



An  
Bord  
Pleanála

## Inspector's Report ABP-304568-19

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<b>Development</b>	Extension and upgrade works to cinema to include internal reconfiguration, the construction of 4 additional screens.
<b>Location</b>	Golden Island Shopping Centre, Athlone, Co. Westmeath.
<b>Planning Authority</b>	Westmeath County Council.
<b>Planning Authority Reg. Ref.</b>	187243.
<b>Applicant(s)</b>	Cinema Properties Ltd.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	OKR Group.
<b>Observer</b>	None.
<b>Date of Site Inspection</b>	26 <sup>th</sup> August, 2019.
<b>Inspector</b>	Patricia-Marie Young

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## 1.0 Site Location and Description

- 1.1. The appeal site is located in the 'Golden Island Shopping Centre' which is located c0.4km to the south east of Athlone's Town Centre and it relates to an existing 6-Screen cinema complex (IMC Athlone) that is located in the northernmost section of this shopping centre complex. At this location the IMC Cinema occupies a prominent location due to it being located c43m to the south of the shopping centres main entrance onto the public road, i.e. John Broderick Street, from which it is highly visible.
- 1.2. Between it and John Broderick Street the adjoining area of the shopping complex consists mainly of surface car parking and internal access roads. This adds to its visibility within the shopping centre complex as viewed from the public domain alongside it containing a northern, eastern and western elevation within the overall building footprint of this shopping centre complex. Near the western elevation of the subject cinema is a Burger King takeaway/restaurant. The space between contains paved areas and a service road that provides access into a restricted in size and dimensions service yard.
- 1.3. The Golden Island Shopping Centre complex sits on a c6.989ha site and it contains a wide range of retail stores with Tesco being one of the main anchor stores alongside containing ESB and AIB banks, the National Driver Licence Service through to an optician. It is served by a car park that is stated to contain 1,076 car parking spaces which are made up of 1,038 front of house car parking spaces and 38 staff car parking spaces. The shopping centre complex is bound by the River Shannon to the west, agricultural lands to the south and commercial properties to the east and north.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the following:
  - Extension and upgrade works to an existing cinema to include internal reconfiguration including the construction of 4 no. additional screens and cinema entrance.

- Alterations to the car parking area, internal roadway and adjoining hard surfacing. This component of the proposed development includes the relocation of 33 no. car parking spaces within the shopping centre car park. In relation to this the documentation on file indicates that to facilitate the proposed development 30 car parking spaces would be lost from the existing car parking area and that an additional 33 car parking spaces would be created by utilising an unused loading bay as a formal car parking area. This loading bay is located to the south of the car park.
  - Construction of a new restaurant unit adjoining the extended cinema building.
  - New cinema and restaurant signage.
  - Demolition works as required to the existing cinema to facilitate the extension.
  - All associated site works.
- 2.2. The accompanying documentation indicates that a Catchment Flood Risk Assessment and Management Study (CFRAMS) was carried out which concluded that the site does not suffer from fluvial, pluvial or coastal flooding. It also indicates that there is no record of flooding in the vicinity of the site.
- 2.3. The accompanying documentation includes Technical Notes prepared by Consulting Engineers which indicate that the site is served by public mains water and foul sewerage. It also indicates that run-off from roofs and hard standing areas are collected via a network of storm drainage pipes with eventual discharge to an existing watercourse to the south of the site. It indicates that the proposed development would not generate any additional stormwater loading and as such there is no requirement to provide additional storage measures.
- 2.4. The accompanying documentation indicates that the upgraded cinema would result in 10 no. screens; a new concessions and entrance area; and, 2,517m<sup>2</sup> footprint area. It also indicates that the existing seat number of the cinema is 822 (Note: public available information on the IMC Athlone website indicates 871 seats). In addition to this it would result in a 250m<sup>2</sup> new restaurant with associated external dedicated plant area over. In relation to the restaurant whilst the applicant indicates that they propose to construct it they note that ownership and/or future tenancy would be managed by the owners of the Golden Island Shopping Centre and there are no specific tenants identified.

