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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 19/164**

**Appeal** by the Commissioners of Public Works in Ireland on behalf of the Office of the Government Chief Information Officer, Department of Public Expenditure and Reform care of Tom Phillips and Associates of 80 Harcourt Street, Dublin against the decision made on the 24<sup>th</sup> day of October, 2019 by Kildare County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of one number building described as follows. The building is circa 5,474square metres with an additional circa 2,826 square metres in external plant area and is made up of three distinct parts. The central two-storey block has a mono-pitch roof structure, the ridge height of which is circa 15.15 metres and it accommodates the data halls and associated plant and equipment rooms. The front block has a flat roof structure with a parapet and is two-storey with a parapet height of circa 10.60 metres and it accommodates the entrance reception, offices, meeting room, associated support areas, tea station, w.c.'s, stores, plant areas including five number back-up generators and two number substations (3MV). The third block is located to the rear of the main data hall block and consists mainly of an external two-storey plant space with external stairways with intermediate level gangways. The two-storey external plant area is screened (circa 10.6

metres) by a metal mesh structure. There are also two, two-storey flat roof internal plant rooms connecting to the central block. The provision of a perimeter service road/green road around the building to allow for access and maintenance of equipment to the front and rear of the block. The provision of a perimeter fence and access gates, hard and soft landscaping, signage and all associated site works, all on a site of 13,590 square metres/1.359 hectares at Backweston Campus, Ballymadeer, Celbridge, County Kildare.

## **Decision**

**Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE condition number 2 and the reason therefor.**

## **Reasons and Considerations**

Having regard to the following:

- the scope and cost of the works, which would be required by condition number 2 of the planning authority's decision, would not be necessary or reasonable to facilitate the construction or operation of the proposed development which, it is further considered, would not have any appreciable impact on the capacity of the junction, and certainly not such as would justify the requirement that the entirety of the cost would be borne by the developer;
- the planning authority has not made a coherent case in the reports on file, or in its response to the grounds of appeal, that would justify the extent and scope of the works required by condition number 2;

- it is not clear that the achievement of the specific requirements set out in condition number 2, regarding compliance with the Design Manual for Urban Roads and Streets, the National Cycle Manual, and right turning lanes can be accommodated within the existing road curtilage, and it is therefore likely that the delay in the construction of the proposed development, due to the necessity to acquire additional lands, would be significant;
- the lack of clarity with regard to the final design, and associated cost, required for the junction would be contrary to the principle that conditions should be precise;

it is considered that condition number 2 of the planning authority's decision would be contrary to the Development Management Guidelines for Planning Authorities, 2017, specifically the Basic criteria for conditions as set out at paragraph 7.3, and would, therefore, be contrary to the proper planning and sustainable development of the area.

## **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.

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

**Dated this            day of            2020.**