



An
Coimisiún
Pleanála

Inspector's Report

ACP-322649-25

Development

Permission for an extension and modification to existing shop. 1) removal of existing shop floor area as part of the existing house 2) ground floor extension to existing shop 3) First floor extension for storage office and toilet 4) modifying the front shop area for off street parking, deliveries etc and all associated site works

Location

42A The Sycamores, Freshford Road, Kilkenny

Planning Authority

Kilkenny County Council

Planning Authority Reg. Ref.

2460578

Applicant

Denis Brennan

Type of Application

Permission

Planning Authority Decision

Grant Permission with Conditions

Type of Appeal

Third Party

Appellant(s)	Sycamore and Aylesbury Residents Association
Observer(s)	None
Date of Site Inspection	19 th July 2025
Inspector	Andrew Hersey

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The proposed development is located in the northern suburbs of Kilkenny City in a suburban estate at the junction of the Freshford Road and the estate road. The site comprises of an existing single storey shop attached to a two storey house to the east. There is an open area to the front and an enclosed yard to the west with a shipping container within the same.
- 1.2. St Lukes General Hospital is located to the north and Kilkenny Greyhound Stadium to the south west. The Sycamores and Aylesbury Estates are located to the east.

2.0 Proposed Development

- 2.1. The proposed development comprises of;
 - The demolition of the existing single storey shop to the side of the existing two storey house
 - The construction of a two storey gable fronted extension to the side of the existing house for the purposes of a shop at ground floor and storage, office and a staff canteen at first floor
 - Ancillary site works including a set down parking area to the front of the premises.
 - The floorspace of the proposed shop including for the first floor is stated as being 255.60sq.m.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission for the said development subject to 4 conditions on the 2nd May 2025

3.1.1. Conditions

- Condition No. 2 relates to a Section 48 Development Contribution

- Condition No. 3 relates to the parking/drop off area to the front of the proposed shop and specifically states that;
 - (a) The proposed access and egress shall be constructed to ensure priority to pedestrians over traffic entering and exiting the development.*
 - (b) The footpath shall be continuous over the extent of the roadside boundary with alternative materials to highlight the access points as per dwg 001 submitted as part of the further information.*
 - (c) The access point shall be suitably dished and constructed to cater for vehicular loading with a dropped kerb along the road edge to maintain existing road edge drainage*
 - (d) The footpath shall be reinstated to a width of 1.8 m unless otherwise agreed with the Kilkenny Area Engineers Office prior to commencement of development*
- Condition No. 4 relates to the requirement to agree signage for the proposed shop front with the Planning Authority prior to the commencement of development

3.2. Planning Authority Reports

3.2.1. Planning Reports

- It is noted that the case planner recommended permission be refused for the said development on the grounds of that the proposal would undermine the retail strategy in the Kilkenny City & County Development Plan 2021-2027 and on the grounds of traffic safety and the lack of on-site car parking.
- This recommendation was overturned by the Senior Planner whom recommended further information be issued.
- Further Information was received on the 8th April 2024 and a grant of permission was recommended by the Senior Planner

3.2.2. Other Technical Reports

- There are two reports from Road Design on file dated 1st May 2025 and 21st January 2025. Both reports recommend that there is no objection in principle

to the proposed development subject to specific requirements as set out generally in accordance with Condition 3 as set out under Section 3.1.1. above.

3.3. Prescribed Bodies

- No submissions were received

3.4. Third Party Observations

There is one submission on file from the Sycamores & Aylesbury Residents Association received 10th December. The submission raises the following issues;

- That they have no objection in principle to the proposed expansion of the shop as presented and that the shop is a central hub and a great asset to the estate
- That there is uncertainty with respect to the traffic management plan that will be put in place to deal with the resultant extra traffic that will result as a consequent of the proposed development. In particular they state that indiscriminate parking at the entrance to the estate and in front of the existing shop results in daily access difficulties.
- That the proposal does not include for a distinct safe pedestrian entrance and exit to the proposed shop.
- Concerns that there is not adequate space in place for the proposed parking of two vehicles outside the shop and an adequate turning area.
- Concerns that vehicles will have to traverse over the footpath to access the parking and that this will cause a risk to pedestrians

