



An  
Bord  
Pleanála

## Inspector's Report

**ABP-319228-24**

<b>Development</b>	Retention of mezzanine area within existing business unit
<b>Location</b>	Unit 5A, M7 Business Park, Newhall, Naas, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	2360520
<b>Applicant(s)</b>	Jonathan Pollentine, LKQ Euro Car Parts Ltd.
<b>Type of Application</b>	Retention permission
<b>Planning Authority Decision</b>	Grant subject to 5 no. conditions
<b>Type of Appeal</b>	First Party v. Financial Contribution
<b>Appellant(s)</b>	Jonathan Pollentine, LKQ Euro Car Parts Ltd.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> April 2024
<b>Inspector</b>	Bernard Dee

## **1.0 Site Location and Description**

- 1.1. The appeal site is located within the M7 Business Park in Newhall, Naas which is located to the NW of the M7 motorway. Unit 5 is located in a rectangular plan, two storey metal clad warehouse structure among several other similar such structures comprising the business park.

## **2.0 Proposed Development**

- 2.1. Retention permission is sought for a mezzanine floor measuring approximately 338m<sup>2</sup> and an access stairs to this first floor level. The mezzanine floor is used for the storage of car parts associated with the use of the unit as a car parts retail unit.
- 2.2. No external changes to the host unit were carried out in relation to the installation of the mezzanine floor.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission for the development to be retained was granted on 9<sup>th</sup> February 2024 subject to 6 no. conditions.

Condition No. 6 relates to a financial contribution required under Section 48 of the Planning Act for €20,956 on the basis that the floor area of Commercial Warehouse to be retained is 338m<sup>2</sup> and that a levy of €62.00 per m<sup>2</sup> applies as per section 8.2 of the Development Contribution Scheme 2023-2029 – no exemptions applicable.

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

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

- The Planner's Report states that having regard to the zoning and existing use of the site, the development for which retention is sought is considered to be acceptable in principle.
- There are no external alterations proposed as part of this application and the Planning Authority are satisfied with the scale and design of the development for retention.

- Neither EIA nor AA is required in relation to the development for which retention is sought.

#### 3.2.2. Other Technical Reports

- Water Services - no objections subject to conditions.
- Roads Department – requested Further Information.

#### 3.2.3. Prescribed Bodies

- NRA - no objections subject to conditions.

#### 3.2.4. Observations

- None received.

### 4.0 **Planning History**

#### 4.1. On the Appeal Site

- Ref. 00/768 – Permission was granted on 18<sup>th</sup> October 2000 subject to 38 no. conditions for 16,280m<sup>2</sup> of manufacturing/warehousing units in 5 no. blocks including 3,980m<sup>2</sup> of integral related office accommodation on two floors, partial realignment of the M7 north bound on-ramp incorporating new roundabout and site access, internal road network, etc. (parent permission).

#### 4.2. In the Vicinity of the Site

- Ref. 211558 – Permission granted on 28th January 2022 for change of use from educational to manufacturing and warehousing which was previously granted under planning number 00/768, including internal alterations within the same block as the appeal site.
- Ref. 1744 - Retention permission granted on 4th May 2017 for the continuation of business use of existing mezzanine floors and warehouse space as Research, Development, Engineering and Design at Unit D3 M7 Business Park , Newhall , Naas.

## 5.0 Policy and Context

### 5.1. Development Plan

The Kildare County Development Plan 2023 - 2029 is the statutory plan for the area.

Chapter 15 – Development Management Standards - does not contain any specific policies or objectives in relation to the type of development which is the subject of this appeal.

The subject site is zoned 'H: Industry & Warehousing' within the Naas Local Area Plan 2021- 2027.

To provide for industry, manufacturing, distribution and warehousing. Note: Where employment is a high generator of traffic, the location of new employment facilities at an appropriate scale, density, type and location will be encouraged to reduce the demands for vehicular travel.

A 'Warehouse (wholesale) /Logistics /Store/Depot' land use is permitted in principle in H zoned lands.

### 3.7. Economic, Retail and Social Infrastructure Capacity

3.7.1. Employment - The Plan seeks to designate a sufficient amount of land for both enterprise and employment functions, commercial development and for industry and warehousing uses commensurate with Naas's role as a Key Town. The Plan continues to support the town centre as the commercial core. It is envisaged that the larger campus style sites and high-end office complexes will be located in the Northwest Quadrant. Industry and Warehousing are proposed to the southwest and northeast of the town. Sites have been identified for commercial/residential development on land located in the northeast of Naas off the Dublin Road and on the corner of the Newbridge Road / South Ring Road. Lands have been zoned for a mix of general commercial/ industrial/ enterprise uses at the Maudlins Interchange. A specific zoning for the development of Data Centres has been applied to two sites which are considered suitable for land extensive development.

