



An
Coimisiún
Pleanála

Inspector's Report

ABP-320629-24

Development	Change of use from retail to concert hall.
Location	Mallin Street, Wexford, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20240349
Applicant	Lantern Events Limited.
Type of Application	Permission.
Planning Authority Decision	Granted
Type of Appeal	Third Party
Appellant(s)	Rebecca Kehoe Catherine Jordan
Observer(s)	None.
Date of Site Inspection	6 th June 2025.
Inspector	Peter Nelson

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Appendix 1 – Form 1: EIA Pre-Screening

Form 2: Preliminary Examination

1.0 Site Location and Description

1.1. The proposed development site is located on Mallin Street approximately 80m from Main Street, a short distance from Wexford Town Library and opposite the grounds of the Church of the Immaculate Conception. The subject building is in a mixed-use area of Wexford town centre more broadly characterised by terraced housing and a network of narrow streets which feed towards Main Street to the northeast. Mallin Street is a one-way route with traffic travelling south-eastwards whereupon it may turn at the junction with Rowe Street Lower or continue straight onto High Street which contains the Wexford Opera House. Its carriageway is of limited width with double-yellow lines on both sides and a single narrow footpath passing alongside the application site. The surrounding area is dominated by traditional two / three-storey terraced housing / streetscapes and includes a variety of commercial / retail uses such as offices, restaurants / cafes, a tattooist studio, and assorted shop units, in addition to a residential component.

1.2. The site has a stated site area of 0.04 hectares and comprises of the ground floor of two buildings on Mallin Street and the first floor of a building to the rear. The buildings are used for storage associated with the retail unit accessed from Main Street. The applicant states that there are two apartments above.

Adjoining the site, on the corner of Mallin Street and Rowe Street Lower is the former Wesleyan Methodist Church which contains a Box Office and Offices on the ground floor and apartments above. The church has been listed as a protected structure by reason of its inclusion in the Record of Protected Structures contained in Volume 5 of the Wexford County Development Plan (RPS No. WBC0151) It is also included in the National Inventory of Architectural Heritage with the former church / chapel considered to be of 'regional' importance by reason of its architectural, artistic, historical & social qualities (Ref: 15503102). The site is situated within the Zone of Archaeological Potential for Wexford Town.

1.3. The subject site has a right of way from an existing an escape stair onto Rowe Street Lower. There are apartments adjoining this right of way.

2.0 Proposed Development

- 2.1. The proposed development consists of the change of use of part of an existing building from retail to a concert hall with associated ancillary uses and the sale of alcohol for consumption on the premises with associated site works, including alterations to maintain existing delivery access to adjacent retail unit.

3.0 Planning Authority Decision

3.1. Decision

On the 24th May 2024 Wexford County Council requested the applicant to submit Further Information relating to the following:

- Confirmation/Clarification of the intended use of the property,
- Submission of an existing and proposed first floor layout plan with existing and proposed uses identified.
- Submission of a statement with amended drawings as necessary clarifying intended universal access arrangements to the public lobby, bar and toilets.
- Submission of evidence of a Confirmation of Feasibility application to Uisce Eireann.

On the 26th July 2024 Wexford County Council recommended that permission be granted subject to the compliance with 10no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the first planners report dated the 21st of May 2024 can be summarised as follows:

- The principle of a change of use to a cultural venue would be supported in this town centre location, outside to the retail core as detailed in the CDP.

- The internal and external alterations proposed are relatively minor and would not adversely affect the street scene or the character of the adjoining protected structure.
- The property is in a highly accessible part of the town centre.
- No Uisce Eireann feasibility letter has been submitted.
- A noise report has been submitted.
- Unlike the previous application (ABP 309724-24) the proposed development is confined to the Mallin Street property.
- Further information relating to the use of the building, the existing use of the first floor and universal access are required to make a full assessment.

The main points of the second planner's report dated the 23rd July 2024 can be summarised as follows:

- The further information relating to the proposed use, proposed capacity and opening hours is noted.
- It is regretted that a first-floor plan is not submitted.
- Understood that there are 2 apartments at first-floor, one under third party ownership/control and one in the ownership/control of the applicant.
- Noted that the applicant apartment will not be used in connection with the proposed development.
- The Environmental Department recommends a grant of permission.
- It is considered that the proposed use would not give rise to such disamenity as to warrant refusal of the application, subject to compliance with conditions.
- Details of universal access arrangements to be agreed at post planning.
- It is intended to provide a lift.
- A pre-connection enquiry has been made.
- As clarification on the use as been submitted and referred to the Environmental Section it is considered that, subject to compliance with

conditions, the use would not result in significant disamenity affecting the residents of the first-floor accommodation.

- The central location is noted, and the proposed development has the potential to add to the town's cultural assets.
- Evening and nighttime activity associated with arts and culture venues is welcomed as it boosts the vibrance and security of the town.