4.0 Planning History

- Planning Reg. Ref. 10/521 granted for permission to install double doors to front of shop and to close up the existing side door to the shop.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Kilkenny City and County Development Plan 2021-2027 is the statutory development plan in force at present. Volume 2 of the Plan relates to the city. The following is relevant to the proposed development;

- The site is zoned as 'Existing Residential' the objective of which is to 'Protect, provide and improve residential amenities'
- A 'local convenience shop' is a use that is permitted in principle in this land use
- Section 3.4.3 - Out of Centre Retail states that;

Out of centre retailing is predominantly relevant to Kilkenny City, where there are a number of small out of centre retail locations. In addition, there is a large retail park on the outskirts and south of the city. The Kilkenny Retail Park is comprised of large units mostly for the sale of bulky goods. In addition to the retail park, there are a number of local neighbourhood centres located within the bounds of Kilkenny that provide a supporting role to the retail and services offer of the City Centre. While these shops and services are important, their growth should continue to be carefully managed so as to ensure that they would never have the opportunity to compete with Kilkenny City Centre. The local centres within the bounds of Kilkenny include:

- *Newpark Shopping Centre (19 units);*
- *Loughboy Shopping Centre (12 units);*
- *Waterford Road (11 units);*
- *Lidl on Johnswell Road;*
- *Aldi at Hebron Industrial Estate*

These local centre locations provide an important convenience goods offer and, in most cases, a limited range of services for local residents and should continue to be supported albeit given limited opportunity to expand.

5.2. Relevant National or Regional Policy / Ministerial Guidelines

5.2.1. Guidelines for Planning Authorities, Retail Planning, 2012

- Key policy objectives include ensuring that retail development is plan-led and promotes city/town centre vitality through a sequential approach to development.
- Where permission is sought for a floorspace in excess of 100m², the sequential approach to retail development shall apply.

5.3. Natural Heritage Designations

- The River Barrow and River Nore SAC, Site Code 002162, is located 340 metres to the east of the site
- The River Nore SPA, Site Code 004233, is located 460 metres to the east of the site

6.0 EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning & Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. A third party appeal was lodged by the Sycamores & Aylesbury Residents Association on the 29th May 2025.

7.1.2. The appellants raise the following issues;

- That they require clarification as to what specific measures are being put in place to manage vulnerable pedestrians. The current proposals do not address increased risks to pedestrians as a result of the proposed construction of a turning circle

- The current footpath outside the shop serves as a direct corridor to the bus stop on the Freshford Road and the recently installed pedestrian crossing for school children
- That they note that the unutilised area outside the morgue presents a much more suitable location for parking to serve the proposed development

7.2. Applicant Response

7.2.1. A response from the first party was received by the Commission on the 26th June 2025. The response raises the following issues;

- That the shop serves the residents of Sycamore and Aylesbury Housing Estate comprising of 262 houses.
- That a shipping container in the yard of the existing shop which serves as a storage area will be removed.
- The existing shop has a floorspace of 62.7sq.m. and the proposed extended shop has a net retail floorspace of 118.5sq.m., a net increase of 55.82sq.m.
- That the 'local centres' as designated for development in the development plan are not within easy walking distance of the site. The nearest centre is the city centre which is 1.2km away. There are two petrol stations 1.1km away which have a limited retail offering.
- A future neighbourhood centre is planned off Lord Edward Street which is 800m as the crow flies and over 1km by foot. There is no permission in place for this centre at present.
- That the plan recognises the '10 minute city' concept. There are currently no retail outlets within 10 minutes of the proposed development site.
- That condition no. 3 as imposed by the Planning Authority will alleviate many of the concerns raised in the appeal.
- That revised plans have been submitted with the response to include for a dedicated pedestrian access and egress to the shop to the east of the site by incorporating part of the driveway associated with the existing house on site.

