



An
Coimisiún
Pleanála

Inspector's Report ABP-320670-24

Development

Retention of commercial use for the parking of trucks & refrigerated container trucks, boundary fencing & electric gate, steel container containing electrical substation with all associated site works, including permission for landscaping.

Location

Naas Industrial Estate, Maudlins, Fishery Lane, Naas, Co. Kildare.

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

24/60560

Applicant(s)

Patrick J. Tansey

Type of Application

Retention

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Patrick J. Tansey

Observer(s)

None

Date of Site Inspection

30/07/2025

Inspector

Paula Hanlon

1.0 Site Location and Description

- 1.1. As per previous description given under An Bord Pleanála case reference 317645, the subject site (0.914ha) hereafter referred to as “the site”, is located at the north-east corner of Naas Industrial Estate just off the M/N7 Junction 9, in Co. Kildare.
- 1.2. The site predominantly comprises an extensive hardcore area that was created by the laying, levelling and compacting of aggregate. It is currently in use for the parking of commercial lorries/trucks and truck trailers. A container structure with window and door insert and which appears to be somewhat neglected in terms of its exterior sits along the site’s western boundary, immediately north of the site’s vehicular access.
- 1.3. The River Morell runs along the site’s eastern boundary. There is no physical boundary in-situ between the site which is in commercial use for the parking of a row of trucks and truck trailers and the riverbank.
- 1.4. The site is bound by established industrial uses within Naas Industrial Estate to the west and south. Agricultural lands adjoin the opposite side of the river to the east and construction is currently ongoing in relation to the development of a substantial commercial development on lands located to the north of the applicant’s overall lands.
- 1.5. Vehicular access is by way of use of an established access into the Naas Industrial Estate, which is located along the eastern side of the Dublin Road (R445).
- 1.6. There are no ecological or heritage designations attached to the site.

2.0 Proposed Development

- 2.1. The submitted application seeks the following:

- Retention of the following:

(A) use of the site for commercial use for the parking of trucks and refrigerated container trucks, (B) boundary fencing and electric gate, (C) steel container containing electrical substation and (D) all associated site works.

The applicant’s accompanying documentation outlines that it is intended that the site would be primarily used for the storage of trailers, with a minor portion to be used for the storage of trucks.

It is further stated within the applicant's documentation (including appeal documentation) that there is no refrigeration element involved. For clarity, I wish to draw reference to the public notices which make clear that the retention of the parking of refrigerated container trucks is sought in this case.

- Permission for the undertaking of the following:

Landscaping (planting).

A 6m wide riparian strip from the River Morrell which adjoins the site's eastern boundary is proposed. The proposed planting requires the removal of existing hardcore (4m in width) along the full extent of the eastern area of the site and replacement within topsoil and planting.

2.2. The application was accompanied by the following documentation of note –

- Site Specific Flood Risk Assessment.
- Road Safety Audit Stages 1 & 2
- Landscaping Notes & Planting Schedule
- Surface Water Attenuation Calculations & Details.

3.0 Planning Authority Decision

3.1. Decision

By order dated 01 August 2024, Kildare County Council (WCC) issued a Notification of decision to **refuse** permission for 1(no) reason as follows:

The development as proposed for retention and permission is located in an area which is zoned for F: Open Space and Amenity in the Naas Local Area Plan 2021-2027, where it is an objective "to protect and provide for open space, amenity and recreation provision". The provision of commercial parking of trucks, trailer and refrigeration trailer units are neither permissible nor open for consideration within the zoning matrix as indicated in Table 11.3 of the Plan. The development proposed to be retained would materially contravene the Naas Local Area Plan 2021 – 2027 and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

A Planning Report completed on 29 July 2024 forms the basis for the decision by Kildare County Council to refuse permission.

The Planning Officer in his assessment of all matters, including the applicant's submitted Planning Report, site history and previous site zoning determined that the proposal would materially contravene the site's zoning (Open Space & Amenity) within the operative LAP. It further refers to the site's location within Flood Zone A and B.

3.2.2. Other Technical Reports

- Environment Section (28/6/24): Further Information sought in terms of noise, bunding (oils/chemicals) and surface water collection to ensure protection of contamination risk to the Morell River.
- Water Services (17/7/24): No objection subject to conditions.
- Transport, Mobility and Open Spaces Department (25/7/24): No objection subject to conditions
- Naas Municipal District (26/7/24): No objections subject to conditions.

