



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312238-21

#### Development

6 no. mezzanine level windows in front and rear elevation of existing industrial unit. Revised by Significant Further Information and Revised Plans which consists of Retention Permission is now sought for first floor mezzanine level of 146msq comprising workshop and storage space

#### Location

Unit W3A, Ladytown Business Park, Naas, Co. Kildare.

#### Planning Authority

Kildare County Council

#### Planning Authority Reg. Ref.

21491

#### Applicant(s)

Alan Bannon.

#### Type of Application

Permission.

#### Planning Authority Decision

Grant

#### Type of Appeal

Third Party

#### Appellant(s)

Walsh Management.

#### Observer(s)

None.

**Date of Site Inspection**

22<sup>nd</sup> February 2022

**Inspector**

Lucy Roche

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located within Ladytown Business Park, which is situated approximately 1.3km east of Junction 10 of the M7. The Ladytown Business Park forms part of Naas Enterprise Park, an extensive area of serviced land, which has been developed to provide a range of units of differing sizes for a variety of industrial, warehousing, retail, and commercial uses.
- 1.2. The enterprise park is served by the R445 regional road which links the settlements of Naas (c 4km to the east, on the opposite side of the M7) and Newbridge (c4.5km to the southwest).
- 1.3. The appeal site, with a stated GFA of 0.0222ha, is located c400m to the east of the main entrance to the Naas Enterprise Park off the R445. The site comprises a mid-terraced industrial unit (Unit W3A) occupied by Alan Bannon Signs. The unit has a GFA of c398sqm (c252sqm excluding mezzanine level) it is of a standard design, with pedestrian access at the front and a large roller door access to the rear.
- 1.4. The adjoining industrial unit to the west of the appeal site (Unit W3A1) was constructed separately by the applicant (KCC Reg. Ref. No: 05/923 but would appear from the details provided to be rented and occupied by a third party - Plumb Source, Heating and Plumbing Supplies. This unit benefits from a dedicated service / storage area to the rear which is delineated by a low wall.
- 1.5. Unit W3A and adjoining units are laid out to provide pedestrian access to the front and operational access to the rear via a large roller door. The Block of 6 units (one of which appears to be vacant) is served by a communal car park to the front and an additional parking and service area to the rear.

## **2.0 Proposed Development**

- 2.1. The applicant is seeking permission to install 6no. mezzanine level windows (4no to the front and 2no to the rear) in the existing industrial unit.
- 2.2. The application was later extended (with the submission of revised statutory notices etc) to include for the retention of the first-floor mezzanine level with a stated GFA of 146sqm.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Kildare County Council by Order dated 19/11/2021 decided to grant permission subject to 8no conditions. The conditions attached to the permission include:

Condition 2 – prohibits the sub-division of the unit

Condition 3 – relates to external finishes

Condition 8 – Development contributions

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports:**

#### **3.2.2. Initial Planning Report dated 26/05/2021**

- They note that permission has been sought to provide windows to the mezzanine level on the front and rear elevation of a terraced industrial unit.
- Site inspection revealed that the mezzanine level was used as an ancillary workspace. They referred to the planning history of the site and raised concerns regarding the planning status of the additional floorspace / mezzanine.
- They consider the proposal to provide additional light and ventilation to the unit to be acceptable in principle.
- They note no details of finishes to the external windows has been submitted but consider that this issue could be addressed by way of condition.
- They note that the mezzanine is already in use as an active part of the business, with no additional new use or intensification proposed.
- They recommended that further information be sought in relation to the planning status of the mezzanine level.

Planners report on further information received 15/11/2021

- They note the receipt of floor plans of the mezzanine level and the submission of statutory notices extending the application to include seeking retention permission for mezzanine level.
- They consider that the existing development occupies an appropriate use within the business park and that it complies with the zoning objectives.
- They do not consider that the provision of a mezzanine and windows would negatively impact the value of adjoining properties.
- They note that they are familiar with the area (having carried out site inspections in the business park) and that they have failed to notice a shortage of car parking or haphazard parking at this location.
- They recommend that permission be granted.