3.2.2. Other Technical Reports

- Environment Section report dated the 19th April 2024 recommends that permission be granted subject to conditions. A second Environment Section report dated the 23rd July 2024, on foot of submission of Further Information also recommends that permission be granted subject to conditions limiting the level of noise and the number of events per week and year.
- The Borough District of Wexford Office had no technical observation.
- The Chief Fire Officer's report dated 15th April 2024 recommended that the applicant be advised that a Fire Safety Certificate Application is required to be submitted.
- The Disability Access Officer's report dated the 2nd April 2024 states that a Disability Access Certificate is required.

3.2.3. Conditions

Conditions of note include:

Condition No. 2 requires that no more than 60 events per year or more than 3 events on consecutive days per week shall take place.

Condition No.3 requires that noise emanating from the development shall not cause to be measured at the facing elevation (outside) of any dwelling in the area at levels:

- 55 dB(A) (Laeq 1 hour) between hours of 0700-2230.
- 42 dB(A) (Laeq 1 house) between hours of 2230-0100.

Condition No.5 relates to noise mitigation measures.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Two third party observations were received. The main points raised can be summarised as follows:

- The proposed development is for the same use as previous application which was refused by ABP and is still within the structures of the residential units and as stated in the ABP reason for refusal will seriously injure the residential amenities of the neighbouring properties by reason of noise and general disturbance.
- The proposed development will cause greater impact to the observer's apartment as it shares a party wall.
- The proposed development will hinder the opening of the observer's living room windows for ventilation.

4.0 Planning History

ACP. Ref: 309724-24

Permission refused on the 28th November 2022 for change of use from retail to concert hall and associated ancillary uses to include retail box office and the sale of alcohol for consumption on the premises and associated site works. The proposed development is within the curtilage of a protected structure. The site is at the corner of Mallin Street & Rowe Street Lower, Wexford.

Permission was refused for the following reason:

Having regard to the nature and intended use of the proposed development, and its relationship with neighbouring residential properties, the Board is not satisfied, on the basis of the submissions made in connection with the application and the appeal, that the proposed development would not seriously injure the residential

amenities of neighbouring property by reason of the noise and general disturbance associated with its use. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. W0004968.

Permission was granted on 28th June 1996 permitting Mr. Jim Byrne permission for a change of use to retail, provision of 3 No. apartments, & a new shop front to Mallin Street.

5.0 Policy Context

5.1. Development Plan

The Wexford County Development Plan 2022-2028 is the current development plan for the area. The plan came into effect on the 25th July 2022.

The Wexford Town Local Area Plan is currently being prepared.

Relevant Objectives/Policies

Volume 1

Chapter 3 Core Strategy

Objective WT01

To strengthen the role of Wexford Town as a self-sustaining regional economic driver located on the Eastern Economic Corridor by leveraging this strategic location and accessibility to Rosslare Europort and building upon its inherent strengths including digital connectivity, skills, innovation and enterprise, tourism, culture and retail services.

Chapter 4 Tourism Development

Objective TM40

To safeguard the artistic, cultural and historic heritage of the county and to facilitate the expansion and development of facilities such as interpretative centres which are

appropriate in scale, siting and design and suitably located adjacent to sites of interest, subject to compliance with normal planning and environmental criteria.

Objective TM41

To develop the Arts, culture and heritage attractions throughout the county in conjunction with Fáilte Ireland, Tourism Ireland, the Heritage Council, the OPW, the Arts Council, National Parks and Wildlife and other key stakeholders.

Chapter 5 Design and Place-making in Town and Villages

Objective TV55

To support development which will add to the vitality and vibrancy of our towns and villages including development which will increase population, result in additional services and extend opening hours, subject to normal planning criteria including residential amenity.

Chapter 13 Heritage and Conservation

Objective AH07

To protect historic and archaeological landscapes, including battlefields, and promote access to such sites provided that this does not threaten the feature.

Objective CH01

To support the sustainable development and promotion of our cultural heritage and the associated infrastructure subject to normal planning and environmental criteria and the development management standards contained in Volume 2.

Volume 2 Development Management

5.10.8 Public Houses and Nightclubs

In order to maintain an appropriate mix of uses and protect night-time amenities, the Planning Authority will not allow an excessive concentration of public houses and nightclubs in a particular area or in areas with residential development. The following

issues will be taken into account during the assessment of planning applications for such uses:

- The potential effects of the development on the amenity of nearby residents.
- Noise at the boundaries will have to be carefully monitored and noise insulation measures will be required at the time of the submission of the planning application. The number and frequency of events will also be considered.
- Proper litter control measures shall be in place prior to the opening of any premises.
- Façade design will be carefully controlled, in particular, the type and degree of advertising signage and lighting. The design shall respect the character of the street and the buildings.

The site is outside of the Wexford Town Conservation Area.

The site is outside of the Wexford Core Retail Area.

The site is adjoining the Wesleyan Methodist Church which is a protected structure: Ref. WBC0151.

The site is within the Wexford Town Zone of Archaeological Potential: WX037-032.