3.3. Prescribed Bodies

None received.

4.0 Planning History

Subject Site:

Planning Reference 23/566 was refused permission, and the decision to refuse was upheld by An Bord Pleanála in 2024 following an appeal under case reference number ABP-317645-23 for the retention for use of site for parking of trucks and retention for boundary fencing and electric gates.

The 2(no) stated reasons for refusal were grounded on the proposed development constituting a material contravention of the LAP given the site's zoning (Open Space & Amenity) and the matter of flood risk. The reasons for refusal are given below -

- (1) The development proposed to be retained is located in an area which is zoned for F: Open Space and Amenity in the Naas Local Area Plan 2021-2027 where it is an objective "to protect and provide for open space, amenity and recreation provision". The provision of commercial parking of trucks/refrigeration trucks are neither permissible nor open for consideration within the zoning matrix as indicated in Table 11.3 of the local area plan. The development proposed to be retained would materially contravene the Naas Local Area Plan 2021-2027 and would therefore be contrary to the proper planning and sustainable development of the area.*
- (2) The development as proposed for retention is located in an area which is at risk of flooding as indicated in the Naas Local Area Plan 2021-2027, Strategic Flood Risk Assessment. In the absence of a site specific flood risk assessment, as required by Objective IO 3.1 of the Naas Local Area Plan 2021-2027, the applicant has not demonstrated to the satisfaction of the Board that the development would not itself be at risk of flooding, or that it would not give rise to an increased risk of flooding in the area. It is considered that the development would, therefore, be contrary to the provisions of Section 28 Guidelines "Planning System and Flood Risk Management Guidelines for Planning Authorities" (2009), Policy IO 3.1 of the Naas Local Area Plan 2021-2021 and contrary to the overarching flood risk management strategy as set out within the, Strategic Flood Risk Assessment of the Naas Local Area Plan 2021-2027. The proposal, therefore, would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.*

Planning Reference 22/249 was refused permission in 2022 for the retention of the use of the subject site for commercial parking of trucks and refrigeration container trucks and all associated works, and permission for a storage warehouse with staff facilities for commercial use (1,121m²) and associated site works for 2 no. reasons

which are grounded on the contravening of the site's Open & Space and Amenity zoning and flood risk.

Planning Reference 21/522 with a similar development description to that given under Pl. Ref. 22/249 (as above) was refused permission in 2021 for one reason. The reason for refusal related to the site being unzoned under the CDP and zoned 'Open Space and Amenity' within the Draft LAP at the time and that the proposed development would not comply with CDP policy provisions.

Lands to North of Site/Applicant's Landholding

Planning Reference 24/60574 permission was granted by Kildare County Council (noting that an appeal made was withdrawn) to Petrogas Group Ltd. on the former Cemex site for the demolition of existing buildings (c.9,949sq.m) and the development of a mixed-use commercial development comprising a new Electric Vehicle Charging Hub for 36 vehicles and c.10,500sq.m of commercial development including a Distribution centre, Service station (with drive-thru) and Drive-Thru café.

5.0 Policy Context

5.1. Kildare County Development Plan 2023-2029

The Kildare County Development Plan 2023-2029 (CDP) which came into effect 28 January 2023 is the operative Development Plan for the county.

Objective RE O1: (Facilitate and support Kildare's economic growth in a sustainable manner...

Objective RE O6: Support enterprises and industry, including employment-intensive international business and technology parks, small and medium enterprises (SME) and micro enterprise centres at appropriate locations throughout the county.

Objective RE O39: Encourage economic development that is urban in nature to locate on appropriately zoned lands within urban areas in the first instance.

Policy IN P5: Ensure the continued incorporation of Flood Risk Management and National Flood Risk Policy (2018) into the spatial planning of Kildare, to meet the requirements of the EU Floods Directive and the EU Water Framework Directive and to promote a climate resilient County.

5.2. Naas Local Area Plan 2021-2027

5.2.1. The Naas Local Area Plan 2021-2027 (LAP) which became effective on 01 December 2021 is the operative plan which is relevant in the assessment of this case.

