



An
Bord
Pleanála

Inspector's Report

ABP-311163-21

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| Development | Provision of temporary (up to 5 years), 62 spaces car park with alterations to existing vehicular entrances, signage to gable elevation, part removal of boundary fence to provide pedestrian access together with associated site works. |
| Location | 14 Barrack Street, Kilkenny City, Co. Kilkenny. |
| Planning Authority | Kilkenny County Council |
| Planning Authority Reg. Ref. | 21545 |
| Applicant(s) | City Cinemas Ltd. |
| Type of Application | Permission |
| Planning Authority Decision | Refuse Permission |
| Type of Appeal | First Party |
| Appellant(s) | City Cinemas Ltd. |
| Observer(s) | None |

Date of Site Inspection

23rd September 2022

Inspector

Emer Doyle

1.0 Site Location and Description

1.1. The appeal site is located on the western side of Barrack Street in Kilkenny City. The site currently comprises of unoccupied waste land to the rear of residential/commercial premises at Nos. 13 and 14 Barrack Street including a bakery shop. The site is located to the south east of the existing IMC Cinema and associated car park.

2.0 Proposed Development

2.1. Permission sought for the following:

- A new temporary car park for a period of up to 5 years, containing 62 No. car parking spaces.
- Car parking spaces include 4 disabled spaces, 4 parent and child spaces and 6 Electric Vehicle spaces.
- The provision of 2 access points off Barrack Street.
- The provision of signage to the southern gable elevation of 14 Barrack Street and part removal of existing boundary fencing to provide pedestrian access to the adjacent cinema site.
- A Transport Statement accompanied the application.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Permission refused for two reasons as follows:

1. The proposed development is deemed premature pending the adoption of the Kilkenny City and County Development Plan and its associated Local Transport Plan for Kilkenny City, which will determine the future mobility and parking strategy for Kilkenny City. Presently, there is sufficient car parking (over 1,500 spaces) both on street, public and private car parks all within a 5-minute walk of this site, thus the need for this car park is not presently justifiable and premature pending the adoption of the Kilkenny City and

County Development Plan and the associated Local Transport Plan for Kilkenny City.

2. The site forms part of a larger area formerly containing the Kilkenny Livestock Mart. Notwithstanding that the carpark is of a temporary nature, it is considered that the proposed carpark would be premature pending the completion of a masterplan dealing inter alia with the mix of uses, phasing of development, movement, public realm and urban design. 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

- The planner's report notes that Kilkenny County Council is currently preparing a Transport Plan for Kilkenny City which will deal with all means of transport plus car parking standards for the City. The Draft Development Plan is also being finalised. A strategy of plans are being developed for Barrack Street by the Kilkenny City Municipal District Office, which include a one-way street to improve pedestrian facilities, and the provision of a contraflow cycleway is also under consideration. The proposed development will increase traffic movements on Barrack Street with additional turning movements at the entry/exit points which may adversely impact on plans for this street. The development was considered to be premature pending the city's Transport Plan.

3.2.2. Other Technical Reports

Road Design: Notes plans for Barrack Street to improve pedestrian facilities and the provision of a contra flow cycleway and considered that the proposed development may adversely impact on the proposed plans. It was also noted that there is scope to provide a vehicular access to the proposed development from the cinema car park which has direct access onto the Old Mart Road (Kilkenny Central Access Road) which has improved capacity and sightlines. The proposed access/ egress points to Barrack Street could be retained for pedestrian and cyclist linkages. This was considered preferable for the management of traffic in the area and the future

provision of active travel measures and improved safety/ mobility for pedestrians on Barrack Street.

In the event that the application should be the subject of further consideration with the proposed access and egress on Barrack Street, the applicant will be required to carry out a Road Safety Audit.

3.3. **Prescribed Bodies**

3.3.1. No reports.

3.4. **Third Party Observations**

3.4.1. None.

4.0 **Planning History**

4.1. Relevant planning history includes the following:

PA P20/113

Retention permission granted for various works to cinema including subdivision of screens, relocation of rooms, additional screen, reduction in number of seats from 1,444 to 1,250 and reconfiguration of car parking to include the provision of 34 additional spaces.

PA P17/745

Permission granted for development which will consist of the construction of a stand alone ESB sub-station and switch room building to include for all associated ancillary site works on this site.

PA P15/76/ ABP PL10.245155

Permission granted by PA and by ABP on appeal for demolition of existing two storey building on Barrack Street and construction of cinema.

