

An
Bord
Pleanála

Board Order
ABP-321044-24

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 23/60368

Appeal by Brenda Beirne of Killeighter, Kilcock, County Kildare against the decision made on the 23rd day of September, 2024 by Kildare County Council to grant subject to conditions a permission to Pak Automation Limited care of David Mulcahy of 67 The Old Mill Race, Athgarvan, Newbridge, County Kildare in accordance with plans and particulars lodged with the said Council.

Proposed Development: Retention of the change of use of the existing warehouse for light industrial use involving the manufacturing of packaging engineering, service and systems with light repair activities. Permission for a new proprietary wastewater treatment system and soil polishing filter and all ancillary site works and landscaping, all at Killeighter Cross, Kilcock, County Kildare.

Decision

GRANT permission for the above 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 provisions of the Kildare County Development Plan 2023-2029, including Section 15.1.2 that refers to three types of non-conforming uses, including uses that 'have no permission but exceeded the time limit for enforcement proceedings', it is considered that the pre-existing agricultural/construction/commercial use falls into this category, and having regard to the nature and design of the development, it is considered that, subject to compliance with the conditions set out below, the development proposed to be retained and proposed development would not seriously injure the amenities of the area or of property in the vicinity, would result in improvements to wastewater treatment, thus reducing environmental impacts, would be acceptable in terms of traffic safety, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted the planning and enforcement history and was satisfied that the existing development on site falls into a non-conforming use category (Category 3) as set out in Section 15.1.2 of the Kildare County Development Plan 2023-2029. There is no proposal to extend the premises. The Board shared the view of the planning authority that given the existence of the premises as an established non-conforming use, a grant of permission with conditions attached afford an opportunity to regulate and control the development occurring on site and the Board considered this to be a preferable outcome than an unregulated non-conforming use remaining on the site. Therefore, the Board considered that permitting retention (for the most part) and permission for the new wastewater treatment system and landscaping, subject to appropriate conditions, would be in accordance with policy and with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained, 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 22nd day of August, 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 retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The structure shall be used for light industrial use only with ancillary office and welfare facilities associated with that use.
- (b) Any further subdivision or change of use or increase in office or floor space within the development, whether or not such change, subdivision or amalgamation would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended, shall not be undertaken without a prior grant of planning permission.

Reason: To regulate the use of the development and to ensure that proper planning control is maintained.

3. Within one month of the final grant of permission, the developer shall submit drawing number 124-A29-SP01 with sightline distances in accordance with Transport Infrastructure Ireland (TII) Geometric Design of Junctions DN_GEO-03060 and recommendations of the Bruton Consulting Engineers, Road Safety Audit dated July 2024 for the written agreement of the planning authority.

Reason: In the interest of clarity.

4. Within three months of the date of this Order, the developer shall submit a detailed landscaping plan and associated site layout plan which shall provide for significant screening of the development from the roadside boundaries, which shall include native species and a timeline for the implementation of same, for the written agreement of the planning authority.

Reason: In the interest of proper planning and sustainable development.

5. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interest of sustainable drainage.

6. Noise from the operational stages of the development shall not give rise to sound pressure levels (Leq 15 minutes) measured at noise sensitive locations which exceed the following limits:

- (a) 55 dB(A) between the hours of 0800 and 1800 Mondays to Fridays, inclusive (excluding bank holidays), and 45 dB(A) at any other time.
- (b) There shall be no clearly audible tonal component or impulsive component in the noise emission from the development at any noise sensitive location.

A detailed Noise Study, with recommendations, shall be carried out by a competent noise/environmental consultant within three months of the development being in full operation and at any other time as may be specified by the planning authority. The Noise Study shall be submitted for the written agreement of the planning authority.

Reason: In the interest of public health and proper planning.

7. The wastewater treatment system, including the percolation area and/or polishing filter, shall be designed and installed strictly in accordance with the approved layout plans by suitably trained and competent persons as per the 2021 "EPA Code of Practice for Domestic Waste Water Treatment Systems".

Reason: In the interest of public health.

8. Staged photographs of the installation and commissioning stages of the wastewater treatment system shall be supplied to the planning authority together with a commissioning certificate by a suitably competent professional for approval prior to occupation of the premises.

Reason: In the interest of public health.

9. The Domestic Wastewater Treatment System shall be maintained in accordance with Section 12.1 of the EPA Code of Practice for Domestic Wastewater Treatment Systems on a bi-annual basis, or more often if recommended in the manufacturer's recommended guidelines.

Reason: In the interest of public health.

10. The developer shall comply with the requirements of the planning authority in respect of traffic requirements.

Reason: In the interest of traffic management and safety.

11. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended, shall be displayed or erected on the buildings or within the curtilage of the site without the prior agreement of the planning authority.

Reason: In the interest of visual amenity.

DECISION QUASHED

12. 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 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.

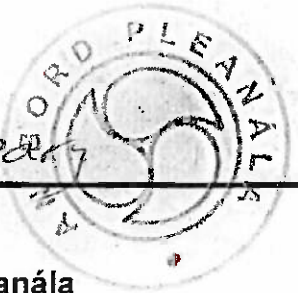
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Patricia Calleary

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Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.



Dated this 18th day of March 2025.