5.2. Natural Heritage Designations

The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 200m northeast of the site.
- The Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), approximately 500m northeast of the site.
- The Wexford Harbour and Slobbs Proposed Natural Heritage Area (Site Code: 000712), approximately 500m northeast of the site.

5.3. EIA Screening

The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Two appeals have been received. The main points of appeal can be summarised as follows:

- There is no Local Area Plan for the Wexford Town and therefore the proposed development is premature pending the adoption of the LAP.
- Severe negative impact on the adjoining apartments in the former Methodist Church and devaluation of the properties.
- The sound proofing measures proposed are inadequate.
- The Acoustic Assessment is lacking in detail.
- The acoustic report does not include any noise measurement from within the adjoining apartments.
- No proposed programmes of events to be held in the venue has been submitted.
- Given the late 19th and 20th Century construction of the subject building it is not suitable to be used as a concert venue.
- Apartment No.3 should have been assessed as part of the Acoustic Assessment.
- The location of the stage will have a negative impact on adjoining residents.

- The type and soundproofing quality of both external and internal doors has not been specified.
- The development site directly abuts a protected structure which could be damaged by construction.
- The adjoining church car park is only operates Monday-Saturday from 6am-9pm and will not provide parking for the proposed venue.
- No details of the frontage of the proposed development including lighting and signage have been included in the application.
- A Confirmation of Feasibility from Uisce Eireann was not provided at further information stage.
- Waste from the development has not been adequately addressed.
- As there is no dedicated smoking area, smoking will take place to the front of the premises.
- Mallin Street is narrow, therefore there would be potential issues with emergency services accessing the proposed venue/ neighbouring residents.
- The proposed development is contrary to the Section 5.10.8 Public Houses and Nightclubs of the Wexford County Development Plan 2022-2028.

6.2. Applicant Response

The main points of the applicant's response can be summarised as follows:

- The subject site is located between two established venues and along the 'Cultural Spine'.
- The proposed development will operate under a theatre licence and is not a pub or a nightclub.
- The bar will not be open before or after events and the venue will be ticket only.
- The appeals should be deemed to be invalid for failing to comply with Section 127 of the Planning and Development Act, 2000 (as amended).

- The lack of a Local Area Plan does not prevent the planning authority of the Commission from making a decision.
- The proposed development complies with Development Plan Objectives WT01, ED60, TM40, WX07 and WX 05.
- The owners of the two of the first-floor apartments support the proposed development.
- The Dalton Acoustic Ltd Report attached to one appeal is an assessment for a different proposal and is not relevant to the subject proposal.
- No alterations are proposed to the protected structure and therefore there will be no impact.
- There are only two apartments over the proposed venue and a third apartment is over the church.
- There is very little parking demand associated with night-time and evening entertainment venues. There is a multiple choice of public and on street parking facilities in the town centre.
- There are no alterations to the front elevation, any alterations will be within the confines of exempted development or will be subject to a separate planning application.
- The applicant is committed to comply with condition no.4, which relates to maximum noise levels.
- There is no basis for the appellants to state that there will be an issue with access by emergency service vehicles.
- There is no door proposed internally between the venue and bar for toilet access resulting in sound transfer.
- The proposal incorporates box-in-box acoustic isolation which will be free standing and air gapped from the protected structure.
- The applicant's submission includes a Confirmation of Feasibility from Uisce Eireann and a response to the two appeals from Acoustic Designs.

6.3. Planning Authority Response

None Received

6.4. Observations

None

6.5. Further Responses

Further Responses were received from both appellants. The main points raised can be summarised as follows:

- The proposed development is contrary to *Section 2.6 Amenity* of Volume 2 of the *Wexford County Development Plan 2022-2028*.
- The existing noise survey is lower than that of the previous Dalton Acoustic Report, even though the survey was carried out during the Covid-19 restrictions.
- A new entranceway is proposed which is an alteration to the façade.
- There are insufficient details of the proposed acoustic lining.
- The sound insulation measures proposed for the subject building will not adequately prevent noise transfer to Apartment 2.
- The issues around lack of waste storage facilities still are relevant.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Validity of the Appeal
- Principle of Development

- Residential Amenity
- Impact on Protected Structure.
- Access and Parking
- Property Value

7.2. **Validity of the Appeal**

- 7.2.1. In the response to the appeal the applicant claims that the appeals are invalid as they were not lodged in accordance with the provisions of Section 127 of the Planning and Development Act, 2000 as amended. The applicant claims that as the appeal was formulated on behalf of the applicant by Paula E. Redmond, then her address should have been included.
- 7.2.2. Section 127(1)(b) of the Planning and Development Act states that and appeal shall *‘state the name and address of the appellant or person making the referral and of the person, if any, acting on his or her behalf’*,
- 7.2.3. The two appellants have lodged their appeal on their own behalf and have listed their grounds of appeal. Both appellants have supplied their addresses. In both appeals, the grounds of appeal have been further detailed by Paula E. Redmond. I do not consider that Paula E. Redmond is acting on behalf of the appellants and therefore her address is not required.
- 7.2.4. I am satisfied that the appeals were lodged in accordance with the provisions of Section 127 of the Planning and Development Act, 2000 as amended.

