Cummeen Strand / Drumcliff Bay (Sligo Bay) SAC is located c. 1.9km to the north east of the appeal site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

6.0 The Appeal

6.1. Grounds of Appeal

- Precedent decisions in Killarney and Dundalk show how second cinema complexes which are outside of the town do not have adverse impacts upon the town centre.
- Current levels of vacancy within peripheral and secondary locations in town centre and wine street illustrate that the existing Omniplex complex does not provide an anchor for the town.
- Existing cinema is operating over capacity.
- VIP nature of town centre will compliment other cinemas drawing trade from wider catchment reinforcing Sligo's role as Gateway city.
- The proposed 9 screen cinema would reinforce the tourism and leisure offer of Sligo.
- There are a range of uses present within the retail park.
- Cinema would compliment regeneration of area.
- Use is in accordance with zoning objective and will support leisure facilities for adjoining Cranmore estate.
- Use supports Development Plan policies and draft RSES in developing Sligo as Gateway City and regional growth centre.
- Additional cinema would enhance competition and consumer choice.
- Proposal would not undermine vitality and viability of town centre.

- Development would not result in an unsustainable trip generation pattern; pedestrian links are already in place.
- Limited public transport to the appeal site.

6.2. Planning Authority Response

- It is acknowledged that the proposed development is not of a conventional retail nature but proposal must be considered within its context.
- Decision of authority was based on a holistic approach to the consolidation of the city centre.
- Case was considered on its merits.
- Population growth within the vicinity of the site will be limited.
- Case precedent outlined in grounds of appeal had differing issues.
- 3 cinemas in neighbouring towns, therefore catchment assessment is flawed.
- Cinema would have more synergy with city centre evening economy uses.
- Significant distance from city centre would not encourage walking or cycling.

6.3. Observations

- None

7.0 Assessment

7.1. The appeal site is located within an area subject to the C2 – Commercial and mixed uses zoning objective which seeks to, 'promote the development of a mix of uses centred on retail, office space, high density housing, high amenity open space and compatible uses'. It is important to note at the outset that the principle of extending the existing unit is accepted and no zoning issues arise in this regard. The provision of a cinema use is open for consideration under this zoning objective subject to the demonstration that the form of development is compatible with the policies and objectives for the zone. The issues arising within this appeal therefore, relate to the following:

- Compatibility of use with retail park.
- Sustainable connectivity to town centre.
- Sequential Approach
- Appropriate Assessment

Compatibility of use with retail park.

- 7.2. It is contended by the applicant that the proposed cinema would not negatively impact the vitality or viability of Sligo town centre. The justification provided for this assertion is related to the presence of an existing cinema in the town centre and the failure of this service to prevent high levels of vacancy occurring within its the immediate vicinity.
- 7.3. It is further contended by the applicant, that on this basis a cinema use cannot be considered an anchor development within a town, and thus cannot be considered to have a role in impacting the vitality or viability of a town in either a negative or positive manner.
- 7.4. Whilst I acknowledge the applicant's argument, I consider the key tenants of the applicant's argument to be overly simplified for the purpose of this assessment. The question as to whether the proposed development would draw people away from the town centre is not the core issue pertaining to the proposed use but rather the question to be assessed, is the appropriateness of a cinema use within a bulky retail park as opposed to locating it within a town centre in which it would be surrounded by complimentary night time uses.
- 7.5. The current authorised uses within the retail park include an office, café, Argos, Mothercare, frozen food sales and an electrical appliances store. None of the aforementioned uses are related to the leisure industry and will be mostly closed during the evening operating hours of the cinema, thus returning the patrons back to the town centre for further night time services and leisure facilities.
- 7.6. It is of note that the C2 zoning objective of the Sligo and Environs Development Plan 2010-2016 requires that uses subject to this zoning objective should be compatible. The provision of such a leisure use in isolation of any other compatible uses present would result in unsustainable single trip transport movements to this use which is significantly removed from Sligo town centre.

- 7.7. Further to the foregoing, it is of note that condition no. 2 of the parent permission (04/37) for this retail park specifies that the park shall be restricted to the sale of bulky comparison goods thus further compounding the compatibility requirement of neighbouring uses. To permit a cinema use at this location would undermine the originally intended use of this park as a retail outlet for bulky comparison goods.
- 7.8. I therefore consider that in the absence of any existing compatible or complimentary leisure uses present within this retail park and having regard to the conditions of the parent permission which restricts the use of the units for the sale of bulky comparison goods, the proposed change of use would not be appropriate at this location.
- 7.9. I consider that the proposed cinema would be more appropriately located in an area where patrons can access complimentary facilities and services in close proximity, thus reducing the need for multiple trips and bolstering the vitality and viability of existing complimentary uses within and close to the town centre.

Sustainable connectivity to town centre.