CSO 1.4 Focus new enterprise development into lands identified for Enterprise and Employment, and Industry and Warehousing uses.

## 5.2. Natural Heritage Designations

The following natural Heritage designation is located in the vicinity of the appeal site:

- Mouds Bog SAC (002331) and pNHA (000395) is located approximately 5.5km to the west of the appeal site.

## 5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any 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 relates to the financial contribution imposed by Condition No. 6 of the grant of retention permission in the amount of €20,956:

- The €20,956 sought by the Planning Authority is unreasonable as there is no intensification of use associated with the expanded floor area - no additional staff, no additional services requirement and no additional parking spaces required.
- The access and the external appearance of the unit remains unchanged by the introduction of the mezzanine space.
- The mezzanine space has been in place for 10 years and it was introduced for fire safety compliance reasons and it an excessive amount of levy to apply in this context.

## 6.2. Planning Authority Response

- The Planning Authority has applied the correctly calculated financial contribution as per the provisions of section 8.2 of the Development Contribution Scheme 2023-2029.

- The fact that the mezzanine space has been in use for 10 years has no bearing as section 9 of the Development Contribution Scheme 2023-2029 states that no exemptions or waivers shall apply to any developments subject to retention permission.

### 6.3. Observations

- None received.

## 7.0 **Assessment**

- 7.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.
- 7.2. The primary planning issue therefore is the issue of whether the Development Contribution Scheme 2023-2029 has been applied correctly in this case. The issue of AA Screening is also addressed in this assessment.
- 7.3. Financial Contribution
  - 7.3.1. It is the appellants case that as there is no additional loading on services and other infrastructure provided by the Planning Authority, and having regard to this fact the mezzanine should not be subject to a financial levy by way of condition attached to the grant of retention permission.
  - 7.3.2. The Planning Authority state that the provisions of the Development Contribution Scheme 2023-2029 have been correctly applied and that no exemption or waiver can be used in cases of retention permission.
  - 7.3.3. I draw the Board's attention to Section 8.2 of the Development Contribution Scheme 2023-2029 which states that for non-residential development (e.g. Commercial / Retail / Warehousing) the development contribution rate shall be €62 per square metre.
  - 7.3.4. I also draw the Board's attention to section 9 of the Development Contribution Scheme 2023-2029 which states that – *"no exemptions or waivers shall apply to any development subject to planning permission"*.

- 7.3.5. Section 10 of the Development Contribution Scheme 2023-2029 outlines the types of development where full or partial exemptions may apply but does not list Commercial / Retail / Warehousing type development except in areas zoned as 'Town Centre'.
- 7.3.6. Having regard to the above, this is a clear case where the Planning Authority have correctly applied the Development Contribution Scheme as set down in Section 48 of the Planning Act and that no exemptions or waivers are applicable in the current case.
- 7.3.7. I recommend therefore that retention permission be granted by the Board and that a financial contribution condition be affixed to this Board Order.

#### 7.4. AA Screening

- 7.4.1. Having regard to the relatively minor development proposed within an existing unit and the distance from 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 retention permission be granted for the reasons and considerations set out below and subject to the following conditions.

### 9.0 Reasons and Considerations

Having regard to the provisions of the Kildare Development Contribution Scheme 2023-2029; it is considered that, subject to compliance with the conditions set out below, the development for which retention is sought would not seriously injure the visual or other amenities of the area, nor by virtue of the use of the additional mezzanine floors[constitute a traffic hazard for users of the road network in the area of the appeal site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 20<sup>th</sup> December 2023, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This permission authorises the retention of floor space and associated alterations at the subject site. The use of the unit is for trade/wholesale only and shall not be open to members of the general public.</p> <p>Reason: In the interests of clarity and to regulate the use of the development, in the interest of proper planning and sustainable development of the area.</p>
3.	<p>The developer shall pay to the planning authority a financial contribution of 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. The application of any indexation required by this condition 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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000,</p>

	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.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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**Bernard Dee**  
**Planning Inspector**

**25<sup>th</sup> April 2024**

**Appendix 1 - Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-319228-24		
<b>Proposed Development Summary</b>	Retention of a mezzanine area within a business unit		
<b>Development Address</b>	Unit 5A, M7 Business Park, Newhall, Naas, Co. Kildare		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	
		<b>No</b>	√
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>			Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			

		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_

Date: 25<sup>th</sup> April 2024

Bernard Dee