



Planning and Development Acts 2000 to 2018

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 18/173

Appeal by James Brophy Transport Limited care of Fenton and Associates of Unit 13, The Seapoint Building, 44-45 Clontarf Road, Dublin against the decision made on the 8th day of May, 2018 by Kilkenny County Council to refuse permission to the said James Brophy Transport Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: Permission for variations to site layout of the existing transport workshop and grounds previously permitted under planning register reference number 11/453, An Bord Pleanála appeal reference number PL 10.240192. The permission being sought consists of variations to site development works comprising (i) erection of a 2.4 metres high concrete post and timber panel screen located 2.5 metres from western boundary of the site of approximately 80 metres in length, (ii) a 2 metres high post and wire fence and planting of hedge along the existing western and northern boundaries of the site, (iii) erection of three number nine metres high lighting standards to north of existing workshop, (iv) revisions to car parking layout to front of existing workshop and (v) revisions to landscaping north-west of yard. Permission is also sought for the retention of (a) wash bay and extension to concrete yard to north-east which caters for tractor parking, (b) compacted

gravel yard to north west of existing yard, (c) oil tank and bunded area adjoining the north-west of workshop, (d) a single storey staff amenity building (six metres by three metres) located to the west of the workshop. Permission and retention permission are also sought for minor landscaping modifications all on a site area of approximately one hectares, all at Rathmore Road, Fiddown, County Kilkenny.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the nature of the development proposed and for retention, associated with an established truck haulage business, the planning history and, in particular, planning register reference number 11/453, An Bord Pleanála appeal reference number PL 10.240192 and its location on the outskirts of a village, with easy access to the N24, it is considered that, subject to compliance with the conditions set out below, the proposed development and the development proposed to be retained would not seriously injure the residential or rural amenities of the area, would not be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out, completed and retained in accordance with the plans and particulars lodged with the application, 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, completed and retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The operating hours of the development shall be from 0800 hours to 1800 hours Monday to Saturday. The development shall not operate on Sundays and public holidays.

Reason: In the interest of residential amenity.

3. The size of the truck fleet to be serviced from this site shall be limited to a maximum of 20 vehicles.

Reason: In the interest of residential amenity.

4. Within three months of the date of this order, a revised site layout plan shall be submitted to, and agreed in writing with, the planning authority showing compliance with the following requirements:

- (a) a set back of the staff and visitor car park from the south-western boundary by eight metres,
- (b) the relocation of the staff amenity building such that it is set off the south-western boundary by 18 metres, and
- (c) a set back of the truck parking area a further five metres such that a buffer area of 16 metres decreasing to 11 metres can be achieved.

These works shall be completed on site within six months of the date of this order.

Reason: In the interest of clarity and residential amenity.

5. Within six months of the date of this order, the following works shall be completed on-site:
- (a) erection of a 2.4 metres high concrete post and timber panel screen located 2.5 metres from western boundary of the site of approximately 80 metres in length, such that it can act as a noise barrier to protect the amenities of the adjoining residential property,
 - (b) a two metres high post and wire fence and planting of hedge along the existing western and northern boundaries of the site, and
 - (c) completion of planting and landscaping along boundaries and buffer areas.

Reason: In the interest of clarity and orderly development.

6. The reinstated grassed area indicated on plans submitted shall not be used for the storage or parking of vehicles or any other materials.

Reason: In the interest of clarify and orderly development.

7. Within six months of the date of this order, the site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
- (i) the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species,
 - (ii) details of screen planting which shall not include cupressocyparis x leylandii,
 - (iii) details of roadside/street planting which shall not include prunus species.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

- (c) A timescale for implementation including details of phasing.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five 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 interest of residential and visual amenity.

- 8. Within three months of the date of this order, details of the surface water drainage system shall be submitted to, and agreed in writing with, the planning authority showing compliance with the following requirements:

- (a) proposals for the diversion of trade effluent from the truck wash to the public foul sewer, and
- (b) proposals to ensure that surface water shall not drain onto the adjoining public road.

These works shall to be completed on site within six months of the date of this order.

Reason: In the interests of environmental protection and public health.

9. The proposed lighting shall be erected by a suitably qualified lighting specialist and the lighting directed and cowled such as to reduce light scatter outside the boundaries of the site.

Reason: In the interest of residential amenity.

10. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:-
- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.
- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the amenities of property in the vicinity of the site.

11. Within three months of the date of this order, a noise management plan identifying measures to be employed to ensure that the noise from the development complies with the terms of condition number 10 and identifying a noise liaison officer responsible for the implementation of the plan shall be submitted to, and agreed in writing with, the planning authority.

Reason: To protect the amenities of property in the vicinity of the site.

12. The developer shall ensure that all operations are carried out in a manner such that air emissions and/or odours do not result in significant impairment of, or significant interference with, the amenities or the environment beyond the site boundary.

Reason: To protect the amenities of property in the vicinity of the site.

13. All car and truck spaces shall be clearly delineated on site and shall be available at all times for that sole purpose. Parking areas shall not be used for open storage of materials or other equipment.

Reason: In the interest of orderly development.

14. Waste oils/fluids/batteries and discarded machinery parts shall be properly stored on site in a defined waste collection area and shall be properly disposed of by specialist contractors at frequent intervals.

Reason: In the interest of public health.

15. No advertisement or advertisement structure other than those shown on the drawings submitted with the application shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

16. 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 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.

Paul Hyde

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2018.

