

An  
Bord  
Pleanála

**Board Order**  
**ABP-318125-23**

---

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 23/794**

**Appeal** by Fintan Hurley and Deirdre O'Reilly of Kilbeg House, Boycetown, Kilcock, County Kildare against the decision made on the 5<sup>th</sup> day of September, 2023 by Kildare County Council to grant subject to conditions a permission to Musgrave Retail Partners Ireland care of Colman Cotter Consulting Engineers of Sullane House, Great Island Enterprise Park, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of a single storey extension on the eastern and southern sides of the existing garage/workshop building and to construct a new canteen in part of the existing store at mezzanine floor level with a new externally clad fire escape stairs on the northern (rear) elevation in the existing building located on the northern corner of the site and all associated site works and services, all at Boycetown, Kilcock, County Kildare.

*APB*

## **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.**

## **Reasons and Considerations**

Having regard to the established use of the site as a distribution warehouse and the design and scale of the proposed development, and to the totality of the documentation on file, including third party submissions and the reports of the planning authority, including screening for appropriate assessment, it is considered that, subject to compliance with the conditions set out below, the proposed development would not result in significant impacts on the residential amenity of adjoining property, or the visual amenities of the area and would not have any significant effect on the ecology of the area or on any European site. 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, 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. The proposed extension shall be used solely for maintenance purposes in association with the existing warehouse facility. The extension shall not be subdivided from the remainder of the building or the site and shall not be used, let or sold as a separate unit.

**Reason:** In the interest of clarity and to regulate the use of the development.

3. The external finishes of the proposed extension shall match the external finishes of the existing maintenance shed in terms of materials and colour, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. Prior to commencement of any development on the site, the developer shall submit for written agreement with the planning authority, a comprehensive landscaping plan for the rear boundary of the site. The scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing-

- (i) existing trees and shrubs, hedgerows, specifying which are proposed for retention,
- (ii) the measures to be put in place to protect the species proposed for retention, and
- (iii) the species, variety, number, size and location of all proposed trees and shrubs which shall comprise predominantly native species and which shall not include *cupressocyparis x leylandii*.

(b) A timescale for implementation.

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:** To ensure a visual screen is maintained along the rear boundary of the site in order to protect the amenities of the Royal Canal.

5. Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.

**Reason:** In the interest of public health.

6. The developer shall prepare, in consultation with Inland Fisheries Ireland, a Construction and Surface Water Management Plan for the management of surface water discharges from the site and incorporating measures to protect surface water quality. The Plan shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** In the interests of protecting the environment and the amenities of the area.

7. The developer shall institute appropriate measures to prevent material being drawn from the site onto the public road. No earth, soil or other material from the site shall be drawn or deposited onto the public road. Any damage to the public road during construction works shall be repaired at the developer's expense.

**Reason:** To avoid a traffic hazard and protect public property.



8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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:** To safeguard the amenities of property in the vicinity.

9. (a) During the operational phase of the proposed development, the noise level arising from the proposed development, as measured at the nearest noise sensitive location shall not exceed:
- (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. The T value shall be one hour.
  - (ii) An LAeqT value of 45 dB(A) at any other time. The T value shall be 15 minutes. The noise at such time shall not include a tonal or impulsive component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation R 199 "Assessment of Noise with respect to Community Response" as amended by ISO Recommendations R 1996 1, 2, or 3 "Description and Measurement of Environmental Noise", as applicable.

- (c) Within three months of the development being in full operation, or at any other time as specified by the planning authority, a detailed Noise Study carried out by a competent Noise Consultant, shall be submitted for written agreement with the planning authority and shall include recommendations for appropriate mitigation in the event that the noise levels specified by this condition are exceeded, or tonal or impulsive components are identified.

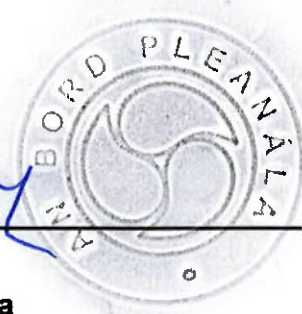

**Reason:** To protect the amenities of property in the vicinity.

10. All artificial light sources shall be suitably cowled and designed to avoid spillage outside the site.

**Reason:** To minimise impacts on wildlife.

11. 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.



**Chris McGarry**

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

Dated this  day of  2024.