#### 3.2.3. Other Technical Reports

Municipal District Engineer                      No objection subject to condition

#### 3.3. **Prescribed Bodies**

None

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

3.4.1. Submissions were received from Walsh Management and Alan Nolan objecting to the development. The main points raised in the submissions are summarised as follows:

- No planning application in place from the existing mezzanine level.
- No detailed drawings of Mezzanine level, access, floor plans, colour of windows etc
- The proposed development will result in intensification of the business – increased car parking demand resulting in congestion and blocking access to neighbouring units.
- Side elevations refer to incorrect unit not in the ownership of the applicant
- The development materially contravenes the zoning objectives

- Devaluation of neighbouring properties.

3.4.2. A submission from the applicant in response to the issues raised noted the following:

- The mezzanine level is in place since the building was constructed in 2006
- The Mezzanine provides storage and is ancillary to the overall the printing process carried out within the overall unit.
- The windows are proposed for ventilation and to improve the working environment for staff
- The installation of windows will not give rise to increased parking demands

## 4.0 Planning History

4.1. In relation to the appeal site two Local Authority permissions, Reg. Ref. nos. 01/1013 and 03/1236, are considered relevant. The first of these was a parent permission for, amongst other things, the block of units that includes the current appeal site, while the second permission authorised the sub-division of this block into 5 units. The former permission was granted subject to a number of conditions, one of which limited the use of the units to uses explicitly permitted under the Kildare County Development Plan 1999, such uses include: commercial vehicle parking, warehouse, general industry, light industry and workshop. The latter permission effectively reiterated this condition.

4.2. KCC Ref:05/923      Permission granted (2005) to A Bannon for an additional industrial unit attached to the side (southwest) of the appeal site.

4.3. PL09.234623      relates to a separate unit within the terrace. Permission refused existing internal layout at ground floor & retention of Mezzanine first floor level including use at first floor level as separate self-contained office unit, retention of existing front & rear facade door & window arrangements & all associated site works. The refusal reason is as follows:

The ground floor use of Unit W3E entails a trade counter that is accessed by the public from the rear of this unit over a service area for operational vehicles. Non-operational vehicular traffic generated by the visiting public manoeuvres in this area

and parks in the same. Such duplication of usage constitutes poor traffic management, which runs contrary to the original layout of the wider site, wherein public car parking is provided for communally at the front of the unit. The resulting conflict impairs the efficiency of this space for operational traffic and jeopardises public safety. Accordingly, to permit the retention of this use would be contrary to the proper planning and sustainable development of the area.

## 5.0 Policy Context

### 5.1. Development Plan

#### 5.1.1. Kildare County Development Plan 2017-2023

- 5.1.2. The Council zoned lands at Ladytown (NE1 Industry / Warehousing) for the purpose of providing sites for industrial, and in particular warehousing uses, at locations which are outside the built-up area of Naas, and which are, or could be made available with appropriate road improvements, readily accessible to the national road network. The objectives for this area are set out in Volume 2, 1. Small town and Environs Plans of the Kildare County Development Plan 2017-2023, as follows:

**Zoning Objectives:** In the case of the land use zonings, the development of the lands in question will be contingent on the prior provision of piped water, sewerage and surface water services and on adequate treatment capacity in the case of sewerage services at Osberstown Wastewater Treatment Plant.

**Objectives:** It is an objective of the Council to:

- |       |   |
|-------|---|
| LEO 1 | Ensure that development proposals for lands identified by the dashed pink line on Map V2-1.9.3 shall be subject to site specific Flood Risk Assessment appropriate to the type and scale of the development being proposed. |
| NE 1  | Ensure that the purpose of this site is to provide for the development of industrial and warehousing  |



uses and other uses including Nursing Home, Film Studio and Hotel.

5.1.3. It is noted that the uses permitted under the Ladytown zoning matrix include workshops, warehousing and industry.

5.1.4. Section 17.7.6 Car Parking

- The provision should be based on the extent to which the development is likely to generate demand for additional parking spaces
- Car parking standards are set out in Table 17.9 below to guide proposed development. Other than 'Residential', parking standards are maximum standards, having regard to the need to balance demand for parking against the need to promote more sustainable forms of transport, to limit traffic congestion and to protect the quality of the public realm from the physical impact of parking. Therefore, the number of spaces provided should not exceed the maximum provision set out below.
- Additionally, the maximum provision of parking should not be viewed as a target. Lower rates of parking may be appropriate at certain sites. In determining this, the Council will have regard to
  - The proximity of the site to public transport. –
  - The proximity of the site to the town centre and services that fulfil day-to-day needs.
  - The potential for linked trips (where multiple needs are fulfilled in one journey)
  - The nature of the uses of the site and likely durations of stays.
  - The nature of surrounding uses and potential for dual use of parking spaces depending on peak hours of demand
  - Proximity to public car-parking areas.
  - The need to protect the vibrancy of town centres and regenerate vacant / underused buildings.

