



An
Bord
Pleanála

Inspector's Addendum Report

ABP-315337-22

Development

Demolition of existing structures on site, construction of a mixed-use development including a hotel, retail/ commercial/ restaurant spaces and 12 no. residential units and all associated signage, landscaping and site works.

Location

Commercial Quay & Charlotte Street,
Wexford, Co. Wexford.

Planning Authority

Wexford County Council

Planning Authority Reg. Ref.

Applicant(s)

CoAnt Entertainments Limited

Type of Application

1st Party

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

John Molloy

John White

Observer(s)

None

Inspector

Paul O'Brien

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1.0 Introduction

- 1.1. This report is an addendum report to the Inspector's report in respect of ABP-309758-21 dated 14th September 2021.
- 1.2. The decision of the Board to refuse permission was quashed by decision of the High Court under Judicial Review 2021 No. 1034 JR on the 11th of October 2022. The decision was remitted back to the Board for a fresh determination.
- 1.3. All participants in the appeal were notified of the High Court Order and were invited under Section 131 to make any further submissions/ observations in relation to the appeal.
- 1.4. This report considers the submissions made on foot of the request for further submissions/ observations.

2.0 Response of Relevant Parties/ Observers to the Board's Decision

- 2.1. Submissions were received from the following:
 - 2.1.1. Simon Clear Associates on behalf of the applicant – The following points were made:
 - Disappointed with the decision of An Bord Pleanála and the decision to challenge the decision through the Courts was justified.
 - Since the application was lodged, a new Wexford County Development Plan 2022 – 2028 has come into effect. This makes specific reference to the development of the Commercial Quay area of Wexford town centre. Details of the relevant objectives are provided in this submission.
 - The development of this site is promoted by Wexford County Council, the site is currently an eyesore, and it is requested that permission be granted for this development.
 - 2.1.2. Wexford County Council – The Planning Authority made the following points:
 - The Planning Authority remain supportive of this development, and it would have a positive impact on the town centre and the local economy.

- A new Wexford County Development Plan 2022 – 2028 has come into effect, and new objectives and policies now apply. These are summarised/ provided in the Planning Authority submission.
- There is a need for additional hotel accommodation and occupancy rates are already high in Wexford Town. The proposed development would see the use of a brownfield site, which would generate financial investment into the town and be a boost to the local economy.
- Request that permission be granted for the proposed development.

2.1.3. John White – Appellant, no new issues raised, the following comments were made:

- Loss of light, especially for the windows facing east.
- Dewatering of the site, due to the impact of the development on these lands which contain poor ground conditions.
- Traffic Management issues in relation to access to the site and junctions in the vicinity of this site.
- Concern about flood protection measures.

2.2. It was decided, on the 10th of May 2023, that as the Planning Authority had made a detailed response to the Section 131 notice, that another Section 131 notice be issued that would allow for submissions/ observations on the comments of the Planning Authority.

2.3. The following submission were received:

- Simon Clear Associates on behalf of the applicant – No new issues and notes the report of the Planning Authority, the demand for hotel accommodation in Wexford and the desirability of developing this brownfield site.
- John Molloy – Appellant – No new issues raised. Concern about the design of the proposed development, concern about the Planning Authority assessment, potential site contamination due to oil leaks from the former filling station, potential for unexploded ordinance on site, issues over the disposal of surface water, and failure by the Local Authority Fire Service to adequately consider issues of fire safety. References made to a number of building fires including one in Wexford Hospital in January 2023 and Blanchardstown in May 2023. Traffic

congestion during the construction phase and operational phases were raised as issues of concern, in addition to potential issues of flooding concern. A number of other points were raised, and these are noted.

- John White – Appellant – comments on the Planning Authority report. The need for additional hotel accommodation has not been substantiated. Reference is made to Objective CA13 of the Wexford County Development Plan and potential for issues flooding arising from climate change.