- The pedestrian footpath along the roadside is to be maintained and that surface detailing will ensure that the footpath is maintained as a pedestrian priority route.
- That there are ongoing issues with respect to visitors to the hospital parking in the estate notwithstanding double yellow lines within the estate. It is the role of the Gardai and the Local Authority to enforce this which would reduce unauthorised parking.
- That the applicants main customer base now is the residents of the estate and not the hospital staff whom now have a shop on the hospital campus.
- It is suggested by the appellants that the area outside the morgue would be a suitable location for parking. The applicant does not own this and therefore such a proposal is beyond the control of the applicant.

7.3. Planning Authority Response

7.3.1. A response from the Planning Authority was received on the 30th June 2025 and states the following;

- That the proposed development comprises of a proposed shop floor area of 68.4sq.m. which will result in a total floorspace of 111sq.m.(including the deli)
- That given the established use on the site and the improved circulation and pedestrian elements, the Planning Authority would consider that the proposed development will not have a significant negative impact upon the area and would not impact upon the retail strategy for Kilkenny City.
- The Planning Authority is of a view that the proposal represents convenience retail and can be considered under the existing residential zoning objectives
- That Kilkenny County Council Road Design Office has no objection to the proposed development subject to conditions
- That they respectfully suggest that the decision of the Planning Authority be upheld.

7.4. Observations

- None received

7.5. Further Responses

- None received

8.0 Assessment

8.1. Introduction

8.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.

8.1.2. I am satisfied the substantive issues arising from the grounds of this third party appeal relate to the following matters;

- Principle of Proposed Development/Development Plan Policy
- Car Parking
- Traffic and Pedestrian Safety
- Other Issues

8.2. Principle of Proposed Development/Development Plan Policy

8.2.1. It is noted initially that both the Planning Authority and the appellants do not object the principle of the proposed extension to an existing convenience retail store at this location. The appellants in their submission to the Planning Authority noted that *'the shop is a central hub and a great asset to the estate'*.

8.2.2. The site is located on lands zoned as 'Existing Residential' in the Kilkenny City and County Development Plan 2021-2027 in which 'convenience retail' is a use which is an acceptable form of development.

8.2.3. The statutory plan serving the area designates five sites in the city at Newpark Shopping, Loughboy Shopping Centre, Waterford Road, Lidl on Johnswell Road and Aldi at Hebron Industrial Estate and states that these local centre locations provide an important convenience goods offer and, in most cases, a limited range of

services for local residents and should continue to be supported albeit given limited opportunity to expand.

- 8.2.4. The Plan seeks under Section 3.4.4, 'To ensure a town centre first approach is adopted for all future retail development across the County, whereby the order of priority for the sequential approach will be City and Town Centre sites, edge-of-centre sites, and out-of-centre sites'
- 8.2.5. This is further encapsulated in the Guidelines for Planning Authorities, Retail Planning, 2012, which states that 'Where permission is sought for a floorspace in excess of 100m², the sequential approach to retail development shall apply'
- 8.2.6. First Party submissions on file state that the floorspace of the existing retail unit on site is of 62.7sq.m. and the proposed extended shop has a net retail floorspace of 118.5sq.m., a net increase of 55.82sq.m.
- 8.2.7. The Planning Authority do not consider a sequential test on this basis of the net increase in retail space and that the 'Existing Residential' zoning provision allows for convenience retail supports the proposal.
- 8.2.8. First Party submissions on file state that the nearest convenience retail is 1.1km from the site which in this case is a fuel station with a limited choice. The first party therefore argues that there is a need for the proposed development at this location.
- 8.2.9. The first party also argues that the designated retail centres cited under Section 8.2.3 above are not within walking distance of the site and are more than a 10 minute walk away.
- 8.2.10. With respect to the foregoing, and having regard to the established retail presence on the site, and having regard to its location and the location of other convenience retail offerings which are not in close proximity to the proposed development site it is considered that the proposed extension is an acceptable form of development in principle at this location.
- 8.2.11. With respect to the provisions of the Guidelines for Planning Authorities, Retail Planning, 2012, and the recommendation therein which requires a sequential test where convenience retail exceeds 100sq.m, I am of the opinion that the proposal, which is cited as having a net floorspace of 118sq.m. does not exceed the threshold excessively. In any rate the applicant has submitted sufficient prove that there are no

other convenience retail within at least 1km of the site. The proposal will therefore offer a more comprehensive retail offering thereby potentially reducing travel by car to other retail stores over 1km from the site.