I note from the 2-year progress report undertaken in respect of the Kildare County Development Plan 2023-2027 (CDP), available on the Council's website, that no formal review has commenced/been undertaken on this plan.

5.2.2. Landuse Zoning

The landuse zonings for Naas town are set out within Map Number 11.1, contained within Appendix 1 (Maps) of the LAP. The site is located on lands zoned 'F – Open Space and Amenity' with the zoning objective *"to protect and provide for open space, amenity and recreation provision"*.

5.2.3. Land Use Zoning Acceptability

The use of the site which can be described as a 'Heavy Commercial Vehicle Park' is 'not normally permitted' on 'F' - Open Space and Amenity zoned lands (Section 11.1.1 Land Use Zoning Matrix). The LAP defines land uses which are 'not normally permitted' as 'uses which will not be permitted by the Council / local authority, except in very exceptional circumstances and where it can be demonstrated and justified that the development does not contravene Section 28 Ministerial Guidelines. This may be due to its perceived effect on existing and permitted uses, its incompatibility with the policies and objectives contained in this Plan or that it may be inconsistent with the proper planning and sustainable development of the area'.

Separately, whilst not specifically relevant – I note that the zoning matrix makes clear that in regard to 'T - Mixed Use Zoned Lands', "A heavy commercial vehicle park will only be considered on the eastern side (rear) of the site of Junction 9 (Maudlins) KDA".

5.2.4. The following Chapters are of note:

Chapter 2 (Planning Context and Vision for Naas) and Chapter 11 (Landuse Zoning Objectives and Implementation).

5.2.5. Policy objectives and Sections of particular relevance include:

Section 6.3: Naas Economic Development Strategy – Outlines that the strategic aim for the Plan is to protect existing employment in the town and to create new employment opportunities for Naas to fulfil its role as a ‘Key Town’ in the region and as the county town...

Section 6.3.1: This section of the LAP refers to job growth and economic development in Naas. It refers to the importance of commuters into the town in using local businesses and amenities, increasing the attractiveness of the town centre environment to ensure that these workers have reasons to use its services and facilities and also that the number of jobs is increased in order to make the town more self-sufficient and to address the economic and social impact of commuting.

Section 10.6.2. Junction 9 (Maudlins) Key Development Area required that a masterplan and traffic modelling and access strategy be undertaken on lands located to the north of the subject site (Refer Objective URD 1.13 & Objective URD 1.14). In this context, Figure 10.23 Junction 9 (Maudlins) Key Development Area Urban Design Concept set out within the LAP shows a “Supplementary Exit Route to Fishery Lane” within the subject site.

Objective NE 3.1: Encourage the use of SuDS within public and private developments and within the public realm to minimise and limit the extent of hard surfacing and paving, in order to reduce the potential impact of existing and predicted flooding risks.

Objective NE 3.2: Enhance and promote biodiversity and amenity and to ensure the protection of environmentally sensitive sites and habitats, including where flood risk management measures are planned.

Policy I3 (Flood Risk Management)

Objective IO 3.4: (Apply the sequential approach in terms of the site layout and design). If there is a proportion of the site at risk of flooding, the sequential approach must be applied to ensure that there is no encroachment onto, or loss of, the flood plain. Only water compatible development such as Open Space should be permitted for the lands which are identified as being at risk of flooding within that site. This shall ensure that flood risk on sites can be managed through the sequential approach only, without the requirement for further mitigation measures. If this cannot be achieved the applicant must clearly show that the sequential approach cannot be followed, they must satisfy all the criteria of the Justification Test and demonstrate that appropriate flood mitigation and management measures are put in place.

5.3. Climate Action Plan 2025

The recently adopted Climate Action Plan 2025 (CAP25) builds upon Climate Action Plan 2024 (CAP24) by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with CAP24. CAP24 outlines measures and actions by which the national climate objective of transitioning to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy by 2050 is to be achieved. These include the delivery of carbon budgets and reduction of emissions across sectors of the economy. Of relevance to the proposed development, is that of the built environment sector. The Board must be consistent with CAP25 in its decision making.

5.4. National Planning Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the PA, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) (2009).

5.5. Natural Heritage Designations

The site is not located within any European Site and there are no natural heritage designations attached to the site. The nearest European site is Red Bog SAC (Site Code 000397), located approximately 7km SE of the site.

