



An
Bord
Pleanála

Inspector's Report

ABP-320876-24

Development	Construction of parking spaces, plant/storeroom and associated development works
Location	Ladytown, Naas, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	2490
Applicants	George Dennison
Type of Application	Permission
Planning Authority Decision	Grant, with conditions
Type of Appeal	First Party
Appellant	George Dennison
Observers	None
Date of Site Inspection	6 th November 2024
Inspector	Jim Egan

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1.0 Site Location and Description

- 1.1. The appeal site, with a stated area of c. 1.64 ha, comprises greenfield land located immediately south of Junction 10 (Naas South) on the M7 motorway, in the townland of Ladytown, c. 3.5km west of Naas town centre. The site is bound to the southwest and southeast by agricultural lands, to the northwest by the M7 motorway and to the northeast by land used as a commercial truck sales yard.
- 1.2. The site is generally flat and comprises part of a larger field with boundaries defined by mature trees and hedgerows. Access to the site is from the northeast, via the L6066 local road which connects to the R445 regional road at the 'Bundle of Sticks' roundabout to the northeast.

2.0 Proposed Development

- 2.1. Permission is sought for the following:
 - Construction of 65 no. truck parking spaces, 10 no. car parking spaces and 2 no. pull-in areas, in lieu of an industrial unit previously granted under planning permission P.A. Ref. 20/434
 - Construction of toilet facilities and plant / storeroom building (70.84sqm)
 - Construction of interior access roads, site lighting, infrastructure, landscaping, boundary treatment and all associated site development works.
- 2.2. Further information, submitted on the 31st July 2024, included a minor modification / labelling to the proposed plant / storeroom to incorporate staff facilities, and EV charge points identified on the Site Layout Plan.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 20 no. conditions. Conditions No. 2 and No. 3 are the subject of this appeal, and read as follows:

Condition 2

Within 6 months of the grant of permission, the Applicant / Developer shall remove all unauthorised structures from the lands to the north (within the blue line boundary) and the use shall cease. A letter confirming the cessation of use and photographic evidence and full details of the removal of all structures shall be submitted for the written approval of the Planning Authority within 6 months of the grant of permission.

REASON: In the interest of clarity and the proper and sustainable servicing of the proposed development.

Condition 3

The proposed storage yard located within the blue line boundary to the south of the subject site shall be omitted. The proposed access / gate to the south into this section of land shall be omitted and shall be planted with native trees and shrubs as per Table 15.1a of the Kildare County Development Plan 2023-2029 (no laurel shall be planted).

REASON: In the interest of clarity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planners report dated 2nd May 2024 recommended that 3 no. items of further information be sought. These items are summarised below:

1. Clarification sought on the following:
 - a) Planning status of the adjoining site to the north within the same ownership, which is used for truck parking / sales and presence of other alleged unauthorised development.
 - b) Extent of land which forms part of the application. Applicant advised that an amendment to the P.A. Ref. 20/434 permission should include all relevant land within the red line boundary,
 - c) Planning status and details of a 'storage yard' indicated south of the site and within the blue line boundary. Applicant advised that a 'Storage Yard' at this location was not permitted under P.A. Ref. 20/434.
2. Requests the following to be submitted:

- a) Revised plans showing bicycle parking, staff welfare facilities and EV charge points,
 - b) Acoustic Design Statement,
 - c) Lighting Report and Site Lighting Layout plan.
3. Requests that a landscape plan and boundary treatment proposal are submitted.

A response to the request for further information was received on the 31st July 2024.

A second planner's report, dated 22nd August 2024, made the following main points:

- Request by the applicant to continue the use of the adjoining truck sales yard for 3 years is not favoured by the Planning Authority. It is recommended that a condition be included which sets a time limit on removal of all aspects of the unauthorised development.
- Proposed 'Storage Yard' is located outside the red line for the current application and was not permitted under P.A. Ref. 20/434.
- Revised site plan and reports in response to further information Items 2 and 3 are noted.
- Recommended that permission be granted subject to conditions, including Conditions 2 and 3 as they appear on the notification of decision to grant permission, and being the subject of this appeal.

