



An  
Bord  
Pleanála

## inspector's Report ABP-303032-18

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<b>Development</b>	Change of Use from Industrial Unit to Gymnasium
<b>Location</b>	Unit 6E, Cill Dara Industrial Estate, Newbridge County Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	18550
<b>Applicant(s)</b>	Coachside Limited.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party V. Decision
<b>Appellant(s)</b>	Coachside Limited.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	18 <sup>th</sup> February 2019.
<b>Inspector</b>	Susan McHugh

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## 1.0 Site Location and Description

- 1.1. The appeal site is located within the Cill Dara Industrial Estate, Newbridge, Co. Kildare. The industrial estate is on the southern side of the Athgarvan Road, and Newbridge town centre. It is adjoined to the south by Industrial Warehousing units and to the west by residential development.
- 1.2. Newbridge Shopping Centre is located to the north west, Newbridge Retail Park to the north, Whitewater Shopping Centre and multi storey car park are located c. 400m to the north east, with Newbridge Silverware is located c. 300m to the east. There are a number of large supermarkets opposite the industrial estate which include a Dunnes Stores, SuperValu and Lidl. Each are provided with surface car parking.
- 1.3. Unit 6E is one of a number of units within a larger block. Other units comprise The Fabric Library/Furniture Clearance outlet, Michael Murphy Furniture, Car Parts unit, We-fit Tyres and a Steel Fabricator Business. The fabric store and furniture store each include accommodation at first floor level. A number of other units remain vacant.
- 1.4. The industrial estate is accessed from the Athgarvan Road, with surface car parking is provided to the front of the units. Pedestrian access from the surface car park to the adjoining footpath along Athgarvan Road is located opposite the appeal site.
- 1.5. Unit 6E (outlined in green) is a single unit, with a double height space and extends from the front to the rear of the block. It is currently vacant and appears to have been previously in use as a car service garage.
- 1.6. The subject site (outlined in red) is 'L' shaped and forms part of the overall unit. The remainder of the unit is referred to as Unit F (outlined in blue) which is also within the applicants' ownership.
- 1.7. The front elevation comprises glazing and entrance doors with signage over.
- 1.8. The site has an area of 0.0723 ha.

## 2.0 Proposed Development

- 2.1. Permission is sought for the following;

- Subdivision of Unit 6E into two No. Units 6E and 6F with associated mezzanine floors to Unit 6E.
- Change of use from Industrial to a Gym on proposed Unit 6E.

#### Ground Floor

- At ground floor it would comprise entrance, reception and gym area with toilets, changing areas and store to the rear. An escape corridor is also proposed with several exit doors from the gym area. The ground floor would have a stated gross floor space of 469.1 sqm. with an escape corridor of 38sqm.

#### Mezzanine Floor

- The mezzanine floors (1) and (2) are located to the front over the reception area and to the rear over the toilets and changing areas only, with stated floor areas of 49.4sqm and 101.75sqm respectively. Mezzanine floor (2) would also serve as a gym area.
- The total floor area is stated as 620.25sqm. (excluding the escape corridor).
- Modifications to the front elevation includes removal of signage
- All ancillary works at Unit 6E.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The planning authority decided to **refuse** planning permission for the following reason;

*The proposed development is located on lands zoned as 'Q Enterprise and Employment' in the Newbridge Local Area Plan, 2013-2019. A 'gym' is neither permissible nor open for consideration on Q zoned lands, and the proposed development would, if permitted, contravene the Newbridge Local Area Plan, 2013-2019. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports (dated 04/07/2018 and 18/10/2018)

Basis for planning authority decision. The 1<sup>st</sup> Report includes:

- Proposed change of use to a gym is not permitted on Q zoned lands, and would be a material contravention of the Newbridge Local Area Plan 2013-2019 and should be refused.
- The subdivision of the existing unit can be considered and a split decision is recommended.
- Applicant would need to apply in the future for a use that is compatible with the zoning.

Further information requested in relation to car and bicycle parking. The 2<sup>nd</sup> Report includes:

- Disagrees with the applicant's contention that the proposed gym is a fitness centre or health club (Health Centre) that is open for consideration under Q zoned lands.
- Notes applicants reference to a gym being open for consideration under industrial/warehouse zoning, but the site is zoned Q.
- Notes applicants reference to seeking a material contravention of the Development Plan if the Planning Authority deemed it necessary.

Recommendation to refuse permission.

#### 3.2.2. Other Technical Reports

**Area Engineer:** Report dated 11/10/2018 recommends no objection

**Water Services:** Report dated 29/05/2018 recommends no objection subject to conditions.

**Roads and Transportation:** Report dated 27/06/2018 recommends further information and report dated 09/10/2018 recommends no objection subject to conditions.

**Fire Services:** Report dated 26/06/2018 recommends further information and report dated 12/10/2018 recommends no objection subject to requirements.

**EHO:** Report dated 27/06/2018 and 06/07/2018 recommends no objection subject to conditions.

### 3.3. **Prescribed Bodies**

**Irish Water:** No report received.

### 3.4. **Third Party Observations**

None.