- Any modal shift demonstrated through a Traffic and Mobility Assessment; and
- The suitability of a contribution in lieu of parking in accordance with the Development Contribution Scheme, as part of a grant of planning permission.
- 5% of parking spaces in non-residential developments should be set aside for disabled parking
- Non-residential developments shall provide facilities for the charging of battery-operated cars at a rate of up to 10% of the total car parking spaces in order to meet the targets of the Government's Electric Transport Programme and in response to 'Climate Change the Government's National Policy Position on Climate Action and Low Carbon Development'

#### 5.1.5. Section 17.7.7 Cycle Parking

- Along with cycle parking, sufficient shower and changing facilities should be made available in larger commercial developments/places of employment.  
The following standards shall apply:
  - Non-office development: – 1 shower for the first 5 cycle parking spaces and 1 shower per 10 cycle parking spaces thereafter, unless otherwise agreed with the Planning Authority.

Changing/drying areas, toilets and lockers should be provided in association with shower facilities.

#### 5.1.6. Section 17.9.2 Industry and Warehousing

Industry and warehousing schemes will be required to present a good quality appearance, helped by landscaping and careful placing of advertisement structures.

## **5.2. Natural Heritage Designations**

The appeal site is not located on or within close proximity to any designated site. the following designated sites are located within wider geographical area:

- The Mouds Bog SAC and NHA is located c3.5km to the west of the appeal site
- The Grand Canal NHA is located c2km to the east of the appeal site
- The Liffey at Osberstown NHA is located c3.3km to the north of the appeal
- The Pollarstown Fen SAC and NHA is located c7km to the southwest
- The Curragh is located c 7.7km to the southwest.

## **5.3. EIA Screening**

Having regard to the nature and scale of the proposed development, the established use of the site and its location within an established and serviced business park, and the distance of the site from nearby sensitive receptors, 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 Proposed development would materially contravene the zoning objective for the lands as set out in the Kildare County Development Plan 2017-2023
- The development does not comply with parking standards set out in the CDP as a result of the increase in floor area
  - KCC failed to request the appropriate financial contribution under The Development contribution scheme in relation to the shortfall of car parking spaces. The applicant requires a min. of 3.33 extra spaces which are unavailable as all communal parking spaces are fully allocated.
  - KCC failed to request the applicant to install an electric car charging point
  - KCC failed to request the applicant to install disabled parking space in accordance with Irish Wheelchair Association best practice

- KCC failed to request the applicant to install cycle parking, staff showing and changing facilities in accordance with Table 17.10 Chapter 17 of the Development Plan
- The applicants have previously failed to comply with the conditions of the previous grant of planning permission 05/923 (which relates to the industrial unit to the southwest of the appeal site) and have rented the property to a retail tenant resulting in significant intensification of use.
- The first-floor mezzanine level does not have the benefit of planning permission
- The applicants are using their own designated parking area for access and storage and are parking in spaces belonging to Walsh MGT and other adjoining owners causing serious traffic congestion and difficulties for other businesses.
- The proposed development is likely to:
  - Cause serious traffic congestion,
  - endanger public safety by reason of traffic hazard,
  - result in devaluation of the vicinity and property values

## 6.2. Applicant Response

- Notes that there is a legal dispute between the appellant and several owners within the business park which relates to ongoing management issues but not related to the basis of the application or the subject of this appeal.
- The basis of the application was to provide 6no. Mezzanine level windows for extra lighting and ventilation.
- The mezzanine level has been in place since 2007 – similar to other units within the park.
- The mezzanine will be used to distance staff members as they carry out their duties in keeping with good work practices as required during Covid

- There will be no extra requirement for parking or similar services – notes that the office now works a hybrid working week.
- The car park to the front of the building has never been full. the applicant was not aware of any parking issues at this location other than what has appeared in this appeal.