5.0 Policy Context

5.1. National Planning Framework, Project Ireland 2040

5.1.1. National Policy Objective (NPO) 13 – In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

5.2. Regional Spatial and Economic Strategy for the Southern Region (RSES)

5.2.1. Section 6.3.5 (Regional Policy Objectives (RPO) for the Integration of Transport Planning with Spatial Planning Policies) contains RPO 151. This sets out principles of land use and transport integration that will guide development. Subsection (c) states that 'larger scale, trip intensive developments, such as offices and retail, will be focused into central locations highly accessible by sustainable transport modes'. Subsection (f) states that 'all non-residential development proposals will be subject to maximum parking standards as a limitation to restrict parking provision to achieve greater modal shift'. Subsection (g) states that 'in locations where the highest intensity of development occurs, an approach that caps car parking on an area-wide basis will be applied'.

5.2.2. RPO 163 (Sustainable Mobility Targets) states, in subsection (a) that it is an objective that, inter alia, 'significant progress is sought for the Southern Region to reduce the modal share of private car travel and increase the modal share of travel by walking, cycling, public transport and car sharing'. Subsection (c) supports National Smarter Travel Targets which seek to achieve a reduction of work-related commuting by private car to 45% of modal share by 2020.

5.3. Development Plan

The operative Development Plan is the Kilkenny City and County Development Plan 2021-2027 – Volume 2 City.

- 5.3.1. The site is zoned as 'GB' – General Business. Car parking is a permitted use as set out in Section 2.9.5.
- 5.3.2. A key strategic issue for Kilkenny City set out in Section 1.7 is 'To deliver investment in sustainable transport measures through a Local Transport Plan including continued development of the city bus services with walking and cycling infrastructure in support of the compact '10-minute city' concept.'
- 5.3.3. The site is located within Z10 – Masterplan area – Former Mart site. Policy is set out in Section 2.4.3. It is stated that 'due to its location, scale and form, the site has the potential for a significant proportion of residential uses, and some higher buildings on a portion of the site in line with Government Guidelines.' It is an objective under C2E to develop a masterplan for the former Mart (Ref. Z10) site either by the Planning Authority or jointly with the developer to deal inter alia with the mix of uses, phasing of development, movement, public realm, design, building heights etc.
- 5.3.4. Section 2.9.17 City Zoning Map Objectives Z10 Former Mart site. Prior to further development of the former mart site, to prepare a masterplan for the area to deal inter alia with the mix of uses, movement, public realm, design, building heights etc.
- 5.3.5. Section 3.3.3 Former Mart Site
- 5.3.6. Chapter 5 deals with Movement and Mobility Strategy
- 5.3.7. Section 5.3 deals with The Local Transport Plan. It is an objective (C5A) to prepare a comprehensive Local Transport Plan for Kilkenny City in accordance with the Area Based Transport Assessment Guidelines (TII, 2018) within the concept of a 10 minute City addressing:
 - Walking
 - Cycling
 - Public transport
 - Motorised transport

- Car Parking strategy/ Car Parking demand management

5.3.8. Objective C5G: To achieve a modal shift from the private car to walking or cycling in accordance with the targets set out in Table 4.1 for Kilkenny City. This target will be subject to any refinements which may arise through the Local Transport Plan for Kilkenny City.

5.3.9. Section 5.9 deals with car parking. Kilkenny is presently served by 4,500 parking spaces. As part of the Kilkenny Local Transport Plan parking demand and the provision of car parking will be addressed.

5.4. Natural Heritage Designations

5.4.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European sites are the River Barrow and River Nore SAC, and the River Nore SPA, located c. 300m to the west of the site.

5.5. EIA Screening

5.5.1. Having regard to the nature and scale of the proposed development, comprising a car park in a serviced urban area, it is considered that 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

6.1.1. The grounds of appeal can be summarised as follows:

- Kilkenny County Council is inconsistent as permission was granted for P20/762 but refused for the current application.
- There is a need for temporary car parking on an interim basis pending the progression/ completion of the Mart Development site.
- No third party submissions or observations were received.

- A detailed Parking Options Report was prepared by Kilkenny County Council in December 2017 to examine car parking within Kilkenny City. One of the recommendations of this report is temporary car parking in the Masterplan areas.

