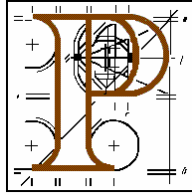


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2009

Offaly County

Planning Register Reference Number: PL2/09/274

An Bord Pleanála Reference Number: PL 19.235098

APPEAL by Pat Ryan and Jim Campion care of Pat Ryan of Tower House, Loughnafulla, Thurles, County Tipperary against the decision made on the 18th day of September, 2009 by Offaly County Council to grant subject to conditions a permission to Denis O'Connell care of Corbell Design of Unit 12, Glenrock Business Park, Ballybane, Galway in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Modification to part of previously approved mixed use development on this site, granted under planning register reference number 06/1796, comprising of the following, at River Street, Clara, County Offaly. Block number A: complete modifications and change of plan to building (Block A) to now comprise of double height ground floor retail and ancillary store area of circa 1,830 square metres with refuse storage, service area and associated site works along with complete changes to all elevations. Omission of basement car park area, second and third floors completely. Block number B, granted under planning register reference number 06/1796, to remain unchanged. Block number C, granted under planning register reference number 06/1796, to remain unchanged. 126 number surface car parking spaces now provided, with access from the public road in location as previously granted under planning register reference number 06/1796, including all ancillary site works and services.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the location of the site within the town centre of Clara, the planning history of the site, the pattern of development in the vicinity and the town centre zoning objective for the area under the Clara Local Area Plan 2005, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted the 24th day of August 2009, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. This decision to grant permission is in respect of the following amendments only to Block A, within that development permitted under appeal reference number PL 19.224942, comprising of a complete change of plan and of elevations, the omission of the basement, first and second storeys levels, the provision of 126 number surface car parking spaces, and the provision ancillary refuse and storage areas. The development shall in all other respects comply with permission granted under appeal reference number PL 19.224942 and with the conditions attached thereto, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to and agreed in writing with the planning authority. In this regard, sample panels shall be erected on site to facilitate the planning authority.

Reason: In the interest of orderly development and the visual amenities of the area.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. Details in relation to signage, public lighting and security measures throughout the entire scheme, including the individual units and uses, shall be submitted to and agreed in writing with the planning authority prior to commencement of the development.

Reason: In the interest of visual and residential amenity.

6. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

7. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

8. The developer shall facilitate the planning authority in the archaeological appraisal of the site and in preserving and recording or otherwise protecting archaeological materials or features which may exist within the site. In this regard, the developer shall:-

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) the nature and location of archaeological material on the site, and

- (ii) the impact of the proposed development on such archaeological material.

Prior to commencement of development, a report containing the results of the assessment shall be submitted to the planning authority. Arising from this assessment, the developer shall agree with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to the Board for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.

- 9. The site, including boundaries, shall be landscaped in accordance with a scheme of hard and soft landscaping, details of which shall be submitted to and agreed in writing with the planning authority before development commences. Tree planting shall be carried out along the south-eastern boundary and shall be augmented to provide a screen between the surface car park and the road. The scheme shall include a timescale for its implementation.

Reason: In the interest of visual amenity.

- 10. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

11. The developer shall pay to the planning authority a financial contribution in respect of the Clara Sewerage Scheme Upgrade in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2010.