### **6.3. Planning Authority Response**

- 6.3.1. Kildare County Council note the content of the appeal however they consider that the matters raised are largely identical to those raised in the submission to the original planning application and which have been addressed. They have no further comments or observations and request that the Board uphold the decision to grant permission subject to the conditions set out in the notification of decision issued 19<sup>th</sup> November 2021.

## **7.0 Assessment**

- 7.1. Having reviewed the development proposed for retention in light of the County Development Plan, relevant planning history and submissions from the appellant, applicant, and planning authority, I consider that the main issues in this appeal are as follows:

- The principle of the development and compliance with zoning objectives
- Traffic and Parking
- Other Matters
- Appropriate Assessment

### **7.2. Principle of Development and Compliance with Zoning Objective.**

- 7.2.1. As per the Kildare County Development Plan 2017-2023, the appeal site is located on lands zoned NE1 (industry / warehousing) at Ladytown Environs. Objective NE1 states that the purpose of this site is to provide for the development of industrial and warehousing uses etc. The Zoning Matrix for Ladytown Environs indicates the

following uses as being 'Permitted in Principle': Industry, light industry and workshops.

- 7.2.2. The appeal site comprises an industrial unit that is currently occupied by a signage company, Alan Bannon Signs. The unit has a GFA of c398sqm, 146sqm of which is contained within a first-floor mezzanine level for which retention permission is being sought. As detailed on the floor plans and particulars submitted, the mezzanine level is utilised as a workshop and storage space in association with the existing signage business. This use of this unit would accord with the zoning objectives for the area.
- 7.2.3. I note the planning history relevant to this industrial unit, KCC Ref. No's 01/1013 and 03/1236 and the conditions attached to the grants of permission which limit the use of the units to those uses explicitly permitted under the Kildare County Development Plan 1999. Such uses include warehouse, general industry, light industry, and workshop. I am therefore satisfied that the use of the unit and mezzanine level for the manufacture etc of signage would accord with the permitted uses.
- 7.2.4. The retention of the additional mezzanine floor space would increase the size and capacity of the existing unit however I consider the scale of additional floor area proposed to be minor in the context of the overall scale of development within the Business Park and I am satisfied that the design, scale and layout of the unit as proposed would be comparable to other units within the Ladytown Business Park. I therefore consider the retention of the existing mezzanine level to be acceptable in principle. Specific concerns raised in the grounds of appeal regarding the additional car parking demand generated by the development shall be considered later in this report.
- 7.2.5. The applicant is seeking permission to install 6no first floor windows to the serve the mezzanine level. As set out in the documentation submitted in support of this application, the purpose of these windows is to provide ventilation and improved working conditions for staff. I note that first floor windows, similar in size and design to that proposed, are a feature of other units within the estate. I therefore consider this aspect of the proposed development to be acceptable in principle.

### 7.3. Parking / Traffic

- 7.3.1. The appellant is concerned that the retention of the mezzanine level as proposed would result in an intensification of use of the premises which would in turn generate an increase in demand for carparking and, as additional parking is not being provided, would result in traffic congestion, and difficulties for other businesses in terms of their customer parking, deliveries etc. The appellant is also concerned that the development as permitted does not comply with the parking standards set out in the County Development Plan.
- 7.3.2. The development management standards for the car and cycle parking are set out in Chapter 17 of the Kildare County Development Plan 2017-2023. The standards provided relate to both the quantum and type of parking facilities required, which for non-residential development, include standards relating to the provision of electric charging and disabled parking as well as cycle parking and associated facilities. While I consider that the parking standards set out in the Development Plan are reasonable, I would be of the opinion that they are more applicable to new / larger scale developments and that to apply these same standards to smaller development proposals, such as those which seek only seek to alter and / or extend an existing industrial unit within an established business park, would be unduly onerous. I therefore do not consider that it would be reasonable or appropriate in this instance to request the applicant to provide new / additional parking facilities such as electric charging points, however I would consider it appropriate to ensure that any additional traffic and parking demand generated by the proposed development can be adequately accommodated.
- 7.3.3. In the absence of information on employment levels and customer numbers it is difficult to estimate the traffic flows generated by the use of the appeal site. Notwithstanding, I consider the road network serving the site to be of adequate standard and capacity to accommodate the likely traffic generated by this development.
- 7.3.4. In relation to car parking, the communal area to the front of the property would appear to be more than adequate to cater for staff and visitor / customer parking

requirements. On the date of site inspection, I noted that 25 of the c47 spaces provided were vacant, with a steady flow incoming and out-going traffic. In addition, I noted that there is a high volume of surface parking available in the vicinity of the appeal site that could be utilised to accommodate overflow parking should the need arise.