- 8.2.12. On this basis I consider that the extension to the existing retail use can be accommodated on this site without having a significant impact upon retail within the city centre.

8.3. Car Parking

- 8.3.1. The proposed development incorporates 2 car parking spaces to serve the proposed development.
- 8.3.2. Table 12.3 Car Parking Standards of the Kilkenny City and County Development Plan (Volume 1) states that for shops, 1 space is required per 20sq.m. of gross floor area.
- 8.3.3. Considering a retail floorspace of 55.82sq.m (extension as proposed) 2.8 spaces would be required to serve the proposed development. As stated above only two are proposed and as such there is a marginal shortfall of 0.8 spaces (rounding off to 1 space)
- 8.3.4. Section 12.12 of the Plan states that *'the application of car parking standards is to ensure that consideration is given to the accommodation of vehicles in assessing development proposals while being mindful of the need to promote a shift towards more sustainable forms of transport. Relaxation of the guidance in the table will be considered on a case by case basis'*
- 8.3.5. The proposed development site is within walking distance of Sycamore and Aylesbury Housing Estate comprising of 262 houses and is within walking distance of St Lukes Hospital and a number of primary and secondary schools. There is also a bus service along the Freshford Road.
- 8.3.6. The proposed development site, as now proposed can accommodate two spaces whereas previously no spaces were serving the existing retail unit.
- 8.3.7. Previously cars parked on the road parallel to the kerb in front of the shop and from submissions on file it would appear that this resulted in traffic congestion at the junction of the estate road with the Freshford Road, particularly with respect to traffic turning

onto the estate road from the Freshford Road and having to stop because of this kerbside parking and the narrow width of the estate road.

- 8.3.8. I note that the report from Road Design on file has accepted the proposed arrangement of parking on the site and they have accepted the access and egress proposals to the same subject to certain conditions being imposed.
- 8.3.9. On the basis of its location within walking distance of a significant number of houses and the hospital grounds, I consider the marginal shortfall of 0.8 spaces to be acceptable in this context. I note that the planning conditions have not been imposed to prevent kerbside parking and as such I would consider that this would be required and measures to prevent kerbside parking at this location imposed.
- 8.3.10. The plan does allow for a financial contribution in lieu of car parking but I note that this has not been considered in the case planners report nor has such a contribution being imposed. I further note that the Road Design reports on file did not raise issues with respect to the imposition of a financial contribution. On this basis, I would consider that there is no merit in the imposition of a contribution in lieu of the minor shortfall of parking spaces. The lack thereof of car parking spaces may encourage walking and cycling to the premises, as recommended in the statutory plan.

8.4. Traffic & Pedestrian Safety

- 8.4.1. The main issues raised by the appellants with respect to the proposed development relate to traffic and pedestrian safety.
- 8.4.2. The appellants initially require reassurances as to what specific measures are being put in place to manage vulnerable pedestrians. With respect to the same, I note the imposition of condition 3 which requires that measures are put in place to ensure pedestrian priority and that there is a continuous footpath along the road frontage of the property. The condition also imposes measures to highlight the vehicular access points and that the kerb to the access points is dropped to facilitate vehicular traffic whilst at the same time continuing the footpath. It is also noted that it is conditioned that the footpath is to be 1.8 metres in width
- 8.4.3. The applicant has also proposed an additional measure that comprises of a pedestrian only access to the shop to the east which will not require the pedestrian to step onto

the turning circle nor the car parking spaces. It is recommended that in the event that the Commission decides to grant permission that this additional safety measure be imposed.