6.2. Planning Authority Response

6.2.1. The response can be summarised as follows:

- The decision under P20/762 is not relevant as they are completely different sites and there is a masterplan and urban design code prepared for the Abbey Quarter area where temporary car parking is recognised as a meanwhile use.
- The Kilkenny City and Environs Development Plan came into effect on the 15th of October 2021.
- Section 2.4.3 contains an objective as follows: C2E : Develop a masterplan for the former Mart (Ref. Z10) site either by the Planning Authority or jointly with the developer to deal inter alia with the mix of uses, phasing development, movement, public realm, design, building heights etc.
- The Parking Options report referred to in the appal did not recommend a parking strategy and was not adopted by the Council.
- Any proposal for a temporary car park is considered premature pending the completion of a masterplan.
- The Council is also in the process of completing a Local Transport Plan which will address car parking standards within the city and mobility generally.

6.3. Observations

- None

6.4. Further Responses

6.4.1. A further response was made by the applicant to the response by the Planning Authority which can be summarised as follows:

- The response quotes from a response made by the Senior Planner in relation to P20/762 in order to illustrate that the Planning Authority approach is inconsistent between both this site and the current application.
- Concerns are raised that there may be a conflict of interest between two competing sites (the Abbey Quarter and the Mart site). The main difference in the sites other than its location, is that KCC is a stakeholder in one site and not the other.
- Temporary car parking is fully permissible within the current Masterplan and there is a need for car parking on an interim basis.
- While KCC refer to a master plan for the entire site, they failed to acknowledge that a significant portion of the site has already been built out including a 12 screen cinema and a sizeable hotel for John's Green is in the pipeline.
- A report prepared by Hegsons Design Consultancy is attached to this response. The main points made refer to the inconsistent approach by the Planning Authority to the Abbey Quarter application and the current site and the need for some level of parking on the land having regard to the long term development goal.

7.0 **Assessment**

7.1. It is proposed to consider the appeal under the following headings:

- Land Use and Development Principle and Planning Framework
- Appropriate Assessment

7.2. **Land Use and Development Principle and Planning Framework**

7.2.1. The appeal site is located in the centre of Kilkenny City, on lands zoned for General Business, wherein car park use is permissible in principle. I note that a new Kilkenny

City and County Development Plan 2021-2027 has been adopted since the decision by the Planning Authority.

- 7.2.2. I note also that the site forms part of Zoning Objective Z10 former mart site. It is an objective under C2E to develop a masterplan for the former Mart (Ref. Z10) site either by the Planning Authority or jointly with the developer to deal inter alia with the mix of uses, phasing of development, movement, public realm, design, building heights etc.
- 7.2.3. The Board has recently dealt with two planning appeals for car parking within c. 500m of this site, ABP-309377-21 (GRANT) and ABP 307494-20 (REFUSE). I note that a substantial part of the appeal refers to inconsistencies by the Planning Authority between the current case and the case granted by the Board (ABP-309377-21). I would concur with the response by the Planning Authority to the current appeal in this regard which highlights that the sites are completely different sites and that there is a masterplan and urban design code adopted for the Abbey Quarter Area. This is set out in Section 2.3 of the current plan.
- 7.2.4. As part of the preparation of the City and County Development Plan, Kilkenny County Council commissioned the preparation of a Local Transport Plan to cover the period 2020-2026 and beyond. The overarching objectives are set out in Section 5.3 and include supporting the future growth of Kilkenny City through the provision of an integrated, safe, reliable and sustainable transport network, the reduction of dependency on the private car and the increase public transport capacity. Section 1.7 of the plan identifies the delivery of investment in sustainable transport measures through a Local Transport Plan including continued development of the city bus services with walking and cycling infrastructure in support of the compact '10-minute city' concept as a key strategic issue for the city.
- 7.2.5. The National Planning Framework is the Government's high-level strategic plan for shaping the future growth and development of the country to 2040 and is a framework to guide public and private investment. NPO 13 states that in urban areas, planning and related standards, including car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.