7.3. **Principle of Development**

- 7.3.1. The Wexford County Development Plan 2022-2028. Section 19 of the Planning and Development Act, 2000 (as amended) requires either the preparation of a local area plan or the indication of objectives in a development plan for towns with a population greater than 1,500 persons. A local area plan for Wexford is currently being prepared but has not yet been adopted.
- 7.3.2. The appellants have stated that as the Wexford Town and Environs Plan 2009-2015 has now expired that the site is not zoned. They contend that in the absence of a

Wexford Town Local Area Plan that the proposed development is premature and not in keeping with the proper planning and development and sustainable development of the area.

- 7.3.3. The site is not zoned within the current Wexford County Development Plan. A draft Local Area Plan has not yet been published. Core Strategy and Settlement Objective CS15 refers to the requirement to prepare an LAP. I do not consider that in the absence of a Local Area Plan the proposed development to be premature. The principle of the development shall be considered on its own merits and in accordance with the Wexford County Development Plan 2022-2028 and national policy.
- 7.3.4. I note that in the Wexford Town and Environs Plan 2009-2015 (as extended) the site was zoned as 'Town Centre' with the stated land use zoning objective 'To protect and enhance the special physical and social character of the existing Town Centre and to provide for new and improved Town Centre facilities and uses.'
- 7.3.5. In the Wexford County Development Plan 2022-2028 it is recognised that the 'arts and culture of Wexford are a proud expression of our identity and play an important role in our social and economic well-being'. It is a Cultural Heritage Objective (CH02) *'To safeguard the cultural heritage of the county and facilitate the expansion and development of appropriate facilities suitably located adjacent to points of interest subject to compliance with normal planning and environmental criteria and the development management standards contained in Volume 2.'* I consider that in principle the provision of a new cultural space in the town centre, in close proximity to existing cultural spaces such as the Wexford Opera House, will increase the cultural offering and in turn the vitality and vibrancy in the town centre and is therefore to be welcomed.

7.4. Residential Amenity

- 7.4.1. The primary concern raised in the grounds of appeal is that the proposed development will have a detrimental impact on the residential amenity of the existing apartments within the former church building by reason of excessive noise and general disturbance. The two appellants are the owners of the apartments on the

upper floor of the adjoining church building. In the Acoustic Assessment these apartments are referenced as Apartment 1 and 2.

- 7.4.2. There are two apartments directly above the proposed development. At the further information stage, the applicant was asked whether the first-floor accommodation will be used in conjunction with venue. The applicant was also requested to submit an existing and proposed first floor layout plan with existing and proposed use identified. In the response the applicant stated that the first floor does not form part of this planning application and any reference to it in the acoustic report was made in error and can be disregarded. In response to the appeal the applicant states that the internal layout has been designed in consideration of the two apartments above. A letter of support for the application has been submitted as part of the appeal response from the owner of one of the apartments on the first floor. This apartment is directly above the proposed foyer area (Apartment 4). The appeal response states that the second apartment is owned by the applicant's father who is supportive of the proposed development. This apartment is directly above the proposed stage area (Apartment 3). The applicant has stated that letters of support have been submitted from both the owners of both apartments. There is no letter on file from the applicant's father.
- 7.4.3. The appellants state that the proposed development incorporates both 19th and 20th century buildings and therefore it is not a suitable building for a concert venue as it is adjoining a protected 19th century former church which includes residential units. I do not consider that in principle the existing building to be unsuitable for a music venue subject to appropriate acoustic measures.
- 7.4.4. The town centre area is mixed in land-use terms, and as such, would not have the same expectations of noise and activity as a primarily residential zone. However, the noise emissions from the concert venue must be of an appropriate level to ensure that undue negative impacts do not arise with respect to the residential amenity of the neighbouring properties.
- 7.4.5. The applicant states that the proposed development will operate under a theatre licence. It is claimed the proposed development is not a pub or nightclub but a venue for a limited number of events. The applicant states that the bar will not remain open after events which will finish before 11.00pm and typically will only open for 30

minutes before a performance. Only ticket holders will be permitted to access the building.

- 7.4.6. In the reply to further information the applicant states that the projected use of the proposed theatre is to host up to 50 shows per year with a maximum capacity of 190 seats. It expected that these will consist of 20 seated comedy/spoken work shows, 20 seated acoustic music shows and 10 standing music shows.
- 7.4.7. The application includes an Acoustic Assessment prepared by Acoustic Designs and a response to the appeal by the same author has also been included in the applicant appeal response.