- 8.4.4. The appellants also raise an issue that the existing footpath serves as a direct corridor to the bus stop on the Freshford Road and the recently installed pedestrian crossing for school children. These are both located to the north west of the site on the Freshford Road. While the same is noted, the footpath is to remain and widened and as such will still serve pedestrians including children and enable them to walk safely to the Freshford Road and onto the bus stop and pedestrian crossing.
- 8.4.5. The appellants further suggest that the area outside the morgue would be a suitable location for parking. The applicant does not own this and therefore such a proposal is beyond the control of the applicant. In any rate I would consider that parking there would cause traffic hazard and would therefore not be suitable.

8.5. Other Issues

- 8.5.1. I note a shipping container is in place to the side of the existing shop which according to submissions on file is used for storage purposes and does not have the benefit of planning permission. A first party submission states that it will be taken away if permission is granted
- 8.5.2. I would consider that it is appropriate in this respect to impose a condition to ensure the same.

9.0 AA Screening

- 9.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 9.1.2. The subject site is located 340 metres from The River Barrow and River Nore SAC, Site Code 002162, and 460 metres from The River Nore SPA, Site Code 004233.
- 9.1.3. The proposed development comprises of the construction of a commercial extension. No nature conservation concerns were raised in the planning appeal.
- 9.1.4. Having considered the nature, scale and location of the project, and its location in a suburban area, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site

9.1.5. The reason for this conclusion is as follows:

- The relatively small scale nature of the works proposed
- The lack thereof of any hydrological connection from the proposed development to these Natura 2000 sites
- Having regard to the screening report/determination carried out by the Planning Authority

9.1.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

9.1.7. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required

10.0 Recommendation

10.1. I recommend that permission for the development be granted permission

11.0 Reasons and Considerations

11.1. Having regard to the information submitted with the application and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the zoning objective for the site as set out in the Kilkenny City and County Development Plan 2021-2027, would be consistent with the Retail Planning Guidelines for Planning Authorities (2012), would not be injurious to the visual or residential amenities of the area, would not impact upon traffic safety or pedestrian safety and would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1.	The development shall be carried out in accordance with the plans and particulars lodged with the application and in accordance with the site layout plan lodged to the Commission on the 26 th June 2025 except as
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	<p>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>The shipping container shall be removed from the site prior to the commencement of development</p> <p>Reason: In the interests of proper planning</p>
3	<p>Prior to the commencement of development revised drawings shall be submitted to the Planning Authority for agreement showing for the following amendments;</p> <p>(a) The proposed access and egress shall be constructed to ensure priority to pedestrians over traffic entering and exiting the development.</p> <p>(b) The footpath shall be continuous over the extent of the roadside boundary with alternative materials to highlight the access points as per Drawing No. 001 submitted on the 8th April 2025.</p> <p>(c) The vehicular access points shall be suitably dished and constructed to cater for vehicular loading with a dropped kerb along the road edge to maintain existing road edge drainage</p> <p>(d) The footpath shall be reinstated to a width of 1.8 m unless otherwise agreed with the Kilkenny Area Engineers Office prior to commencement of development</p> <p>(e) Measures to prevent kerbside parking along the frontage of the site</p> <p>Once agreed with the Planning Authority, these amendments shall be in place prior to the opening of the proposed retail unit.</p> <p>Reason: In the interest of traffic and pedestrian safety</p>

4	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health</p>
5.	<p>Design details with respect to the proposed shopfront shall be agreed with the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interests of visual amenity</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Monday to Fridays, between 0800 and 1400 hours on Saturday and not at all on Sundays and Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: To safeguard the residential amenities of adjoining property in the vicinity</p>
7.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

.Andrew Hersey
Planning Inspector

31st July 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ACP-322649-25		
Proposed Development Summary	Extension to retail unit and ancillary site works		
Development Address	42A The Sycamores, Freshford Road, Kilkenny		
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	Tick/or leave blank		
No	Tick or leave blank		√
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No		Screening determination remains as above (Q1 to Q4)	

Yes		Screening Determination required
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Inspector: _____ Date: _____