## 4.0 **Planning History**

*Concurrent Application Unit 6E*

**P.A. Reg. Ref. 18/549:** Permission **granted** 22/10/2018 for sub-division of Unit 6E into two No. Units 6E and 6F with associated mezzanine floors. Modifications to elevations. Change of use from Industrial to Warehouse (Wholesale) / Store / Depot / Office on proposed Unit 6F, and all ancillary works. This permission has not been implemented on site to date.

## 5.0 **Policy Context**

### 5.1. **Kildare County Development Plan 2017-2023**

5.1.1. **Chapter 1** refers to Core Strategy, and identifies Newbridge located in the Hinterland area as a Large Growth Town II.

5.1.2. **Chapter 3** refers to Settlement Strategy. Within the Hinterland area the overall function is for the Moderate Sustainable Growth Towns to develop in a self-sufficient manner, reducing commuting levels and ensuring sustainable levels of housing growth, providing a full range of local services adequate to meet local needs at district level and for surrounding rural areas. The provision of a strong social infrastructure in tandem with growth in population, particularly in relation to schools and leisure facilities is also required.

- 5.1.3. **Chapter 5** refers to Economic Development Enterprise and Tourism. **Section 5.3.3** refers to Land-Use and Economic Development.
- 5.1.4. **Policy ECD 5** : (ii) '*recognises the supporting role of economic clusters (Celbridge and Kilcock to Maynooth and Leixlip, and Kilcullen to Naas and Newbridge) in the delivery of critical mass to deliver employment opportunities on a regional scale.*'
- 5.1.5. **Chapter 17** refers to Development Management Standards.
- 5.1.6. **Table 17.9** refers to Car parking standards. The car parking requirement for Gymnasium / Recreation Centre is 1 space per 15 sqm gross floor area.
- 5.1.7. **Table 17.10 refers to Cycle Parking Standards.** The cycle parking requirement for Gymnasium / Recreation Centre is 1 space per 50 sqm gross floor area.
- 5.2. **Newbridge Local Area Plan 2013-2019** (extended on 19<sup>th</sup> December 2018 to 22<sup>nd</sup> December 2021)
- 5.2.1. The subject site is identified on Map 7 as land use zoning objective '**Q**' - **Enterprise and Employment**. (See map attached)
- 5.2.2. **Section 7.3** refers to Enterprise, Industry and Economic Development.
- 5.2.3. **Section 7.6.8** Design Brief 3: Military Road and Athgarvan Road. (See attached)
- 5.2.4. **Chapter 8** refers to land use zoning objectives in relation to Enterprise and Employment. It states: '*To facilitate opportunities for employment and enterprise uses, manufacturing, research and development, light industry, employment and enterprise related uses within a high-quality campus/park type development.*
- It is intended that these lands will be used for enterprise and employment uses in a high quality well designed environment. Sites facing Military Road shall be of high quality architectural design and landscaping in accordance with the principles set out in Design Brief 3 in Section 7.6.*
- Heavy industrial proposals more suitable to Industrial Warehousing zoned land and retail proposals more suitable to Town Centre zoned land will not normally be permitted.'*
- 5.2.5. **Table 18 of Chapter 8** lists uses that are permitted in principle, open for consideration and not permitted. Gyms are not specifically identified but

Community/recreational/sports buildings, and Medical Consultant/Health Centres are. The former uses are 'not permitted', while the latter are 'open for consideration'.

- 5.2.6. **Section 8.1** refers to the Application of Zoning Policy and in relation to 'Other Uses' states '*Proposed land uses not listed in the matrix will be considered on their merits of the individual planning application, with reference to the most appropriate use of a similar nature indicated in the table and in relation to the general policies and objectives and zoning objectives for the area.*'

### 5.3. Natural Heritage Designations

The following European sites are located in the vicinity.

Site Name	Designation	Site Code	Distance
Pollardstown Fen	SAC	000396	1.8km W
Mouds Bog	SAC	002331	3.6km N

### 5.4. Environmental Impact Assessment

- 5.4.1. Having regard to the nature the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The first party appeal was submitted by BMA Planning, Planning and Development Consultants on behalf of the applicants. The grounds of the appeal can be summarised as follows;



- *Compatibility of Use* - The proposed gym is compatible with the range of existing commercial uses in the same block which are appropriate having regard to the sites location in the edge of the 'Town Centre'.
- *Material Contravention* - The Planning Authority Decision and references to Material Contravention of zoning objectives are incorrect as the Zoning Matrix does not include 'Gym' and the proposed development can be considered on its merits.

## 6.2. **Planning Authority Response**

The planning authority confirmed their decision and refer to the planner's report.

## 6.3. **Observations**

None.

## 7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings;

- Principle of Development
- Material Contravention
- Car and Bicycle Parking
- Appropriate Assessment

## 7.2. **Principle of Development**

7.2.1. The proposed development comprises the subdivision of an existing unit within a larger block within an industrial estate. Permission is also sought for the change of use as car service garage to use as a gym.