2.5. This application was subject to a request for **further information** and resulted in the submission of an Appropriate Assessment Screening Report alongside clarity to several concerns raised by the Chief Fire Officer. The applicant's additional information response resulted in no significant amendments to the initial application.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

3.1.1. The Planning Authority **granted** permission subject to conditions.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. **Planning Reports**

The final **Planning Officer's Report** is the basis of the Planning Authority's decision.

The initial Planning Officer's Report concluded with a request for further information on the following:

Item 1: Relates to Appropriate Assessment.

Item 2: Seeks clarification on Compliance with Table 1: Limitations on Travel Distances, Technical Guidance Document B, 2006, and means of escape.

##### 3.2.2. **Other Technical Reports**

**Senior Assistant Chief Fire Officer:** The final report raised no objection subject to safeguards.

**Assistant Engineer:** No objection subject to safeguards.

#### 3.3. **Prescribed Bodies**

3.3.1. No responses.

#### 3.4. **Third Party Observations**

3.4.1. The Planning Authority received two submissions to the proposed development during their determination of this planning application. The concerns raised correlate

with those raised by the appellant in their grounds of appeal but also raise additional concerns with regards to the new car parking spaces proposed in a former loading bay in terms of their visibility for customers. In addition, the proposed upgrade of the cinema is also welcomed due to the positive benefits it may bring to the commercial offer of this area.

## 4.0 Planning History

4.1. None relevant.

## 5.0 Policy and Context

### 5.1. Development Plan

5.1.1. The Athlone Town Development Plan, 2014 to 2020, is the applicable plan, and under which the site is zoned under Map Ref. ATC 14 as 'mixed use'.

5.1.2. Objective O-LZ3 of the Development Plan: states that the Planning Authority will seek to: *"provide for, protect and strengthen the vitality and viability of town centres, through consolidating development, encouraging a mix of uses and maximising the use of land, to ensure the efficient use of infrastructure and services"*.

5.1.3. Section 13.2.2 of the Development Plan in relation to mixed use zone states that: *"mixed use reflects the mixture of uses which have always co-existed in town centres and which gives them the vitality, variety and intensity of uses which makes them attractive and important places for community interaction. A mixed-use zoning provision can also help to ensure the economic efficiency through which public infrastructure and services can be provided"*.

### 5.2. Natural Heritage Designations

- The subject premises is located c356m to the north east of the Special Protection Areas: Middle Shannon Callows SPA (Site Code: 004096).
- The subject premises is located c1.87km to the south east of the Special Protection Areas: Lough Ree SPA (Site Code: 004064).

- The subject premises is located c1.98km to the south east of the Special Area of Conservation: Lough Ree SAC (Site Code: 000440).

### **5.3. EIA Screening**

- 5.3.1. The proposed development is of a type that constitutes an EIA project (involving construction works and demolition). However, it is not of a scale likely to give rise to significant environmental effects to warrant environmental impact assessment (Class 10, Part 2, Schedule 5, P&D Regulations, 2001 (as amended), urban development).

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. The grounds of appeal can be summarised as follows:

- The appellants property includes access to a shared service yard located behind it which is accessed directly from the car parking area for which amendments are proposed.
- The appellant indicates that there trading hours are 09:00hrs to 22.00hrs: Monday to Saturday and 11.00hrs to 22.00hrs Sunday.
- Deliveries to Burger King are normally via vans, rigid axle trucks and articulated trucks. The proposed new layout will result in it being unlikely that these vehicles will be able to manoeuvre this new access route which would result in delivery vehicles having to stop in the car park area. This in turn would result in obstructions to traffic and result in goods having to be hand delivered over long distances.
- The appellants provided them with no opportunity to share their views on the proposed development prior to the lodgement of the planning application.
- The re-alignment of the car park and delivery yard access would have a detrimental effect on the operation of the appellants premises.

