

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

**Kildare County**

**Planning Register Reference Number: 16/328**

An Bord Pleanála Reference Number: PL 09.247476

**APPEAL** by Forward Thinking Future Planning Limited care of David Mulcahy Planning Consultants Limited of 67 The Old Mill Race, Athgarvan, County Kildare against the decision made on the 30<sup>th</sup> day of September, 2016 by Kildare County Council to refuse permission.

**PROPOSED DEVELOPMENT:** Development consisting of: (i) the demolition of the remains of five number derelict out-buildings and sheds, (ii) the construction of a mixed use development (total floor area 4,438 square metres) comprising a student accommodation facility and two number restaurant/café units. The development will include seven number off-street covered car parking spaces at ground level (with vehicular access from Leinster Street only), 150 number bicycle spaces, enclosed refuse stores and plantroom in a three storey courtyard building with glazed setback at third floor penthouse level, a glazed single storey link extension to Buckley House and associated landscaping, ancillary site development works including flood relief works, (iii) restaurant/café units comprise one number café unit (104 square metres) with outdoor dining terrace fronting onto Leinster Street and one number restaurant unit (total floor area 328 square metres) to include the restoration and change of use from residential to restaurant use of Buckley House (168 square metres), a new single storey glazed link extension (160 square metres), outdoor dining terrace and landscaped public open space (407 square metres) with access from Parson Street. Buckley House and its curtilage is a Protected Structure and restoration works will include new floors, doors, windows and roof where necessary and associated landscaping and site works, (iv) student accommodation facility comprising 117 number bedroom units over ground, first, second and third floors to include 70 number single study bedrooms with en-suite (15 square metres), 45 number single

study bedrooms with en-suite and kitchenette (15 square metres), one number single disabled accessible study bedroom with en-suite and kitchenette (20 square metres), one number one bedroom warden apartment at ground floor (43 square metres), associated communal kitchens, tv and common rooms with private access at ground floor level to two storey atrium (166 square metres), gym (31 square metres) and external courtyard (total area 280 square metres), accessed from main entrance on Leinster Street and side entrance from lane to rear of Buckley House, Parson Street, all at Buckley House, Parson Street, Maynooth, County Kildare and lands to the rear of Buckley House (total site area of 0.303 hectares) with frontage onto Leinster Street, as amended by the revised public notice received by the planning authority on the 5<sup>th</sup> day of September, 2016 as follows: (1) revised plans and elevations with the following amendments: (a) a portion of the existing curved garden wall is to be retained and incorporated into a new curved structural glass screen and entry roof light to the Buckley House restaurant extension; (b) the landscaping to the Buckley House plaza has also been revised to incorporate this curved element; (c) the addition of pitched louvers in order to soften the junction of the proposed building with the adjacent existing buildings on Leinster Street; (d) revision to fenestration of ground floor units along the west elevation to incorporate fully glazed angled curtain walls to maximise the amount of natural light into these units. These windows will comprise clear angled glazing with translucent side opening lights to prevent overlooking; (e) layout of the warden apartment has been revised to 45 square metres; (f) minor revision to internal layout of car parking, plant layout and refuse stores within the ground floor, as well as clear indication of the access arrangements for service and deliveries to the site, (2) revised and additional 3D views of the proposed development, (3) diagrammatic sightline plans, (4) landscape architects drawing showing proposed hard and soft landscaping for the development and proposed species list, (5) mechanical and electrical engineers drawings outlining the type and location of plant elements, (6) clarification of the site boundary and the ownership of the adjacent laneway to the south of the site, (7) further clarification information from traffic consultants, (8) updated Archaeological Report for the site, (9) Ecology Screening Report, (10) Historic Designed Landscaped Assessment for Buckley House and adjacent sites, (11) correspondence with Environmental Health Officer confirming that the layout meets the requirements of food safety legislation, (12) structural engineer's revised design details and specification, (13) Flood Risk Assessment report, (14) Construction Management Plan and (15) Visual Impact Assessment of the proposed development.

## 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**

#### *Appropriate Assessment Screening*

In conducting a screening exercise for appropriate assessment, the Board considered the urban location of the proposed development, its nature and scale in the context of the existing town centre, the documentation and submissions on file generally, including the Appropriate Assessment Screening Report, the separation distances to European Sites, and the assessment of the Inspector in relation to the potential for effects on such Sites. In undertaking the screening exercise, the Board accepted the analysis and conclusions of the Inspector, and concluded that, either individually or in combination with other plans or projects in the vicinity, the proposed development would not be likely to have significant effects on European Sites in view of their conservation objectives.