Survey

- 7.4.8. The Acoustic Assessment incorporates a noise survey of the immediate area which was carried out in February 2024. The readings were taken outside the application building on Mallin Street and externally at roof level between what was the band hall and the existing retail building (both part of the application site).
- 7.4.9. The summary of the sound levels measured in Mallin Street are 46 dB LA90 for Daytime. 46 dB LA90 for Evening and 34 dB LA90 for night. The summary of the sound levels measured at roof level are 41 dB LA90 for Daytime. 40 dB LA90 for Evening and 38 dB L90 for night.
- 7.4.10. The appellants state that the surveys should have taken place later in the year when there are more activities are happening. The Acoustic Assessment notes that there were activities on most of the evenings during the survey in the nearby National Opera House on High Street, Wexford Library (Mallin Street) and Wexford Arts Centre (Abbey Street). I consider, therefore, that the timing of the noise survey to be adequate.
- 7.4.11. The appellants comment that the survey sound level results are lower for daytime and nighttime compared to the Acoustic Assessment that accompanied the previous application (ABP -309724-21) which were carried out during Covid-19 restrictions. The response to the appeal by Acoustic Design states that the measurements were taken in a different place than the previous survey with a gap of three years between measurements and are not directly comparable. As the appellant has not given

evidence to suggest that there are inaccuracies in the sound survey, I am satisfied with the survey results carried out by Acoustic Design.

- 7.4.12. The appellants states that noise surveys should have been carried out within the appellants apartments. The response to the appeal by Acoustic Design states that as the proposed design criteria for entertainment noise in the apartment is not directly relevant (See Section. 7.4.17). It is stated that this differs from the assessment of the noise from mechanical ventilation which is assessed by comparing it to the external background noise level in which case it essential to know the background noise level. I am satisfied that the approach taken by the applicant is adequate as it presents adequate information in order to fully assess the impact of noise of the residential amenity of the proposed development.

Equipment Noise Assessment

- 7.4.13. In assessing the potential noise impact from the plant for the proposed development, the Acoustic Assessment has assessed the predicted noise level of the existing equipment against the measured background noise level. It is stated that the main source of mechanical noise is the existing 4 external air conditioning units, which are located on the flat roof area. As the units were operating at the time of survey a model was used based on a Daikin single fan AC chiller with a power level of 65dB L_{WA}. Given the size of the building this appears to be an adequate size of AC chiller to be used.
- 7.4.14. The Assessment calculated the noise rating level to be between 0dB and 5dB below the measured background level at the windows of the apartments over head the proposed development which is unlikely to cause disturbance to residents. While the figures calculated do not specifically mention the appellant apartments on the first floor of the Methodist Church, the windows of the apartments overhead the development are the stated closest noise sensitive locations. I am therefore satisfied that the noise from the air conditioning units will not be seriously injurious to the residential amenity of the appellants apartment and the general area.
- 7.4.15. The appellants have questioned whether the existing units are adequate for the proposed concert hall use. While this has not been addressed in the applicant's response to the appeal, I am satisfied that with compliance with a condition attached

to a permission limiting the noise levels from the proposed development will not be seriously injurious to the residential amenity to the residential amenity of the immediate area.

Entertainment Noise Assessment

- 7.4.16. The Acoustic Assessment states that that there will be no amplified bands as part of the of the programme of events removing the low frequency sound inside the venue. This is different to the previous application (ABP 309724) which allowed for amplified bands. The report states that the sound levels inside the concert hall could range from low levels of 35-40dB L_{Aeq} for quiet vocal performances to levels of around 80-85 dB L_{Aeq} . In the previous application the Acoustic Assessment stated that the sound levels in the Concert Hall could be in excess of 90dB L_{Aeq} for amplified music.
- 7.4.17. The description of the proposed development is for the change of use from retail to a concert hall. While I consider it to be unusual for the programme of events for a concert hall not to include performances for amplified bands, the applicant clearly states that the concert hall will not be used for amplified bands. If the Coinmisiún is minded to grant permission, I recommend the attachment of a condition restricting the premises for amplified bands.
- 7.4.18. The Acoustic Report states that apartments 1 and 2 on the first floor of the chapel building will be separated from the concert hall by the existing stone/brick wall. The existing openings in this wall will be closed off with rendered blockwork and an acoustic lining.
- 7.4.19. Apartment 4 which is above the foyer has a concrete floor separating it from the ground floor level. The Acoustic Assessment states that the existing sound insulation between Apartment 4 and ground floor area below is 58dB $D_{n,TW}$. It states that Apartment 3 was not available for testing and does not require assessment. The report makes reference to this apartment being used for by the concert hall operator for use as accommodation for performers. The applicant subsequently stated that this an error and Apartment 3 is not included in the application.
- 7.4.20. As there are no specific Irish standards for the assessment of noise from entertainment, the Acoustic Assessment refers to the UK government publication:

Noise from Pubs and Clubs Phase 1 and Phase 2 (October 2005, May 2006). This report indicates that the level at which the absolute music sound level inside noise sensitive dwellings would be 'just acceptable was between 34-37 dB $L_{Aeq, 5min}$ with the windows closed and that the entertainment noise is clearly audible and identifiable. I note that this figure is for a one-off event which is described as 'occurring at intervals of less than six months'. The proposed programme of events for the concert hall is 50 shows per year.