- 7.10. It is contended by the applicant that the proposed use is located c. 1km from Sligo town centre and that there is scope for linked trips associated with people visiting the retail park and the adjacent public park. It is further stated that there is ample car parking to facilitate the use at this location and that visitors to the town centre are also likely to use the car due to the lack of public transport available in Sligo.
- 7.11. It is important to note at the outset that I do not agree with the applicant's assessment of distance from the town centre. Having visited the site, I consider the distance to be in excess of 1.7km from the central shopping area of Sligo town. Section 4.7 of the Retail Planning Guidelines 2012 defines edge of centre as locations within 300-400 metres from the retail core of a town. Given that the appeal site is located at a distance in excess of this, it can be considered as an out of town location.
- 7.12. It was evident from the site inspection that the site is poorly connected in terms of footpaths and cycleways to the town centre and there is no direct bus service connecting the town centre to the appeal site. One local bus which originates a Cartron has a stop at Dooley Park on a half hourly basis. Given that accessibility is limited it is reasonable to infer that visitors to the site will largely arrive by car.

- 7.13. I note that the applicant makes reference to the presence of a riverside walk and infers that patrons could utilise this route to walk to the cinema from town. In order to encourage walking longer distances between and to facilities a degree of functionality is required of the route. People may walk to facilities out of town if there are uses that have a strong, complementary attraction along it and the route itself provides focus and interest. Also, of relevance to the attractiveness of a route is the appearance and perceived safety of the connection.
- 7.14. The existing riverside walk is removed from the town and is an amenity walk connecting the town with a public park. The route which is separated from the public road provides for little in the way of passive surveillance and would not appear enticing after dark. I do not therefore, consider that this route would be successful in attracting people to walk to the cinema due to its setting and distance from the town centre.
- 7.15. Overall having regard to the foregoing, the proposal, by virtue of its location, removed from the town centre would give rise to a largely single trip car dependent use. The proposal would be contrary to the notion of compact development which is one of the national strategic outcomes of the NPF and would also contravene a key objective of the draft RSES for the region in which the development of vibrant competitive urban centres of scale that shall be compact and connected is sought. To permit such an out of centre, unconnected piecemeal use would result in the provision of an inappropriate and unsustainable use which would directly contravene the policy provisions of both national and draft regional guidance.
- 7.16. I therefore consider that the proposed development by virtue its poor connectivity in a location significantly removed from the town centre to be unacceptable. The proposal would result in a development heavily reliant on the private car which would hamper the countries efforts to transition to a low carbon and climate resilient society.

Sequential Approach

- 7.17. It was considered by the planning authority that use of a form of sequential analysis was appropriate given the location of the site and in view of the fact that there is potential for synergies between the proposed use and the existing town centre uses. The applicant was therefore requested by way of further information to submit a

sequential analysis of the site in relation to suitability of the appeal site for the proposed use in order to demonstrate that there are no other potential sites or vacant sites suitable closer to the town centre.

- 7.18. In response to this further information request the applicant specified that the appeal site provided for all their requirements and for this reason was considered sequentially preferable to other unspecified sites within the town centre. The applicant further stated that leisure uses unlike retail uses, are not subject to sequential assessment. Whilst I acknowledge this assertion I nonetheless consider that the use of a form of sequential analysis is appropriate to the assessment of the proposed use.
- 7.19. I have reviewed the response to the further information request in full and I consider that the information submitted made no attempt to properly identify or assess any existing vacant or unused sites within or adjacent to the town centre. In order to provide a robust justification for the provision of a cinema within the appeal site I consider that the applicant should have provided a detailed assessment of available sites closer to the town and provided a justification as to why these sites were not considered appropriate.
- 7.20. In the absence of such an assessment the applicant has failed to demonstrate that the appeal site is the most suitable site for the proposed cinema use. I consider that more suitable locations closer to the town centre and or co-location with other leisure uses must be adequately investigated prior to the consideration of the proposed use at the appeal site.

Appropriate Assessment

- 7.21. As mentioned above the Lough Gill SAC is located c. 130 metres to the north west of the appeal site. This SAC is separated from the appeal site by a public park, public road and carpark. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, 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.

Conclusion

In conclusion and having regard to the foregoing assessment I consider that the provision of a cinema at the proposed location is unacceptable and would give rise to an unsustainable development that is largely dependent on single car trips. The change of use would be contrary to the provisions of the Sligo County Development Plan 2017-2023 which seeks to consolidate the town centre's role as a hub of commercial activity by encouraging a range of mixes particularly of the retail and leisure type and would therefore be contrary to the proper planning and sustainable development of the area.

8.0 Recommendation

- 8.1. Having regard to the foregoing assessment I recommend that permission is refused for the following reason.

9.0 Reasons and Considerations

It is the policy of the Sligo Development Plan 2017-2023 within Section 5.2 to support the development of Sligo town centre as a hub for commercial activity through the provision of a diverse mix of uses in particular of the retail and leisure type. This is reasonable. Having regard to the location of the site significantly removed from the centre of Sligo town, in a location that is poorly served by public transport and walking and cycling facilities, the proposed development would fail to consolidate the town centre, would fail to deliver any synergies with town centre activities, would have a negative impact on the town centre's vitality and viability, and would conflict with the policy provisions of both the Sligo Development Plan 2017-2023 and the delivery of the National Strategic Outcomes of Project Ireland 2040 National Planning Framework which seeks to pursue a compact growth policy providing for sustainable well connected settlements. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Sarah Lynch

Planning Inspector

6th May 2019