3.2.2. Other Technical Reports

Water Services: Report dated 4th April 2024 raised no objection to the proposed development, subject to standard conditions.

Environment Section: Report dated 10th April 2024 raised no objection to the proposed development, subject to standard conditions.

Transport, Mobility and Open Space Department: Report dated 26th April 2024 recommended that further information be sought with regards to bicycle parking, staff welfare facilities, EV charging points, acoustic design statement and a lighting plan / report. These concerns were reflected in the request for further information. A report dated 20th August 2024 raised no objection to the proposed development, subject to standard conditions.

3.3. Prescribed Bodies

Irish Water: Report dated 11th April 2024 raised no objection to the proposed development subject to conditions.

Environmental Health Officer: Report dated 5th April 2024 raised no objection to the proposed development subject to conditions.

3.4. Third Party Observations

None.

4.0 Planning History

4.1. Appeal Site

P.A. Ref. 20/434 – refers to a December 2020 grant of permission which comprised the construction of an administration office and manufacturing industrial units in 4no. blocks.

The approved development covers the overall landholding of c. 4.3ha, corresponding with the blue line boundary as shown on the site location map for the current application, and included the land to which the current application relates.

4.2. Adjoining Land (within same ownership)

P.A. Ref. 03/2193 – refers to a 2003 refusal of retention permission for a hard standing area for the storage of articulated trailers. The development related part of the land on which the truck sales yard is currently located.

P.A. Ref. 06/1172 – refers to a 2007 grant of permission for the construction of a warehouse, offices paved area and wastewater treatment system. The development related to the land on which the truck sales yard is currently located. The permission was not implemented and subsequently expired.

P.A. Ref. 08/140 – refers to a 2008 grant of permission for alterations to the development approved under P.A. Ref. 06/1172. The permission was not implemented and subsequently expired.

5.0 Policy Context

5.1. Kildare County Development Plan 2023 – 2029

- 5.1.1. In Chapter 2 (Core Strategy & Settlement Strategy), Naas is designated a ‘Key Town’ under the county settlement hierarchy. Table 2.7 identifies key towns as *‘large towns which are economically active that provide employment for their surrounding areas. High quality transport links and the capacity to act as regional drivers to complement the Regional Growth Centres’*.

RE O22 It is an objective of the Council to promote the Key Town of Naas as a primary centre of high-quality employment in the County so that its significant residential population will have employment opportunities within easy distance of their homes, thereby reducing outbound commuting.

- 5.1.2. Chapter 15 relates to Development Management Standards and includes Section 15.9.1 (Employment Uses) and Section 15.9.2 (Industry and Warehousing Developments).

5.2. Naas Local Area Plan 2021-2027

- 5.2.1. The site is zoned *H: Industry & Warehousing* with the associated land use objective *‘To provide for industry, manufacturing, distribution and warehousing’*. As per Table 11.1.1 (Land Use Zoning Matrix), the use of land for ‘Heavy Commercial Vehicle Park’ is ‘Permitted in Principle’ on land zoned *H: Industry & Warehousing*.
- 5.2.2. Chapter 6 relates to Economic Development, Retail and Tourism and contains the following policy and objective relevant to the proposal:

Policy ED 1 It is the policy of the Council to support the development of Naas as the enterprise and employment hub for County Kildare and the region, increase employment located within the town, reduce commuting and ensure new employment development contributes towards reducing carbon output.

Objective EDO 1.1 Encourage economic development and employment growth in Naas in accordance with its designation as a Key Town, while adhering to the overall Economic Development Strategy of the Plan.

5.3. Natural Heritage Designations

5.3.1. The site is not located within or adjacent to any designated sites. The closest European Sites are as follows:

- Mouds Bog SAC (Site Code 002331), c. 5.1km west of the site,
- Pollardstown Fen SAC (Site Code: 000396), c. 8.3m southwest of the site,

5.3.2. The Grand Canal pNHA (Site Code 002104) is located c. 850m southeast of the site, and the Mouds Bog pNHA (Site Code: 000395) is located c. 5.1km west of the site.