- 7.4.21. The Acoustic Assessment states that the sound level inside the concert hall will have an upper limit in the region of 80-85 dB L_{Aeq} . In order to achieve a figure of 34-37 dB $L_{Aeq, 5min}$ for the nearest sound sensitive receptors a reduction of 50dB between the concert hall and the nearest sound sensitive receptors will be required.
- 7.4.22. It is stated that the concert hall has been designed to minimise the transmission of sound into adjacent noise sensitive locations by creating a sealed box structure within the existing building. For the entrance area below Apartment 4, it is proposed to create a sound lobby with acoustic doors linking the foyer with the concert hall. The Acoustic Assessment states that the foyer area will be separated from the concert hall by a lined block wall giving a sound insulation performance greater than 50dB R_w . It is claimed that the concrete floor between the ground floor and Apartment 4 has a measure sound insulation performance of 58dB $D_{n,TW}$. This figure will be increase by the installation of an acoustic ceiling similar to the main theatre ceiling.
- 7.4.23. The main concert hall is located on the ground floor and below Apartment 3, which is owned by the applicant's father. The Acoustic Assessment has not assessed the impact of the proposed development on this apartment. Aside from this Apartment 4, above the foyer and Apartment 2 which is on the first floor of the adjoining building are the nearest noise sensitive locations.
- 7.4.24. It is estimated in the report that the wall between the concert hall and the church should have an estimate sound insulation performance of at least 50dB R_w . All of the existing opening in this wall are to be closed off using concrete blockwork. The wall is to be lined in 2 sheets of 12.5mm high density plasterboard on resilient channels fixed to battens with 50mm mineral fibre between the battens. This is calculated to have an overall sound insulation performance of 63dB R_w . The wall lining is to be

ted into the roof lining to maximize the overall sound insulation performance. A similar lining is proposed for the opposite wall between the concert hall and the foyer area.

- 7.4.25. The closest noise sensitive location to the front facade is the Mallin Street façade of the Apartment 3. The report states that the external façade will be retained and closed off internally with block work to limit the sound transmission through this façade into Mallin Street. I note on the proposed floor plan (Dwg. No. P-101) a new access is proposed on this façade. It is unclear if this opening has been allowed for in the sound transmission calculations.
- 7.4.26. The rooflights in the existing roof of the proposed concert hall area are to be removed and returned to the original roof construction. The report estimates that the sound insulation for the existing roof with the rooflight removed to be 48dB R_w . It is therefore proposed to install an additional 2 sheets high density plasterboard fixed to the existing roof using resilient channels on battens with mineral fibre in between. With these works, it is estimated that the roof will have a calculated sound insulation performance of 57 dB R_w .
- 7.4.27. The bar area is above the existing retail area. The closest noise sensitive location are the apartments which are accessed off Rowe Street Lower and adjacent to the existing fire escape stairs. These apartments are c.2m from the southern façade of the proposed bar area.
- 7.4.28. It is stated that this area will not have any loudspeakers located in it and it is estimated that it will have sound level of at least 10dB below the theatre area. It is stated that the main noise in this area will be from patrons and overspill from the concert area. I note that in the proposed floor plan (Dwg. No. P-101) this area is open to the concert area.
- 7.4.29. It is proposed to remove and block up the existing windows on the southeastern internal wall of the bar area. It is stated that the existing structure with block windows should allow for an estimate sound insulation performance of at least 50dB R_w . It is claimed that it should not be necessary to add an acoustic lining to this wall given the reduced sound level. I have concerns with this approach as stated above apartments are only 2m from this elevation and emergency exit and the bar area is open to the concert area. Given this proximity and to ensure the integrity of the box within a box

approach to sound reduction, I consider that this wall should be acoustic lined. If the Coimisiún is minded to grant permission, I recommend that a condition be attached requiring the acoustic lining of the southeastern internal wall of the bar area.

- 7.4.30. The existing corrugated cement roof is to be replaced with an acoustic ceiling which will give an estimated sound insulation performance of 58dB R_w for the roof structure. I note that the reports states that it will be important to check that the structure can be safely accommodate the additional wight of the proposed sound insulation and alternatives may be required.
- 7.4.31. The appellants query if the 34-37 dB $L_{Aeq, 5min}$ figure is an acceptable standard for inside noise sensitive dwellings. Given the town centre location and the fact that with noise mitigation measures sound levels transmitting to the sound into the adjacent noise level sensitive location will be below a claimed 30dB L_{Aeq} , I am satisfied that the level of transmission of noise from the proposed development will not be significantly injurious to the residential amenities of the nearest properties.