- 7.2.2. Having regard to the subdivision of the unit, which is currently vacant, this was acceptable to the planning authority. I note the concurrent application for subdivision of the unit under P.A. Reg. Ref. 18/549 albeit for a different use has also been permitted by the planning authority. I also note that a number of other units include accommodation at first floor. I am satisfied, therefore, that the proposed subdivision of the unit is acceptable in principle.
- 7.2.3. The site is zoned Objective Q: Enterprise and Employment in the Newbridge Local Area Plan 2013-2019 adopted as part of the County Development Plan 2017-2023. In relation to the proposed change of use to a gym the planning authority noted in their assessment that Community / recreational / sports buildings are not permitted in principle under this zoning objective. The reason for refusal states that the proposed use is neither permissible nor open for consideration, and would contravene the LAP on the basis of land use zoning considerations.
- 7.2.4. The proposed gym use is not a listed use under the zoning matrix of the LAP or the County Development Plan, and as such it can be considered as an 'other use'. As such the application should be assessed on its merits. Having regard to the nature of the proposed change of use to a gym, I do not accept as advocated by the appellants that it could be classified as a health centre. I consider that the proposed change of use to a gym is more akin to an active recreational amenity use operated on a commercial basis, and thus not necessarily inconsistent with the zoning objective for the area.
- 7.2.5. I consider that the proposed change of use is a viable use, and a compatible use as argued by the appellants, particularly given its proximity to the commercial town centre. It would also diversify the range of uses and amenities available to workers and residents of the Newbridge area and is acceptable from a planning perspective.
- 7.2.6. I am also satisfied that the proposed development which would help to animate the frontage along Athgarvan Road would not prejudice the achievement of the LAP objectives set out under Design Brief 3 Section 7.6.
- 7.2.7. I am satisfied therefore, that the proposed subdivision of the unit and change of use to a gym is acceptable and generally consistent with the zoning objective for the area.

### **7.3. Material Contravention**

- 7.3.1. The Board will note that Reason Number 1 of the decision of Kildare County Council to refuse planning permission for the proposed development states that the proposed development would contravene the Newbridge Local Area Plan 2013-2019. As Section 37 (2)(b) of the 2000 Planning and Development Act (as amended) only applies, to development plans and not to local area plans, there is no impediment to the Board proceeding to grant a permission in this case.

### **7.4. Car and Bicycle Parking**

- 7.4.1. Existing parallel car parking spaces are located to the front of the units. Further to a request for further information a revised site layout plan was submitted indicating the location of a total of 17 dedicated car parking and two rows of bicycle stands adjacent to the unit.
- 7.4.2. I note the parking requirements as set out in Table 17.9 and 17.10 of the County Development Plan as they relate to a Gymnasium / Recreation Centre. On the basis of a gym floor area of 570sqm I calculate the car parking requirement as 38 no. spaces (1 space per 15 sqm gross floor area) and the bicycle parking requirement as 11 spaces (1 space per 50 sqm gross floor area). There would appear therefore, to be a shortfall in the number of car parking spaces proposed.
- 7.4.3. I note the Transport Section of the planning authority had no objection to the proposed development subject to car and bicycle parking being provided in accordance with development plan standards.
- 7.4.4. On the day of my inspection I noted the availability of free car parking spaces within the industrial park, and also the proximity of adjoining surface and multi storey car parking areas. I also noted the proximity of adjoining residential areas. The applicant in their response to further information also identified several pedestrian connectivity routes to the site from adjoining car parks which facilitate dual usage.
- 7.4.5. I am satisfied given the nature of the use, that there is sufficient car parking and bicycle parking to serve the development. I also consider that there is an opportunity to encourage more sustainable modes of transport given the location of the site.

## **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, the change of use to a gym within an existing building on serviced land within an established urban area, and the distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

I recommend that planning permission should be granted for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

Having regard to the location of the proposed development in an area zoned for economic development and employment related uses in the Newbridge Local Area Plan 2013-2019, and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed subdivision and change of use would be generally consistent with the zoning objective for the area, would not prejudice the achievement of the LAP objectives as set out under Design Brief 3, Section 7.6, and would not seriously injure the amenities in the vicinity of the site. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 26<sup>th</sup> day of September 2018, 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 proposed hours of operation of the gym shall be between 0630 hours and 2200 hours Monday to Friday and 0800 hours to 2200 hours at the weekend and public holidays.

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

3. Details of any signage including method of illumination shall be submitted to the Planning Authority and agreed in writing prior to the commencement of development.

**Reason:** To protect the visual amenities of the area.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

5. a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:-
  - (i) An Leq,1h value of 55 dB(A) during the period 0630 to 2200 hours from Monday to Sunday 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. 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 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

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

6. (a) The proposed bicycle stands, as indicated on drawing received by the planning authority on the 26<sup>th</sup> day of September 2018, shall be provided within three months of the date of this order.

(b) Within three months of the date of this order, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by users of the development.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

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Susan McHugh  
Planning Inspectorate

21<sup>st</sup> February 2019