7.3.5. In relation to the service / operational area to the rear of the property, I noted that of the two formally laid out spaces to the rear of Unit W3A, one was occupied by a commercial vehicle associated with the signage business while one was vacant. I noted no evidence of congestion or any evidence to suggest that the use of appeal site, Unit W3A was causing an obstruction or impacting the effective operation of this area.

7.3.6. The appellant refers to the fact that the Planning Authority failed to request a financial contribution in lieu of the provision of additional parking. I would consider however that any requirement to pay such a contribution would only be appropriate in instances where the Council are in a position to provide additional car parking within the vicinity of the site, this would not appear to be the case in this instance. In any event, as the parking standards set out in the County Development Plan are maximum standards and as I consider that the area is already adequately served by parking, I do not consider the absence of proposals to provide additional parking, by whatever means, to be a concern in this instance.

#### 7.4. Other

7.4.1. Development permitted under KCC Ref: No: 05/923

A number of issues raised in the grounds of appeal appear to relate to a separate industrial unit (W3A1) to the west of the appeal site (Unit W3A). It would appear from the details provided in the grounds of appeal that this unit is owned by the applicant but is rented and operated by a third party. As this unit does not form part of the appeal site, I do not consider that the issues raised in relation to the use and management of same are to be relevant to the assessment of this application. Any



planning enforcement issues pertaining to this property would be a matter for the Planning Authority.

#### 7.4.2. Devaluation of property

I note the concerns raised in the grounds of appeal in respect of the devaluation of the vicinity and property values however having to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of properties in the vicinity.

#### 7.4.3. Flood Risk.

The application site forms part of the lands identified on Map V2-1.9.3 (Ladytown Environs) as being subject to site specific Flood Risk Assessment appropriate to the type and scale of the development being proposed.

Section 5.28 of the Flood Risk Management Guidelines for Planning Authorities 2009 advises that applications for minor development, including most changes of use of existing buildings, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. The Guidelines also advise that since such applications concern existing buildings, the sequential approach cannot be used to locate them in lower-risk areas and the Justification Test will not apply but recommends that a commensurate assessment of the risks of flooding should accompany such applications to demonstrate that they would not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities.

No flood risk assessment was included with the planning application. However, having regard to the nature and scale of the proposed development which relates only to minor alterations to the interior and exterior of an existing industrial unit within an established, I do not consider that the proposed development is likely to result in any obstruction to flow paths or have adverse impacts on watercourses or flood

management facilities. I therefore do not recommend that planning permission be refused on the basis of flood risk

#### 7.5. Appropriate Assessment

Having regard to the nature and scale of the proposed development, amendments to a previously permitted development, 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**

8.1. I recommend that permission be granted subject to condition

### 9.0 **Reasons and Considerations**

Having regard to the zoning of the site as set out in the Kildare County Development Plan 2017-2023, the location of the site within Ladytown Business Park, the planning history pertaining to Unit W3A, the nature and scale of development proposed and the quantum of parking available within the business park to serve the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. 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 and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 11 <sup>th</sup> October 2021 and 26 <sup>th</sup> October 2021, 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
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	<p>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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The industrial unit shall be occupied as a single industrial unit and shall not be sub-divided and sold or let as a separate unit without a prior grant of permission</p> <p>Reason: In the interest of clarity and to regulate the use of the unit in the interest of proper planning and sustainable development</p>
3.	<p>External finishes shall be the same as those of the existing Industrial Unit in respect of colour and texture. Details of the colour and material of the new windows shall be submitted to the planning authority for agreement prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of orderly development and the visual amenities of the area.</p>
4.	<p>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.</p> <p><b>Reason:</b> In the interest of public health and to ensure a proper standard of development.</p>
5.	<p>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.</p> <p>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</p>

	<p>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.</p> <p><b>Reason:</b> 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</p>
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Lucy Roche  
Planning Inspector

23rd February 2022