Noise from People

- 7.4.32. The Acoustic Report acknowledges that noise may be generated by people entering/exiting the premises which could lead to disturbance on Mallin Street. It states that the likelihood of disturbance is small as it is only likely to occur when the people are entering for a performance which is likely to be between 19.15 and 20.00 and when people are leaving after the performance. The applicant has stated their commitment to using a standard theatre licence arrangement for alcohol sales and state that the bar will remain closed after the performance and there will be a hard curfew for the venue of 22.30. I note that condition no. 2 of Wexford County Council's grant of permission requires that no members of the public shall remain on the premises after 23.00.
- 7.4.33. While I acknowledge the appellant's concerns relating to potential noise disturbance on the street, the proposed development is in a town centre location where nighttime activity is to be expected. The proposed development is not for a public house or nightclub and is a venue for performance which will empty over a short period of time. The applicant has given a commitment that the venue will close after a performance. Given the scale of the proposed concert hall and the opening and

closing hours of the venue, I consider that the proposed development in this town centre location will not be significantly injurious to the residential amenity of the area.

- 7.4.34. Therefore, if the Coimisiún is minded to grant permission, I recommend that a similar condition as attached to the grant of permission by the local authority be attached, requiring that no members of the public shall remain on the premises after 23.00.

Conclusion

- 7.4.35. The proposed development differs from the previous proposed development as refused permission under ABP -309724-21 in that it does not include the ground floor of the adjoining Methodist Chapel, is reduced in scale and importantly does not include for amplified band music events. Subject to conditions I am satisfied that the proposed sound reduction design measures to be used and the scale and nature of the events in the concert hall, that the proposed development will not be seriously injurious to the residential amenity of the surrounding property.

7.5. Impact on Protected Structure

- 7.5.1. The site is adjacent to the Wesleyan Methodist Church which has been listed as a protected structure by reason of its inclusion in the Record of Protected Structures contained in Volume 5 of the Wexford County Development Plan (RPS No. WBC0151) It is also included in the National Inventory of Architectural Heritage with the former church considered to be of 'regional' importance by reason of its architectural, artistic, historical & social qualities (Ref: 15503102).
- 7.5.2. In the grounds of appeal, the appellants have raised concerns that as there is no current Wexford Town Local Area Plan there are no policy objectives for the protection of architectural heritage. I note that unlike the previous application on the site (ABP: 309724-21) the Wesleyan Methodist Church is not included in the current application. The Wexford County Development Plan is the operational plan for the area, 2022-2028. The plan includes a range of policy objectives for the protection of built heritage.

- 7.5.3. The appellants also raised concerns that there could be potential damage to the protected structure due to the construction of the proposed development due to the impact of drilling. The appellant has not supplied any detailed justification for their concerns. The applicant has stated that the proposed development incorporates box-in-box construction acoustic isolation, and the internal box will be free stranding and air gapped from the protection structure save for resilient mountings attached to the partition wall for stability.
- 7.5.4. Given that the protected structure is not included in this application and the nature of the construction proposed I am satisfied that the proposed development will not be seriously injurious to the architectural character of the adjoining protected structure.

7.6. Access and Parking

- 7.6.1. No parking is proposed for the development. The appellants highlight the lack of parking as an issue. The proposed development is for the change of use of part of an existing retail unit to a concert venue. I note that in Table 6.3 - *Car Parking* Standards included in Volume 2, Development Management Manual states that *'When dealing with planning applications for change of use or for replacement buildings, an allowance will be made for the former site use when calculating the car parking requirements generated by the new development'*. Maximum Standard in Town Centre for retail and for Cinemas, theatres, stadia are both 1 space per 100m². As there is no increase in floor area and as there is no dedicated car parking for the existing retail use, I am satisfied that that the proposed development complies with the Development Plan in this regard.
- 7.6.2. The proposed development is located in the town centre of Wexford, where there are adequate car parks and street car parking within walking distance to serve the proposed nighttime use of the building.
- 7.6.3. The appellant also raises concerns relating to how performers will move equipment in and out of the proposed venue as there is no dedicated loading space. The site is in a highly accessible part of Wexford town and loading of equipment can happen on Mallin Street or Rowe Street Lower. I considered that the additional traffic disruption that this may cause will be not significant in the town centre setting. In this regard I consider the proposed development to be acceptable.

7.6.4. The appellants also raise concerns that given the narrow width of Mallin Street, there would potentially be issues with emergency services accessing the proposed venue or neighbouring residences due to congestion with crowds, taxis, etc. The site is located on Mallin Street which is a one-way street, less than 20m from Rowe Street and High Street and c.77m to John's Gate Street. Due to the route options, I consider that there is adequate provision for emergency vehicles to service the proposed development and surrounding residential properties.

7.7. Property Value

I note the concerns raised in the grounds of appeal in respect of the devaluation of the neighbouring properties and the ability to rent these properties. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

8.0 AA Screening

I have considered case ABP 320629 in light of the requirements S177U the Planning and Development Act 2000 as amended.

The proposed development is located within a residential area and comprises the conversion of an existing outbuilding into a two-bed apartment, minor alterations to elevations and all associated site works. The closest European Site, The Slaney River Valley Special Area of Conservation (Site Code: 000781), is approximately 200m northeast of the site. The Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076) is approximately 500m northeast of the site.

Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- Small scale and change of use nature of the development.
- The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site.