#### *Environmental Impact Assessment Screening*

Having regard to the nature of the proposed development, its urban location, its nature and characteristics, its scale in the context of the existing town centre and the buildings in the vicinity, the characteristics and scale of the potential impacts of the development, the documentation and submissions on file generally, the categories of development set out in Schedule 5 to the Planning and Development Regulations, 2001, as amended, and the criteria set out in Schedule 7 to those Regulations, the Board is satisfied that the proposed development would not be likely to have significant effects on the environment, either by itself or in cumulation with other development in the area.

In coming to this determination, the Board concurred with the analysis set out in the Inspector's report as a whole, which assessed the potential effects of the proposed development on the environment generally, with the exception

of her recommendations for refusal of permission, which are addressed below. The Board, therefore, concluded that the submission of an Environmental Impact Statement was not required.

### *Conclusions on the Proper Planning and Sustainable Development of the Area*

Having regard to Section 4.7.5 of the Kildare County Development Plan, which states that student accommodation should be located convenient to the college in Maynooth, where land is appropriately zoned, to Policy HP 15 in relation to student accommodation in Maynooth, to the A1 Town Centre land use zoning objective for the site as set out in the Maynooth Local Area Plan 2013-2019, to the nature and scale of the proposed student accommodation, its location in the centre of the university town and in close proximity to third level institutions, its proximity to open space and recreation areas, the planning history of the site, and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would be of benefit to the town of Maynooth in improving the housing mix, would be acceptable in scale in this town centre location, would provide an acceptable level of amenity for future occupants, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not detract from the character, fabric, or setting of protected structures or of archaeological monuments, would not detract from the character of the streetscape or of the Maynooth Town Architectural Conservation Area, would be acceptable in relation to protected views, would not unduly conflict with "The Planning System and Flood Risk Management Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government (2009), and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission for reasons relating to its visual effects, the Board accepted the sensitivity of the town environment, but was satisfied that the proposed development is reduced in bulk and scale relative to the development previously refused under An Bord Pleanála appeal reference number PL09.214151 (planning register reference number 04/3086). The Board was satisfied that the relationship between the proposed new building and historic buildings, including the protected structures of Buckley House and the Garda Station, is substantially improved and is appropriately stepped back and scaled in relation to the protected structures and adjacent buildings on Leinster Street. The Board accepted that the proposed development would constitute a substantial intervention in the streetscape, but did not consider that it would be a negative one in view of its good design quality. It was considered that

visual impacts from Parson Street and Castle View House are mitigated by the design amendments made since the previous reason for refusal, and in particular, by the higher quality of the design now proposed. It was also considered that impacts at these locations would be ameliorated by landscaping, which could be addressed by means of condition. For these reasons also, the Board was satisfied that the proposed development would be appropriate within the Maynooth Town Architectural Conservation Area, and would not adversely affect its character.

In deciding not to accept the Inspector's recommendation to refuse permission because of flooding, the Board had regard to the flood risk maps published for Maynooth by the Office of Public Works (July 2016), the provisions of "The Planning System and Flood Risk Management Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government (2009), the town centre location of the site, its Town Centre land use zoning objective as set out in the Maynooth Local Area Plan 2013–2019, whereby residential use is permitted in principle, the Draft Strategic Flood Risk Assessment prepared in support of the Local Area Plan, and the specific design requirements set out for development in these lands as set out on Drawing 11049-MAYN-02(a)-01 in Appendix 2 of the draft flood risk assessment. The Board accepted that the site is located within flood zones A and B, and that the proposed use is categorised as being highly vulnerable to flooding; however, its location within the town centre, its zoning following consideration of flood risk, its nature serving third level institutions in close proximity, its benefit to the town accordingly, and the provision of mitigation measures including flood storage, were also considered, and the Board concluded that the proposed development would be acceptable in principle at this location.

Furthermore, having regard to the predicted flood levels set out in the flood maps issued by the Office of Public Works (July 2016), it was considered that the floor levels proposed at further information stage would be acceptable at 500 millimetres above the 1% AEP flood level, in accordance with the precautionary approach set out in Section 5.16 of the Guidelines and making further provision for climate change. The Board took particular note of Appendix C to the submission made by the planning authority to An Bord Pleanála on the 25th day of January 2017, prepared by JBA Consulting.

The Board was of the opinion that, in light of the acceptability of the proposed development at this location in principle, and in view of the general acceptability of the proposed floor levels, it would be acceptable and appropriate to address by means of condition the finer details of the specific

mechanisms and volumes of flood storage, and other construction-stage design particulars of surface water and flood protection details, and concurred with the view of the Water Services Division of the local authority on this matter, as submitted to An Bord Pleanála on the 24<sup>th</sup> day of November, 2016.