5.6. Water Framework Directive

The European Union Water Framework Directive (WFD) aims to improve water quality and applies to all water bodies. The Directive runs in six-year cycles and is currently in its third cycle 2022 to 2027. Member States are required to achieve 'good' status in all waters and must ensure that status does not deteriorate. The Directive has been given effect by the Surface Water and Groundwater Regulations.

I have assessed the proposed development and have considered the objectives as set out in Article 4 of the WFD which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, subject to the submission of a construction management plan and compliance with conditions in regard to site drainage, mitigating potential oil leakage/spillage from on-site parked vehicles and works in respect of the extension of riparian strip, I am satisfied that there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

5.7. EIA Screening

The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- The PA provided no explanation for not accepting the applicant's justification set out within the Planning Statement in support of permitting the proposed development.
- The PA provided no reasoning for not engaging in the process of a material contravention, as sought by the applicant.
- Reference made to the 'non-essential nature of the site for regeneration purposes' is not reflective of any LAP policy/objective.
- There are inaccuracies within the PA's Planning Report in terms of content under Services section and Flooding section.
- The Council's Water Services Section have no objection in regard to flood risk.
- In relation to material contravention and the PA's reason for refusal, the applicant refers to the statutory criteria set out under Section 37(2)(b) of the PDA 2000 and argues that there are two subsections under S37(2)(b) which the Commission can rely on to grant permission in this case. A justification for the contravening materially of the plan is given.
- The applicant would be open to a temporary 3-year permission (by condition) in the event that a grant of permission is not supported.

6.2. Planning Authority Response

A response has been received from the Planning Authority dated 19 September 2024 which confirms the PA's decision to refuse permission. It also refers the Commission to the reports attached to its assessment of the application.

7.0 Assessment

Having examined the application details and all other documentation on file, including the submission received in relation to the third-party appeal, the applicant's appeal response submission & reports of the local authority, having visited the site, and having regard to the relevant local/regional/national policies, objectives and guidance, I consider that the substantive issues in this first-party appeal to be considered are as follows:

- Principle of Development
- Material Contravention
- Other Procedural Matters.

7.1. Principle of Development

7.1.1 Background

The appellant does not dispute the fact that the use sought in this case constitutes a material contravention to the Open Space & Amenity zoning objective attached to the site under the operative LAP. The appeal is grounded on the lack of clarity given by the PA as to its rationale in not initiating the statutory process of material contravention so as to facilitate the granting of permission of the proposed development.

The appellant contends that material contravention is the only outstanding issue, in the interest of the proper planning and sustainable development of the area.

The applicant's documentation and appeal submission set out the applicant's argument in justifying the proposed development from a proper planning perspective, including the extent to which the potential of a material contravention is warranted and permissible by the Commission. I note that it is also inferred within the appeal statement that the site's F- Open Space & Amenity zoning is an "incongruous anomaly at the edge of the established Naas Industrial estate".

The matter of focus on the material contravention process was previously raised by An Bord Pleanála (now an Comisiún Pleanála) in its assessment of a previously decided case on this site.

In addressing the above, I wish to highlight that in examining the proposal de novo, I have concerns in regard to the extent to which the proposal complies with standard planning considerations (including flood risk and drainage) in terms of the proper planning and sustainable development of the area. In this context, while the Commission has statutory powers which allow for the material contravention of the Naas LAP in its decision making and in noting that the PA's reason for refusal is grounded on the matter of material contravention, I wish to highlight that the procedural matter of material contravention is not the sole issue which remains in this case.

I acknowledge that the site with direct access into Naas Industrial Park appears to constitute a logical extension of the Industrial Park by virtue of its siting, within a corner site, immediately adjacent to the rear (eastern) boundary of the Industrial Park. I have also taken on board the applicant's justification for the proposed development in terms of reference made the availability of zoned site's and proximity of the site to the applicant's headquarters.

Notwithstanding, I am also mindful that the River Morell flows along the site's eastern boundary. The submitted Site Layout Plan, in my view, is somewhat misleading in that it denotes a "6m wide riparian strip". I further acknowledge that the Site Layout plan also clearly directs the viewer to the Landscaping Notes and Planting Schedule and provides a separate denotation in respect of proposed planting of shrubs and trees within the "new extended riparian buffer strip".