5.4. EIA Screening

5.4.1. Refer to Form 1 in Appendix 1 (EIA Pre-Screening). Class 10(b)(iv) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

5.4.2. Refer to Form 2 in Appendix 1 (EIA Preliminary Examination). Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A First Party appeal has been submitted against Condition No. 2 and No. 3 on the Planning Authority's decision to grant permission.

Condition No. 2 relates to the existing truck parking / sales yard located on land adjoining the appeal site to the northeast and requires the use of same to cease and associated development to be removed within 6 months of the decision.

Condition No. 3 relates to a proposed storage yard identified outside the red line boundary on the site layout plan, requiring this yard and associated access gate to be omitted.

The grounds of appeal are summarised as follows:

In respect of Condition No. 2

- The site is leased to a third party for the warehousing of commercial motorised machinery, occupying the site since 2009.
- The applicant accepts the condition but requests that the period be extended from 6 months to 18 months, to allow the business sufficient time to relocate.

In respect of Condition No. 3

- The proposed storage yard forms part of a proposed manufacturing facility granted under P.A. Ref. 20/434.
- Landscape Masterplan approved under P.A. Ref. 20/434 will be implemented.
- Requests that the condition be removed.

6.2. Planning Authority Response

A response was received on the 17th October 2024 which states that the Planning Authority notes the content of the first party appeal and asks the Board to refer to the Planning Reports and other referral reports received in relation to the assessment of the application.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

Having regard to the nature and scale of the development and the specific issues arising, that being a first party appeal against Condition numbers 2 and 3 of the Planning Authority decision, I am of the opinion that the determination of the application as if it had been made to the Board in the first instance is not warranted.

In that regard I note the provisions of section 139 of the Planning & Development Act 2000 (as amended). This assessment will therefore be confined to the specific appeal of Condition numbers 2 and 3 of the Planning Authority decision.

The issues can be dealt with under the following headings:

- Condition 2 – Existing use of adjoining land to the north-east
- Condition 3 – Proposed 'Storage Yard'

The issue of appropriate assessment screening also needs to be addressed.

7.1. Condition 2 - Existing use of adjoining land to the north-east

7.1.1. The application, as per the public notices, seeks permission for the construction of 65 no. truck parking spaces and associated development works on a greenfield site.

7.1.2. Condition No. 2 on the Planning Authority's notification of decision to grant permission relates to land located outside the application red line boundary and reads as follows:

2. Within 6 months of the grant of permission, the Applicant / Developer shall remove all unauthorised structures from the lands to the north (within the blue line boundary) and the use shall cease. A letter confirming the cessation of use and photographic evidence and full details of the removal of all structures shall be submitted for the written approval of the Planning Authority within 6 months of the grant of permission.

REASON: In the interest of clarity and the proper and sustainable servicing of the proposed development.

7.1.3. The Board is advised from the outset that the application does not seek permission / retention permission for development on the land referred to by the Planning Authority in Condition No. 2.

7.1.4. The land to which Condition No. 2 relates is owned / controlled by the applicant and, according to the applicant, is leased to a third party for the commercial sale of trucks. There is no record of a grant of planning permission for the truck sales use or associated structures.

7.1.5. The first party appeal requests that the condition be amended to extend the period from 6 months to 18 months to allow the occupant (truck sales business) sufficient time to find an alternative site.