In deciding not to accept the Inspector's recommendation to refuse permission due to the level of car parking provision, the Board considered that the proposed mix of uses has changed relative to that proposed under An Bord Pleanála appeal reference number PL09.214151 (planning authority register reference number 04/3086), resulting in a reduced necessity for car parking. The Board is satisfied that the proposed development now principally comprises student accommodation, and that the other uses proposed are effectively associated with and ancillary to the student accommodation. The Board, therefore, considered that the level of car parking proposed would not merit refusal in this particular instance, in light of the close proximity of the proposed development to third level institutions, and in the context of the likely transport patterns of occupants, and the availability of public transport to Maynooth.

### **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 on the 19<sup>th</sup> day of August, 2016 and as amended by the appeal received by An Bord Pleanála on the 26<sup>th</sup> day of October, 2016, 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. The alterations proposed at first floor level of Buckley House shall not be made, including the proposed removal of internal walls, and only the following amendments may be made:
  - (a) an archway may be provided between the front and central rooms on the south side of the house, and
  - (b) the wall and doorway facing the top of the stairs (forming the "small room central front" as described in the Conservation Report) may be removed.

**Reason:** To protect the integrity of Buckley House, including its function and the relationship between rooms, while making reasonable provision for its proposed use.

3. (1) Detailed construction method statements in relation to all work proposed to Buckley House, including proposed flood protection measures in particular, shall be prepared by an experienced conservation architect qualified to at least Grade 2 RIAI or equivalent, and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (2) The method statements shall provide for the retention and restoration of the existing boundary treatment to the north on Parson Street, including existing entrances.

**Reason:** To protect the fabric and character of the protected structure, and to prevent inappropriate restoration proposals.

4. Prior to commencement of development, the following shall be submitted to, and agreed in writing with, the planning authority:
  - (a) detailed plans and particulars of measures to protect the proposed development to the level of 0.1% AEP plus allowance for climate change, incorporating all appropriate residual risk protection measures, including flood barriers, non-return valves, flood alert system, provision for access and egress during flood events, etc., and
  - (b) detailed plans, particulars and calculations of the proposed flood storage to cater for a 0.1% AEP (and climate change) event.

**Reason:** To provide adequate protection from flooding for occupants, and to provide adequate replacement for lost flood storage.

5. (1) The site shall be landscaped, in accordance with details that shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme

shall include the planting of trees along the western boundary of the site.

- (2) Any plants that die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.
- (3) Prior to commencement of development, details of a high quality hard landscaping scheme shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of the visual amenities of Buckley House, of the Architectural Conservation Area, and of properties in the vicinity.

6. No unit within the student accommodation shall be occupied by persons other than current students of recognised third level institutions.

**Reason:** The proposed development is not designed as permanent residential accommodation.

7. Details including samples 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 prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

8. The proposed shopfronts shall be in accordance with the following requirements:-
  - (a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering,
  - (b) lighting shall be by rear illumination or shall be otherwise concealed,



- (c) no awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,
- (d) any internal shutter shall be only of the perforated type, coloured to match the shopfront colour, and
- (e) no adhesive material shall be affixed to the windows or the shopfronts.

**Reason:** In the interest of visual amenity.

9. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

10. The developer shall control odour emissions from the premises in accordance with measures, including extract duct details, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public health and to protect the amenities of the area.

11. The noise level shall not exceed 55 dB(A)  $L_{eq,15min}$  (corrected for any tonal or impulsive components) at the nearest noise sensitive location between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A)  $L_{eq,15min}$  at any other time.

Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

12. The hours of operation of the restaurant, bar and café shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect neighbouring residential amenity.

13. The car parking shall be reserved solely to serve occupants of the proposed development, shall not be used by staff, and shall not be sold, let, or otherwise conveyed, except to serve the student accommodation.

**Reason:** In the interest of sustainable travel patterns.

14. A pre-construction bat survey shall be undertaken by an appropriately qualified and experienced ecologist, the results of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of construction.

**Reason:** To protect bats.

15. 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.

16. The proposed foul water drainage system, including appropriate flood proofing measures, shall be constructed in accordance with plans and particulars that shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of construction, and following consultation with Irish Water.

**Reason:** In the interests of public health and protection of the environment.

17. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennae or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

18. All service cables associated with the proposed development (such as electrical and telecommunications cables) shall be located underground.

**Reason:** In the interests of visual and residential amenity.

19. A plan containing details for the management of waste and recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

20. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

**Reason:** In the interest of visual amenity.

21. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of 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.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing 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 An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 22. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local

Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

23. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working and noise management measures.

**Reason:** In the interests of public safety and residential amenity.

24. 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.

**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.

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

**Dated this            day of            2017.**