The applicant's accompanying document entitled "Landscape Notes" which supports the submitted Landscape Plan more accurately references that there is an existing steep embankment, approximately 2m in width and 3m in height which provides a riparian area between the river and the hard stand. The public notices refer only to permission for landscaping works, however it is not made clear that the landscaping sought is integral to a new riparian zone sought to be developed along the full extent of the site's eastern boundary.

7.1.2 Siting & Compatibility of Use Sought

I acknowledge that the site with direct access into Naas Industrial Park appears to constitute a logical extension of the Industrial Park by virtue of its siting, within a corner site, immediately adjacent to the rear (eastern) boundary of the Industrial Park.

I note that it is also inferred within the appeal statement that in terms of the pattern of development in the area, the site's F- Open Space & Amenity zoning is an "incongruous anomaly at the edge of an established industrial estate".

Notwithstanding, I am also mindful that the River Morell flows along the site's eastern boundary. The submitted Site Layout Plan, in my view, is somewhat misleading in that it denotes a "6m wide riparian strip" along the eastern edge of the site, without clearly stating that the delineated riparian strip is proposed under the landscaping works sought. I note that approximately 4 metres of the proposed 6-metre-wide strip is in hardcore at present. I accept that the Site Layout plan also directs the viewer to the Landscaping Notes and Planting Schedule (which accompanies the application) and provides a separate denotation in respect of proposed planting of shrubs and trees within the "new extended riparian buffer strip".

The applicant's accompanying document entitled "Landscape Notes" which supports the submitted Landscape Plan more accurately references that there is an existing steep embankment, approximately 2m in width and 3m in height which provides a riparian area between the river to the east of the site and the hardstand. The public notices refer to permission for landscaping works.

The proposed new landscaping is integral to the new riparian zone sought to be developed along the full extent of the site's eastern boundary. While the Landscape Notes clearly refer to the need for the removal of existing hardcore surface and kerbing and replacement with topsoil to create the riparian corridor and that the existing embankment should have a slope of no more than 30° to avoid erosion of the soil on to the existing bank, I am concerned that such measures are not fully addressed within the adjoining Planning Statement and SFRA in terms of the overall proposal.

In terms of landuse, the appellant refers to established industrial development to the south and west of the site as part of its justification for the development sought on the subject site. However, the site's relationship with adjoining lands to the north must also be examined. While I accept that the appellant refers to the Junction 9 (Maudlins) – Key Development Area and the content of a masterplan which was carried out and the recent planning approval of a substantially sized mixed use commercial development to the north of the applicant's lands, I am of the view that the potential for enhanced connectivity and the delivery of a "Supplementary Exit Route to Fishery Lane" within

the subject site as shown within Figure 10.23 Junction 9 (Maudlins) Key Development Area Urban Design Concept of the LAP requires further clarity. I do not propose to address this matter any further, given my concerns in respect of flood risk, which I will discuss in more detail in Section 7.1.2 below.

7.1.3 Flood Risk

The Strategic Flood Risk Assessment for the LAP found that the eastern area of the site which adjoins the River Morell to be impacted by both the within Flood Zone A (1% AEP) and Flood Zone B (0.1% - 1% AEP) flood risk zones. An Bord Pleanála previously refused permission on this site and a reason included in its refusal referred to the absence of a Site-Specific Flood Risk Assessment (FRA). I note that a FRA accompanies the subject application.

The Site-Specific Flood Risk Assessment (FRA) which accompanies the application does not align with data given within the application which in my view is pertinent in informing a conclusion on flood risk. The FRA purports that there would be no changes to existing ground levels or surface treatment. In regard to fluvial flood risk, it states that given that there are no changes proposed to the existing ground level that the subject proposal would not affect floodplain storage and accordingly, it would not increase flood risk elsewhere. While I note that there is no certainty given within the application in regard to whether or not the existing hardcore on the site and associated established ground levels have planning consent, I am cognisant that planning enforcement matters lie outside of the Board's remit in deciding on this case.

