

An
Coimisiún
Pleanála

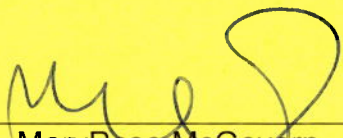
Direction
CD-020402-25
ABP-322306-25

The submissions on this file and the Inspector's report were considered at a meeting held on 01/08/2025.

The Commission decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Planning

Commissioner:


MaryRose McGovern

Date: 07/08/2025

DRAFT WORDING FOR ORDER

Reasons and Considerations

Appropriate Assessment

The Commission completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced area, the distance from European sites, the absence of direct ecological connections, the Inspector's report, and submissions on file. In completing the screening exercise, the Commission adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site.

Proper Planning and Sustainable Development

Having regard to the pattern of development in the area, and to the Business Park zoning objective associated with the subject site as outlined in the Kilkenny City and County Development Plan 2021-2027, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or have an adverse impact on the traffic safety of the area, and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 24th of February 2025 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 the proper planning and sustainable development of the area.

2.
 - (a) Prior to commencement of development the applicant shall submit for the written agreement of the planning authority, the finishes and layout of the development entrance and associated tactile paving layout for the footpath and cycle track to ensure that priority is given to pedestrians and cyclists and the layout priority is clearly communicated to all road users. The recommendations of the Road Safety Audit and Mobility Audit shall be incorporated into the agreed layout.
 - b) The applicant shall incorporate the agreed recommendations of the Mobility Audit and Stage 1/2 Road Safety Audit recommendations into the detailed development

Design. The applicant shall carry out a Stage 3 Road Safety Audit for the proposed development.

c) The applicant shall provide public lighting for the proposed development. The applicant shall carry out an assessment of the constructed lighting and adjust the lighting where required to ensure that excessive light spill or direct glare does not adversely affect adjoining properties or the public road. Within six months of commissioning the building the applicant shall provide details of this assessment to the planning authority to demonstrate that the lighting provision is optimised and meets the requirements in relation to excessive light spill and glare and to demonstrate that the maximum Threshold Index along the roads in the vicinity of the development is below the maximum permissible level appropriate for this location.

Reason: In the interest of traffic safety.

3. Details of the materials, colours and textures of all the external finishes to the proposed apartment blocks shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey.in colour only.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

4. Site development and building works shall be carried out only between the hours of 0700 to 1900, Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the relevant Section of the planning authority for such works and services. The stormwater shall be managed and maintained in accordance with the BER Soakaway Design which was submitted by way of further information on the 24th of February 2025.

Reason: In the interest of public health and surface water management.

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

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

7. 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) the location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) the location of areas for construction site offices and staff facilities;
 - (c) the details of site security fencing and hoardings;
 - (d) the details of on-site car parking facilities for site workers during the course of construction ;
 - (e) the 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) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - j) the details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (l) the off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

(m) the means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains; and

(n) a record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

Reason: in the interest of amenities, public health and safety and environmental protection.

8. Prior to the commencement of the proposed development an operational waste management plan shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of public health and the protection of the environment.

9. The landscaping scheme submitted with the planning application documentation shall be carried out within 12 months of the date of commencement of development or within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants/ trees which die or become seriously damaged or diseased, within a period of 5 years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of visual amenity.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the 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 upon between the planning

authority and the developer, or, in default of such agreement, the matter shall be referred to An Coimisiún 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.

Notes:

1. In considering the appeal, the Commission noted the bona fides of the Appellant and the arguments he put forward regarding the proposed development on the subject site which, on the date of the site inspection, was supporting a tillage crop. The appeal was considered and assessed on the basis of the arguments presented, which the Commission considered to be reasonable. The Commission however noted that within the current development plan for Kilkenny City and Environs, the site is zoned as 'Business Park', with a zoning objective 'to provide for commercial activity including industry, information technology-related industrial and office development and ancillary services and retail warehousing'. The Commission noted that car show rooms are "Permitted in Principle" under this zoning, and it agreed with the Inspector that the proposed development at the subject site, would be in keeping with the current zoning objective for the subject site and the adjoining land uses.
2. The Commission did not consider it appropriate to attach a condition regarding the procurement of a Trade Effluent Licence, under Section 16 of the Local Government (Water Pollution) Act, 1977-1990 (as amended), as this requirement does not arise under the planning code.