- 7.2.6. The Regional Spatial and Economic Strategy for the Southern Region is a 12 year strategic regional development framework for the southern region. RPO 151 sets out principles of land use and transport integration that will guide development. RPO 163 (Sustainable Mobility Targets) states, in subsection (a) that it is an objective that, inter alia, 'significant progress is sought for the Southern Region to reduce the modal share of private car travel and increase the modal share of travel by walking, cycling, public transport and car sharing.' Subsection (c) supports National Smarter Travel Targets which seek to achieve a reduction of work- related commuting by private car to 45% of modal share by 2020.
- 7.2.7. The strategic aim of the current Development Plan is to align transport and land use planning, thereby reducing the demand for travel and promoting the use of public transport, such as walking and cycling which will result in a modal shift away from carbon intensive modes to more sustainable modes and new technologies. Objective C5F is to implement strategies to meet the modal share targets and Objective C5G is to achieve a modal shift from the private car to walking or cycling in accordance with the targets in Table 4.1 for Kilkenny City. This target will be subject to any refinements which may arise through the Local Transport Plan for Kilkenny City.
- 7.2.8. I am satisfied that the newly adopted Development Plan is in line with the sustainable transportation Policy Framework set out in regional and national policy. There is an emphasis on reducing the reliance on the private car and increasing a modal shift to public transport.
- 7.2.9. There is no evidence available to me in this case that there is a need for a car park at this location. At the time of the site inspection, the adjacent cinema car park was almost empty and there was plenty of car parking spaces available in nearby car parks. I note that Transport Statement submitted with the application stated that due to the Covid 19 pandemic, undertaking of 2021 traffic counts or car park utilisation surveys to establish the AM and PM peak hour traffic flows was not possible. I note that a recent appeal to the Board for a 123 bedroom hotel (ABP 310749-21) on a site adjacent to the current site, established that there were 2,200 car parking spaces within 500m of the site as set out in Section 7.0 of the Traffic and Transportation Report submitted with that application. This was accepted by both the Planning Authority and the Board to justify the provision of only 7 No. spaces on the site. The first reason for refusal by the Planning Authority identifies that there are over 1,500

car parking spaces within a 5 minute walk of the site. Section 5.9 of the Development Plan outlines that Kilkenny is presently served by 4,500 car parking spaces and as part of the Kilkenny Local Transport Plan, parking demand and the provision of car parking will be addressed.

- 7.2.10. The case is made by the developer that the development would not undermine the strategic development of the Mart site in any way in circumstances where the Mart site is a long term, 10-15 year project and the temporary development proposed would not displace the uses envisaged in the longer term. Whilst there may be a justification for the temporary use proposed if there was a proven need for further spaces, I have seen no evidence of proven need for additional car parking spaces in this area. Furthermore, Section 2.4.3 of the plan envisages that 'due to its location, scale, and form the site has the potential to be a location for a significant proportion of residential uses, and some higher buildings on a portion of the site in line with Government Guidelines. In addition, I note that the Roads Design report outlined that a strategy and plans are being developed for Barrack Street which is a one way street to improve pedestrian facilities, and the provision of a contraflow cycleway is also under consideration. It was considered that the proposed development would increase traffic movements on Barrack Street with additional turning movements at entry/ exit points which may adversely impact the proposed plans for the street.
- 7.2.11. Having regard to the above, I consider that the proposed development is contrary to local, regional and national policy in terms of reducing the reliance on the private car and increasing modal shift to public transport. Furthermore, I consider that the proposed development is premature pending the preparation of a masterplan for the area as set out in Objective C2E and the preparation of a comprehensive Local Transport Plan as set out in Objective C5A of the current plan.

7.3. Appropriate Assessment

- 7.3.1. Having regard to the nature and scale of the development proposed and to the nature and of the receiving environment, namely an urban and fully serviced location with no hydrological pathway to any 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

- 8.1. I recommend that the planning application be refused for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to National Planning Objective 13 of the National Planning Framework, published by Government in February 2018, which states that planning and related standards on matters including car parking will be based on performance criteria that seek to achieve well designed high quality outcomes, to Regional Policy Objective 151 and 163 of the Regional Spatial and Economic Strategy for the Southern Region, which came into effect on the 31st day of January, 2020 and which objectives relate to parking and sustainable transportation, and to the relevant provisions of the Kilkenny City and Council Development Plan including Objective C2E to develop a masterplan for the former Mart (Ref Z10), Objective C5A to prepare a comprehensive Local Transport Plan for Kilkenny City, Objective C5F to implement strategies to meet the modal share targets and Objective C5G to achieve a modal shift from the private car to walking or cycling in accordance with the targets set out in Table 4.2 for Kilkenny City, it is considered that the proposed development would encourage the use of the private car for travel into the City Centre and would be premature pending the preparation of a masterplan for the former Mart site and the preparation of a Local Transport Plan for Kilkenny City. Furthermore, it is considered that the proposed development would militate against the objectives of implementing strategies to meet modal share targets and achieving a modal shift from the private car to walking or cycling and the promotion of sustainable transportation. In this regard, it is considered that the proposed development would be contrary to over-arching national policy, would be contrary to the relevant provisions of the Regional Spatial and Economic Strategy for the Southern Region and would be contrary to the relevant provisions of the current Development Plan for

the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Emer Doyle
Planning Inspector

21st October 2022