However, I further note that the statement given within the FRA that there would be no change to existing ground levels is contrary to the details given within the application's supporting document entitled 'Landscape Notes' which outlines that the applicant seeks the removal of an approximate 4m wide hardcore area along the entire eastern extent of the site as part of its landscaping works sought. The levels shown on the Site Layout Plan within the area labelled "new riparian buffer strip" show a gradual fall in levels in an easterly direction towards the river. While the Layout Plan suggests that there is a graded fall (upto 2m in parts) within the site to the adjoining river embankment, which is almost a 2m fall in some parts, I wish to highlight that I observed on site visit that there is no such level change existing within the site's hardcore area. Also, in referring to the steepness of the river embankment, an anomaly exists within

the details provided, with the river bank stated as being 3metres above the river within the applicant's 'Landscape Notes' document and contrary to this, the submitted FRA states that it is "roughly 1.5m" above the river within the submitted FRA. The river channel is also overgrown with dense vegetation on both channel banks.

In light of the conflicting details provided within the submitted documents on the ground levels attached to the site and river embankment, I am not satisfied that the FRA is sufficient to conclude that the proposed development can satisfactorily reduce the risks to an acceptable level while not increasing flood risk elsewhere on adjoining lands. For this reason and given that a precautionary approach is recommended when considering flood risk management in the planning system, I do not concur with the conclusions reached by the Water Services Section of Kildare County Council in raising no objection to flood risk and I recommend that permission be refused.

7.2. Material Contravention

7.2.1 As already discussed within Section 7.1 of this report, there is one matter of relevance to the proposed development in regard to potential for a material contravention of the Development Plan, notably, the site's land use zoning, being F- Open Space and Amenity with the objective "to protect and provide for open space, amenity and recreation provision".

7.2.2 Given that the zoning objective is set out solely within the LAP and not the CDP, it is my view that the Commission should not consider itself constrained by Section 37(2) of the Planning and Development Act.

Should the Board not concur with my view on this matter, I have carried out the relevant tests under Section 37(2) (Refer Section 7.2.3 below).

7.2.3 Having regard to Section 37(2) of the Planning and Development Act 2000 (as amended) (PDA), the Board may in determining an appeal under this section decide to grant permission even if the proposed development contravenes materially the development plan relating to the area of the PA to whose decision the appeal relates, where:

- i. the proposed development is of strategic or national importance:

The development sought is not considered to be of strategic or national importance such that it is required to be located on the subject lands. Therefore, it would not justify a material contravention of the CDP in this case.

or;

- ii. there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned:

The interpreting of objectives within the CDP must be as they would be interpreted by a reasonably intelligent and informed lay person. In my opinion, there are no conflicting objectives or objectives that are unclearly stated within the CDP which would justify a material contravention in this case.

I note that the appellant refers to the provisions of the LAP in its justification for a material contravention. The provisions of Section 37(2) of the Planning and Development Acts 2000 (as amended) (and criteria) apply to CDPs. The zoning objectives set out within the CDP do not relate to Naas – a key town, with landuse zoning for Naas contained within its LAP. [As an aside, the inclusion of a “supplementary exit route to Fishery Lane” within a portion of the site should it be so desirable and permissible in the future would enhance accessibility and allow for greater connectivity between these F-zoned lands and surrounding lands].

or;

- iii. permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government:

In the absence of clarity regarding the sufficiency of details on ground levels (existing and proposed), I am not satisfied that the proposal is consistent with Section 28 Guidelines, notably The Planning System and Flood Risk Management Guidelines (2009).

I consider that there are no specific requirements, guidelines, policy or statutory obligations which necessitates the need to grant planning permission for the subject lands, in this instance

or;

- iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

All permissions granted in the area since the making of the CDP are consistent with the landuse zonings attached to the respective sites under the Naas LAP.

Having regard to criteria under Section 37(2)(iv) of the PDA, as above, it is my view that a material contravention may be warranted in this case.

7.3. Other Procedural Matters

I note that the Stage 1 / 2 Road Safety Audit which accompanies this application was not certified by way of signatures from the named Audit Team members. I note also that a recommendation within the Road Safety Audit concerning the inclusion of a buffer zone between the yard and the industrial estate road so as to address loose material from the site's hardstanding surface is not detailed within accompanying documents. These matters should be addressed by way of condition in the event that the Commission is of a view to grant permission.