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Water Framework Directive

- 9.1. The subject site is located in the town centre of Wexford Town and c.250m from the Lower Slaney Estuary Transitional Water Body, which is at risk, c.500m from the Rathaspick_00 River Waterbody which is under review. The ground waterbody for the area is the Castlebridge Ground Waterbody which is not at risk.
- 9.2. The proposed development of the change of use of part of an existing building from retail to a concert hall with associated ancillary uses and the sale of alcohol for consumption on the premises with associated site works.
- 9.3. No water deterioration concerns were raised in the planning appeal.
- 9.4. I have assessed the change of use from retail to music venue and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 9.5. The reason for this conclusion is as follows:

- Nature of works e.g., small scale and nature of the development.
- The lack of hydrological connections.

9.6. Conclusion

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

10.0 Recommendation

I recommend that permission be granted subject to the following conditions.

11.0 Reasons and Considerations

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, in an established commercial area and to the nature and scale 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 amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area..

12.0 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 received by the planning authority on the 1st day of July 2024, 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. Unless otherwise agreed in writing by the Planning Authority:

- The venue shall operate generally in accordance with the programme of events as detailed in the submission of 1 July 2024.
- No more than 50 shows per year or more than 3 events on consecutive days shall take place.
- No members of the public shall remain on the premises after 11pm.
- The programme of events shall not include any amplified bands/groups.
- The venue shall not operate as a public house/café where performances are not taking place.

Reason: In the interest of the residential amenity of the area.

3. (a) The noise reduction measures contained in the Acoustic Assessment submitted to the planning authority on the 2nd April 2024 shall be completed in full prior to the first use of the concert hall and undertaken/retained in working conditions.
- (b) The southeastern internal wall of the bar area shall be acoustically lined, details of which shall be submitted to the planning authority for written agreement by the Planning Authority before the commencement of development.
- (c) Any alterations to the noise reduction measures shall be agreed in writing by the Planning Authority.
- (d) Prior to the first use of the building as a concert hall, the applicant shall submit confirmation and certification that these works have been completed.

Reason: In the interest of the residential amenity of the area.

4. (a) Noise resulting from operations affecting nearby noise sensitive locations shall not exceed the background level by 10 dB(A) or more or exceed EPAs NG4 (Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities) limits whichever is lesser (as measured from the facade of the nearest noise sensitive locations). a) Daytime (0700-1900) 55 dB LAr, 1hr b) Evening (1900- 2300)- 50 dB LAr, 1 hr) Night-time (2300- 0700)- 45 dB LAr, 15min. As measured from the facade of the nearest noise sensitive location. Clearly audible and impulsive tones at noise sensitive locations during the evening and night shall be avoided irrespective of the noise level.

(b) There shall be no outbreak of amplified music from any activities, at nearby noise sensitive locations.

Reason: To protect the (residential) amenities of property in the vicinity of the site

5. All external shopfront and signage shall be in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to the provision of such shopfronts and signage. Where agreement cannot be reached between the applicant/developer and the local authority the matter shall be referred to An Coimisiún Pleanála for determination. The signage shall be lit by external illumination only.

Reason: In the interest of visual amenity.

6. Prior to the commencement of development, the developer shall enter into a Connection Agreements with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

7. If, during the course of site works any archaeological material is discovered, the County Archaeologist/Planning Authority shall be notified immediately. (The applicant/developer is further advised that in this event that under the National Monuments Act, the National Monuments Service, Dept. of Housing, Heritage and Local Government and the National Museum of Ireland require notification.)

Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

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.

Peter Nelson
Planning Inspector

24th September 2024

Appendix 1

Form 1 - EIA Pre-Screening

Case Reference	320629-24
Proposed Development Summary	Change of use from retail to concert hall, associated ancillary uses and the sale of alcohol for consumption on the premises with associated site works, including alterations to maintain existing delivery access to adjacent retail units.
Development Address	Mallin Street, Wexford
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	☒ Yes, it is a 'Project'. Proceed to Q2.
	☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☐ No, the development is not of a Class Specified in Part 2,	

Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Class 10(b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ **Date:** _____

Form 2 - EIA Preliminary Examination

Case Reference	320629-24
Proposed Development Summary	Change of use from retail to concert hall, associated ancillary uses and the sale of alcohol for consumption on the premises with associated site works, including alterations to maintain existing delivery access to adjacent retail units.
Development Address	Mallin Street, Wexford
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The works involved in the change of use from retail to a concert hall are not significant in scale and will not involve significant demolition, use of natural resources or production of waste. While there will be an element of noise and late-night activity related with operation of the proposed development this is not considered to be significant.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The proposed development is located in the central commercial are of Wexford Town. The area contains a mix of commercial, community and residential uses. The Slaney River Valley Special Area of Conservation (Site Code: 000781), is approximately 200m northeast of the site. The Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076) is approximately 500m northeast of the site. The Wexford Harbour and Slobbs Proposed Natural Heritage Area (Site Code: 000712), approximately 500m northeast of the site.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent,	Having regard to the characteristics and scale of the development and the sensitivity of its location, there is no potential for SIGNIFICANT effects.

nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)