- 7.1.6. In terms of planning background, a 2020 grant of permission under P.A. Ref. 20/434 relates to a development covering the overall landholding of c. 4.3ha, corresponding with the blue line boundary as shown on the site location map for the current application, and included the land to which the current application relates and the land to the northeast on which the alleged unauthorised truck sales yard is located. At the time of inspecting the site, I observed that no development has commenced in respect of permission P.A. Ref. 20/434, albeit the appellant does refer to works completed in respect of foul sewer and other services infrastructure, however it is not specifically stated that these works relate specifically to that permission.
- 7.1.7. The submitted site layout plan for the current application shows the proposed development in the context of the layout of the remaining development approved under P.A. Ref. 20/434 (apart from the area of land south-west of the application site – see Section 7.2 below). The applicant confirmed at further information stage that the current application is stand-alone and, thus, not an amendment to the 2020 permission.
- 7.1.8. Referring to the submitted drawings, particularly the Existing Site Layout and Tree Survey drawing, the application site, apart from a section of the red line extending northeast on the access road, does not directly adjoin the land to which Condition No. 2 relates, being the land on which the truck sales business is located. In the event that the development for which permission is currently sought is completed and the development permitted under P.A. 20/434 is not implemented, there would be a c. 28m wide area of residual land between the current application site and the land on which the truck sales business is currently located.
- 7.1.9. As outlined above, the application does not seek permission / retention permission for development on the land referred to by the Planning Authority in Condition No. 2. As such, the remit of the Board is to assess the proposal as per the public notices and, by association, the development as contained within the application red line boundary.
- 7.1.10. Circumstances where the Planning Authority or the Board can impose conditions which require development or use of land outside the application site is provided for under Section 34(4) of the Planning and Development Act 2000 (as amended). Of relevance to this appeal are the following provisions:

34(4)(a) conditions for regulating the development or use of any land which adjoins, abuts or is adjacent to the land to be developed and which is

under the control of the applicant if the imposition of such conditions appears to the planning authority —

- i. to be expedient for the purposes of or in connection with the development authorised by the permission, or*
- ii. to be appropriate, where any aspect or feature of that adjoining, abutting or adjacent land constitutes an amenity for the public or a section of the public, for the purposes of conserving that amenity for the public or that section of the public (and the effect of the imposition of conditions for that purpose would not be to burden unduly the person in whose favour the permission operates);*

34(4)(b) conditions for requiring the carrying out of works (including the provision of facilities) which the planning authority considers are required for the purposes of the development authorised by the permission.

7.1.11. In my view the imposition of Condition No. 2 does not satisfy the criteria under Section 34(4)(a) or (b). With reference to part (i) of Section 34(4)(a), and notwithstanding that the truck sales business does not directly adjoin the application site, albeit the red line extends northeast on the access road, I consider the act of ceasing the use of the truck sales business is not necessary or otherwise beneficial to the construction or use of the development for which permission is sought, and furthermore, with reference to Section 34(4)(b), I consider the act of ceasing the truck sales business and removal of associated structures is not required for the purposes of the development for which permission is sought.

7.1.12. Assessment of the current application is confined to the development as set out in the public notices and within the red line boundary and, by association, the application does not seek permission / retention permission for development on the land referred to by the Planning Authority in Condition No. 2. Furthermore, having regard to the above in respect of Section 34(4) of the Act, the requirement of Condition No. 2 has no functional connection to the proposal for which permission is currently sought. Development / use of the land to which Condition No. 2 relates would need to be subject to a separate planning application for permission or retention permission and assessed accordingly. As such, it is my view that to impose a condition which allows the continued unauthorised use of land, where it is located outside the application

boundary, in the absence of due process and proper assessment, is not in the interests of the common good and not within the remit of the Board.

7.1.13. On the basis of the foregoing, I recommend that Condition No. 2 is omitted.

7.2. Condition 3 - Proposed 'Storage Yard'

7.2.1. Condition No. 3 relates to a proposed storage yard identified outside the red line boundary on the site layout plan, requiring this yard and associated access gate to be omitted. The condition reads as follows:

3. The proposed storage yard located within the blue line boundary to the south of the subject site shall be omitted. The proposed access / gate to the south into this section of land shall be omitted and shall be planted with native trees and shrubs as per Table 15.1a of the Kildare County Development Plan 2023-2029 (no laurel shall be planted).

REASON: In the interest of clarity.

7.2.2. The Site Layout Plan submitted with the current application shows the proposed storage yard, of c. 2.9ha, located outside the application red line boundary and, as such, does not form part of the planning application. The applicant does not dispute this however submits that the storage yard forms part of a manufacturing facility granted under P.A. Ref. 20/434.