Given the statutory landuse plan for Naas and in respect of matters raised in respect of flood risk, I see no reason to support the granting of a temporary 3-year permission (by condition) as referenced by the appellant within their appeal submission.

8.0 AA Screening

I am satisfied that the information which I have referred to in my assessment allows for a complete examination and identification of any potential significant effects of the

development, alone, or in combination with other plans and projects on European sites. I have reviewed the Appropriate Assessment Stage 1 Screening which was undertaken by the PA and I have carried out a full Screening Determination for the proposed development and it is attached to this report in Appendix 3.

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- Nature of proposed works within an established serviceable site in an urban area.
- The site's location, over 7km from the nearest European site, with no direct hydrological or ecological connection.
- Taking into account the PA's screening determination.

See Appendix 3 - Screening the need for Appropriate Assessment' assessment report which is appended to this report.

9.0 Recommendation

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

10.0 Reasons and Considerations

1. The development proposed to be retained is located in an area which is zoned for F: Open Space and Amenity in the Naas Local Area Plan 2021-2027 where it is an objective "to protect and provide for open space, amenity and recreation provision". The provision of commercial parking of trucks/refrigeration trucks

are neither permissible nor open for consideration within the zoning matrix as indicated in Table 11.3 of the local area plan. The development proposed to be retained would materially contravene the Naas Local Area Plan 2021-2027 and would therefore be contrary to the proper planning and sustainable development of the area.

2. The development in this case is located in an area which is at risk of flooding as indicated in the Naas Local Area Plan 2021-2027, Strategic Flood Risk Assessment. In the absence sufficient details provided within the submitted Site Specific Flood Risk Assessment, the applicant has not demonstrated to the satisfaction of the Commission that the development would not itself be at risk of flooding, or that it would not give rise to an increased risk of flooding in the area. It is considered that the development would, therefore, be contrary to the provisions of Section 28 Guidelines "Planning System and Flood Risk Management Guidelines for Planning Authorities" (2009) and contrary to the overarching flood risk management strategy as set out within the, Strategic Flood Risk Assessment of the Naas Local Area Plan 2021-2027. The proposal, therefore, would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

Paula Hanlon
Planning Inspector

7 August 2025

Form 1 - EIA Pre-Screening

Case Reference	320670-24
Proposed Development Summary	Retention of commercial use for the parking of trucks & refrigerated container trucks, boundary fencing & electric gate, steel container containing electrical substation with all associated site works, including permission for landscaping
Development Address	Naas Industrial Estate, Maudlins, Fishery Lane, Naas, Co. Kildare.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>State the Class and state the relevant threshold</p>
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Class 10 (Infrastructure Projects)</p> <p>Class10(b)(iv) - Urban development which would involve an area greater than 10ha in the case of other parts of a built-up area.</p> <p>The site area stated as 0.914 ha located outside of Naas town's business district is significantly below the 10ha threshold for urban development in the case of other parts of a built-up area.</p>

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	320670-24
Proposed Development Summary	Retention of commercial use for the parking of trucks & refrigerated container trucks, boundary fencing & electric gate, steel container containing electrical substation with all associated site works, including permission for landscaping
Development Address	Naas Industrial Estate, Maudlins, Fishery Lane, Naas, Co. Kildare.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	Briefly comment on the key characteristics of the development, having regard to the criteria listed. <p>The site (0.914ha) is located in an urban area and on serviceable lands within Naas. The Site comprises a permeable hardcore area.</p> <p>The proposed development consists of retention permission for the parking of trucks and associated works. It is stated that the proposed development does not propose any changes to the existing Site, in regard to the existing ground level or existing surface treatment. Notwithstanding, the Landscape Notes and Site layout plan submitted conflicts with same in regard to ground levels/surfacing within a proposed 6m riparian corridor to the east of the site.</p> <p>The development will utilise an established access within the Naas Industrial Park. Overall, the proposal is not exceptional in the context of the existing environment, within the urban area of Naas.</p> <p>Subject to compliance with documentation submitted, no cause for nuisance is envisaged.</p> <p>The proposed development will not result in the production of any significant waste, emissions or pollutants. All wastes arising to be managed and disposed of in compliance with the provisions of the Waste Management Acts 1996-2013 and the associated Regulations and the Waste Management Plan for the Region.</p> <p>It will not pose risk of accidents or disasters or pose a risk to human health over and above an urban development of this type.</p>