3.0 Assessment

- 3.1. The opportunity was afforded to those who made submission to make further comments and submissions were received from the Planning Authority, the Appellants, and the Applicant.
- 3.2. Having examined the received submissions I consider that no significant new information or comment has been made that would result in a different recommendation to that originally made. Some specific comments are made as follows:
 - 3.2.1. Planning Authority Submission: Provides an update in terms of the new Wexford County Development Plan and the desirability of development of this site. Requests that permission be granted for the proposed development.
 - 3.2.2. Appellants: No new material details are provided. I note the details in relation to fire safety issues, however issues of fire safety are primarily addressed through the Fire Safety Certificate process.
 - 3.2.3. Applicant: Again, no new issues were raised and request that permission be granted for this development.
- 3.3. I note that the adoption of the Wexford County Development Plan 2022 – 2028 has resulted in an anomaly, in that the Wexford Town & Environs Development Plan 2009 – 2015 was extended and would continue until the adoption of the County Development Plan. No new town or local area plan is in place for Wexford and therefore the lands are not zoned. The lands were suitably zoned at the time of assessment of this appeal and permitting this development would not prejudice the future zoning of these lands, considering their location within a town centre location.

- 3.4. I am satisfied that that the proposed development is acceptable and will add to the vitality and economic life of Wexford, whilst removing an underused brownfield site within the town centre. Impact on existing residential amenity will be at an acceptable level and issues in relation to privacy, daylight, nuisance etc. have been addressed already in this report.
- 3.5. The visual impact and suitability of this development in this location has been addressed in this report. As reported a previous application was refused and the applicant has revised the building design to address these issues. I am satisfied that all matters have been addressed in an acceptable manner.

4.0 Recommendation

- 4.1. I recommend that permission be granted subject to the following conditions and reasons.

5.0 Reasons and Considerations

- 5.1. Having regard to the provisions of the Wexford County Development Plan 2022 – 2028, relevant National Guidelines and the location of the site within Wexford town centre, which is in an established urban area within walking of public transport and to the nature, form, scale, density and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential, visual or environmental amenities of the area.
- 5.2. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

6.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application submitted on the 11 th of August 2020 and as amended by the further plans and particulars submitted on the 28 th of January 2021, and further details submitted on the 14 th of December 2022, except as may otherwise be required in order to
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	<p>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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This permission is for a hotel of 133 bedrooms, restaurant/ retail/ non-retail units and 10 apartment units in the form of two-bedroom units as received by the Planning Authority on the 28th of January 2021.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>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.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
4.	<p>Details of all external shopfronts and associated signage shall be the subject of a separate planning application.</p> <p>Reason: In the interest of the amenities of the area/visual amenity.</p>
5.	<p>Details including samples of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
6.	<p>a) The internal road network serving the proposed development, including turning bays, parking areas, underground car park design, footpaths and</p>

	<p>kerbs, and the junction with the public road to the shall be in accordance with the detailed standards of the Planning Authority for such works.</p> <p>b) A total of 103 parking spaces to be provided, ten of which are to be solely for the use of the residential units, and these ten spaces shall provide for electric vehicle charging points.</p> <p>c) 10% of the remaining spaces shall provide for electric vehicle charging points and suitable measures shall be put in place to the allow for the future conversion of the remaining spaces for electric charging, i.e. ducting shall be put in place.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
7.	<p>Proposals for a development name, unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/ marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
8.	<p>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.</p> <p>Reason: In the interest of public health.</p>
9.	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>

10.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
11.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 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.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
12.	<p>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</p>

	<p>practice for the development, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
13.	<p>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.</p> <p>Reason: In the interest of sustainable waste management.</p>
14.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
15.	<p>All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.</p> <p>Reason: In the interest of orderly development and the visual amenities of the area.</p>
16.	<p>(a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at</p>

	<p>any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.</p> <p>(b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedence criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.</p> <p>(c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either</p> <ul style="list-style-type: none"> (i) during a temporary shutdown of the specific noise source, or (ii) during a period immediately before or after the specific noise source operates. <p>(d) When measuring the specific noise, the time (T) shall be any five minute period during which the sound emission from the premises is at its maximum level.</p> <p>(e) Any measuring instrument shall be precision grade.</p> <p>Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the Planning Authority prior to use of the premises. An acoustical analysis shall be included with this submission to the planning authority.</p> <p>Reason: In order to protect the amenities of property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.</p>
17.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision</p>

	<p>of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
18.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
19.	<p>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</p>

<p>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.</p> <p>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.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Paul O'Brien
Inspectorate
27th July 2023