## 6.2. Applicant Response

6.2.1. None on file.

## 6.3. Planning Authority Response

6.3.1. None on file.

## 6.4. Referrals

6.4.1. This application was referred to the Development Applications Unit, Department of Culture, Heritage and the Gaeltacht.

## 7.0 Assessment

7.1. Having regard to the local planning policy provisions the principle of cinema and restaurant use are deemed to be acceptable, subject to safeguards, on lands zoned mix use.

7.2. The proposed development relates to an existing 6-screen cinema complex that forms part of a larger mixed-use complex known as the 'Golden Island Shopping Centre' which lies in easy walking distance of the historic town centre of Athlone. As set out in my description of the site this shopping centre alongside the cinema and retail use also contains other services and facilities within its c6.9ha site which is served by 1,000 plus car parking spaces and is in easy reach of public transport as well as by foot and bicycle to residential areas within the town.

7.3. Having the examined the documentation on file I consider that subject to the use of an appropriate palette of materials that the proposed development puts forward a more contemporary frontage for the cinema building as part of the overall alterations and additions sought under this application. This would in my view add to the attractiveness of what is a very dated and introverted in external expression shopping centre building in terms of its appreciation from the public realm, in particular John Broderick Street to the north, as well as from the semi-private associated spaces that surrounds it, i.e. the surrounding car parking area and hard stand circulation spaces.



- 7.4. I also consider that in terms of the loss of 30 car parking spaces and the provision of 33 car parking spaces in a former loading bay, i.e. resulting in an increase in 3 car parking spaces, that despite the fact that these spaces would be located in the southern portion of the existing car park, that as the cinema is a use whose peak activity is in the evening and night time, a time when the majority of other commercial operators within this shopping centre complex is closed that the additional 4 screens proposed and the 250m<sup>2</sup> new restaurant, would not result in an undue burden on the existing car park, despite its busy nature which I observed during my inspection of the site and its surrounds.
- 7.5. Moreover, the site is located adjacent to the appellants takeaway/sit down restaurant alongside is within easy walking distance of other evening and night-time uses within the town centre of Athlone itself. I therefore consider that the proposed development would add to the vitality, variety and intensity of entertainment through to cultural uses within the existing shopping centre itself as well as within the town centre of Athlone.
- 7.6. Based on the above factors, I raise no objection to the proposed development as set out under Section 2 of this report *per se*. In my view the key issue to be considered is the concerns raised by the appellant in their grounds of appeal and the matter of appropriate assessment.
- 7.7. The appellants raise concerns that the proposed development which includes alterations to the existing car parking and the service yard to its rear which in their view, if permitted, would have a detrimental effect on their commercial operation of their premises based on their contention that deliveries to their premises is normally via vans, rigid axle trucks and articulated trucks would be adversely impacted and/or it may not be possible to get deliveries made by such vehicles to the rear of their premises. The amended layout in their view would result in these types of vehicles being unlikely to be able to manoeuvre this new access route which in turn would result in delivery vehicles having to stop in the car park. This would then result in obstructions for users of the car park alongside cause inconvenience in terms of the logistics of getting their deliveries into their premises. It would also result in deliveries having to be carried from the car park area into the premises which would also result in practicality issues.