<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>Briefly comment on the location of the development, having regard to the criteria listed</p> <p>The site is located within an urban area, on Open Space and Amenity zoned lands. The lands are located in excess of c.7km from any European Site. The River Morell flows along the site's eastern boundary. Its channel is overgrown with dense vegetation on both of its banks. There is a steep bank between the Site and the Morell River, which is stated within submitted documentation as an approx. 1.5m level difference. It is further stated that a minimum of 1.2m freeboard is provided between the 1% AEP flood levels and the Site's existing levels.</p> <p>The proposal will not impact on any known archaeology. The site has capacity to absorb the proposed development.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>No wastewater will be generated as a result of the subject application.</p> <p>Having regard to the characteristics of the development and the sensitivity of its location (incl. its proximity immediately adjacent to the River Morell), subject to adequate mitigation in addressing potential oil leaks/spillage arising from the parking of lorries/trucks, it is considered that there is no real likelihood for significant effects on environmental parameters and on the environment given the nature & extent of the proposed development and the magnitude and duration of the project.</p>
<p>Conclusion</p>	
<p>Likelihood of Significant Effects</p>	<p>Conclusion in respect of EIA</p>
<p>There is no real likelihood of significant effects on the environment.</p>	<p>Yes - EIA is not required.</p>
<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p>	<p>No</p>

There is a real likelihood of significant effects on the environment.	No
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Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

Screening for AA

Finding of likely significant effects

Screening for Appropriate Assessment Test for likely significant effects

1: Description of the project and local site characteristics

Case file: ABP 320670-24

<p>Brief description of project</p>		<p>Retention permission for the commercial use for the parking of trucks & refrigerated container trucks and all associated site works, including permission for landscaping.</p> <p>A detailed description of the proposed development is provided in Section 2 of the Inspector's report.</p> <p>These works sought are located outside of any European site. The nearest European site is Red Bog SAC (Site Code 000397), located approximately 7km SE of the site.</p>
<p>Brief description of development site characteristics and potential impact mechanisms</p>		<p>The site is located just within the plan boundary area of Naas on lowlying lands. Adjoining lands to the east are greenbelt.</p> <p>Established industrial and commercial uses lie on adjoining lands to the west and south and a new substantial commercial development is currently under construction to the north of the applicant's landholding.</p> <p>The River Morell runs along the site's eastern boundary. The eastern side of the site is within Flood Zone A and B. Surface water to discharge both through natural means within</p>

		the site's permeable hardcore and through on-site attenuation.
Screening report		No
Natura Impact Statement		No
Relevant submissions		None of relevance to Appropriate Assessment.
[Additional information]: *where relevant and appropriate		None

2. Identification of relevant European sites using the Source-pathway-receptor model

There are no European sites identified as being located within a potential zone of influence of the proposed development. Table 1 below identifies the nearest European site to the proposed development in its screening consideration.

European Site (code)	Qualifying interests ¹ (summary) Link to conservation objectives (NPWS)	Distance from proposed development	Ecological connections ²	Consider further in screening ³ Y/N
Red Bog SAC (000397)	Transition mires and quaking bogs [7140]	In excess of 7km	No feasible impact on the associated QIs	N

I have attached link to site details above, which outlines the Conservation Objectives and qualifying interests of the above listed European site, as provided by NPWS.

3. Describe the likely effects of the of the project (if any, alone or in combination) on European Sites

Given the nature and extent of works sought and the spatial separation distance, in excess of 8km, with no feasible hydrological connection to Red Bog, I conclude that the proposed development will not result in any direct or indirect effects on Red Bog SAC (000397), in view of its qualifying interests (refer table above) and its conservation objective – To maintain the favourable conservation condition of Transition mires and quaking bogs in Red Bog, Kildare SAC which is defined by a provided list of attributes and targets.

Therefore, there is no likelihood of effects occurring on Red Bog SAC, either alone or in-combination with other projects.

4: Conclude if the proposed development could result in likely significant effects on a European site

I conclude that the proposed development (alone) would not result in likely significant effects on any European site(s), including Red Bog SAC. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project.

No mitigation measures are required to come to this conclusion.

Screening Determination (Refer Section 8 of Inspectors Report for Screening Determination)