7.2.3. For the purposes of clarity, I have reviewed the permission granted under P.A. Ref. 20/434 and conclude that the storage yard was not part of the permitted development. The approved Site Layout Plan under P.A. Ref. 20/434 included a manufacturing building (referred to as Block 3) located across the appeal site and to within c. 12.6m of the landholding boundary to the southwest, thus extending across the part of the land on which the 'storage yard' is now shown.

7.2.4. I have found no record of a grant of permission for the 'Storage Yard' and the current application does not seek permission for same on the basis that the land is located outside the application red line boundary. I consider that imposing a condition which omits the storage yard is unnecessary for the reason that it is located outside the application red line boundary. I do however consider that a condition should be included that provides clarity on the matter.

- 7.2.5. Furthermore, Condition 3 requires the omission of gated access to the storage yard and the section of land associated with the access to be planted with hedgerow. Regardless of the proposed use of the residual land to the southwest, I consider gated access is reasonable in the context of the overall landholding for the reason that in the absence of access the land to the southwest would be otherwise landlocked.
- 7.2.6. On the basis of the foregoing, I recommend that Condition 3 be amended to clarify that the permission does not include the 'storage yard' on land adjoining the site to the southwest, located outside the application red line boundary.

8.0 AA Screening

Refer to Appendix 2. Having regard to nature, scale and location of the proposed development and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend that the Board consider the appeal in the context of section 139 of the Planning & Development Act 2000 (as amended). I further recommend that the Board direct the Planning Authority to omit Condition No. 2 and to amend Condition No. 3.

10.0 Reasons and Considerations

Having regard to the provisions of Section 34 of the Planning and Development Act 2000 (as amended) and in the interests of the common good, it is considered that the omission of Condition No. 2 and amendment to Condition No. 3 is in accordance with due process.

Condition 3

The permission relates only to the development as contained within the application red line boundary and, by association, does not permit the 'storage yard' on land adjoining the site to the southwest.

REASON: In the interest of clarity.

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.

Jim Egan
Planning Inspector

16th January 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320876-24		
Proposed Development Summary	Construction of parking spaces, plant/storeroom and associated development works		
Development Address	Ladytown, Naas, Co. Kildare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	√	
	No		
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	√		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	Class 10(b)(iv) - Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. The site is located on the western edge of the development boundary of Naas, outside of the business district and outside of the built-up area.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	√	Pre-screening determination remains as above (Q1 to Q4)
Yes		

Inspector: _____ Date: _____

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-320876-24
Proposed Development Summary	Construction of parking spaces, plant/storeroom and associated development works
Development Address	Ladytown, Naas, Co. Kildare
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(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).</p>	<p>The proposed development comprises the construction of 65 no. truck parking spaces, plant/storeroom and associated development works on a site with a stated area of c. 1.64 ha.</p> <p>The development comes forward as a standalone project, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</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</p>	<p>The site is not located within or immediately adjacent to any designated site. The proposed development would use the public water and wastewater services of Uisce Eireann, upon which its effects would be marginal.</p> <p>It is considered that the proposed development would not be likely to have</p>

of historic, cultural or archaeological significance).	a significant effect individually, or in combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	
There is a real likelihood of significant effects on the environment.	EIAR required.	

Inspector: _____

Date: _____

Appendix 2

AA Screening

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The site is not located within or immediately adjacent to any European Sites. The closest European Sites, part of the Natura 2000 Network, are the Mouds Bog SAC (Site Code 002331), c. 5.1km west and Pollardstown Fen SAC (Site Code: 000396), c. 8.3m southwest.

The proposed development is located on the edge of an urban settlement and comprises the construction of 65 no. truck parking spaces, plant / storeroom / staff facilities, and associated development works on a site with a stated area of c. 1.64 ha. The development would be connected to public services including water and sewer, with the surface of the parking area to be constructed of permeable material.

The Planning Authority concluded that there are no potential significant effects on European Sites and as such AA is not required.

Having considered the nature, scale and location of the proposed development, and having regard to the AA Screening carried out by the Planning Authority, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.

The reason for this conclusion is as follows:

- Nature and scale of the proposed development;
- Urban location with access to all public services and utilities; and
- The distance from European Sites, absence of ecological pathways to any European Site.

I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.