- 7.8. Having inspected the site and its setting, in particular the adjoining car park arrangement including the layout and design out of its access roads which provide connection to its principal entrance onto the public roadway via an entrance onto John Broderick Street together with the dimensions and access provision to the service yard area referred to by the appellant I am at a loss to understand how hgv type vehicles and other large delivery vehicles could safely navigate into the subject yard area in its current form without reversing from the vicinity of the entrance onto the public road or doing reversing manoeuvres within the car parking area in its vicinity.
- 7.9. I consider that the proposed revisions to the car parking and circulation spaces resulting from the proposed extension which I acknowledge dramatically increases the footprint of the building into what is currently mainly hard stand for pedestrian movement, part of an existing island and onto part of the internal access roads would result in a much freer circulation space for larger vehicles on the whole in the vicinity of the subject premises; the appellants premises and the access to the service yard serving the rear of the appellants premises.
- 7.10. I consider that whilst the proposed development would inevitably give rise to nuisances during the construction and demolition phase these in my view can be dealt with by appropriately worded conditions.
- 7.11. I consider that there is no evidence to base that the proposed changes to the associated internal car parking area and associated hardstand including pedestrian pathways that surround the subject premises and the appellants property under this application would result in an adverse impact significantly over and above the existing situation.
- 7.12. In addition, I also consider it is probable that the chaos that arises in terms of traffic circulation at present in this particular area of the shopping car park would be improved by the removal of the existing island which seems to be used in an *ad hoc* manner for car parking. This in turn causes obstructions and safety issues for pedestrians. The revised design and layout in my view provides an opportunity to address current issues that exist in the car park and circulation space that immediately adjoin both the appellants and First Party's business premises so that it provides a safer environment for all users.

### 7.13. **Appropriate Assessment**

7.13.1. As set out in this report the Middle Shannon SPA is located c356m to the north east of the site; the Lough Ree SPA is located c1.87km to the south east of the site and the Lough Ree SAC is located c1.98km also to the south east of the site. The shopping centre complex is separated from these sites by a large car parking area that surrounds its buildings within its overall 6.9ha site. In addition to this there is as existing buildings, developed and green space in between. Having regard to the nature of the development, the serviced nature of this urban area, the separation distance to these and other European Sites, the findings of the Appropriate Assessment Screening Report attached to file, I consider that in this case 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 **Conclusion and Recommendation**

### 8.1. **Conclusion**

8.1.1. I have had regard to all other matters raised in this particular appeal case, but I do not consider them to be so material to the consideration of the merits of this proposal as to warrant a different conclusion from that of the Planning Authority who granted planning permission for the proposed development subject to conditions.

### 8.2. **Recommendation**

8.2.1. I recommend that planning permission be **granted** for the reasons and considerations set out below.

## 9.0 **Reasons and Considerations**

Having regard to the sites mixed use zoning which seeks to provide for, protect and strengthen the vitality and viability of town centres, through consolidating development, encouraging a mix of uses and maximising the use of land, to ensure the efficient use of infrastructure and services as set out in the Athlone Town Development Plan, 2014 to 2020, it is considered that the proposed alterations and additions to an existing cinema together with the provision of a restaurant, subject to

conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. 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 as amended by the further plans and particulars submitted on the 16<sup>th</sup> day of April 2019, 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. Details of the materials, colours, textures of all the external finishes and any associated exterior lighting associated with the proposed extension shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. Full details of all proposed signage shall be submitted and approved in writing by to the Planning Authority. Furthermore, notwithstanding Part 2 (Exempted Development – Advertisements) of Schedule 2 of the Planning and Development Regulations, 2001, or any re-enactment thereof, no other signs apart from those signs which are agreed in writing with the Planning Authority shall be displayed at the site without a prior grant of planning permission.

**Reason:** In the interest of visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services. Details of the proposed water supply and drainage services, including detailed layouts and specifications, shall be submitted to the Planning Authority for agreement and no development shall commence prior to the confirmation of such agreement in writing by the Planning Authority.

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

5. Prior to the occupancy of the restaurant unit (including any subsequent changes in occupancy) and development of the cinema extension hereby permitted the details of the hours of operation shall be submitted to the Planning Authority for written approval. Business hours shall operate in compliance with agreed details.

**Reason:** In the interests of orderly development.

6. 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:** To protect the visual amenities of the area.

7. 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 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.

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be

submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of amenities, public health and safety.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

(k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

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.

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Patricia-Marie Young  
Planning Inspector

29<sup>th</sup> August 2019.