

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Kilkenny County

Planning Register Reference Number: 16/482

An Bord Pleanála Reference Number: PL 10.247834

APPEAL by Jerry and Noreen Molloy of 48 Walkin Street, Kilkenny and by Joan Campion on behalf of the Residents of Walkin Street, Old Callan Road, Father Delahunty Terrace, Rioch Street, Dean Kavanagh Place and surrounding areas of 40 Callan Road, Kilkenny against the decision made on the 9th day of December, 2016 by Kilkenny County Council to grant subject to conditions a permission to Oaklee Housing Trust Limited care of Brian Dunlop Architects of Patricks Court, Patrick

Street, Kilkenny in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction of 35 number residential units comprising 23 number apartments in a four storey building; eight number apartments in a three storey building and four number townhouses along with a 50 square metres ground floor office and a 110 square metres single-storey community building, all over an existing basement car park with vehicle access from Old Callan Road (as previously constructed under planning register reference number 05990108) along with associated site and ancillary works at the junction of Walkin Street and Old Callan Road, Kilkenny City, as amended by the revised public notice received by the planning authority on the 14th day of November, 2016 as follows: construction of 31 number residential units comprising 19 number apartments in a four and three-storey building; eight number apartments in a three storey building and four number townhouses along with a 50 square metres ground floor office and a 110 square metres single-storey community building, all over an existing basement car park with vehicle access from Old Callan Road (as previously constructed under planning register reference number 05990108) along with associated site and ancillary works

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 close to Kilkenny city centre on lands zoned as 'Existing Residential' in the Kilkenny City and Environs Development Plan 2014-2020, to the nature, scale and design of the proposed development, to the pattern of existing and permitted development in the area, and to the provisions of the Kilkenny City and Environs Development Plan 2014-2020, the Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May, 2009, the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December, 2015 and the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, 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 on the 14th day of November 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 development shall only be undertaken by an Approved Housing Body (AHB), in accordance with section 6 of the Housing (Miscellaneous Provisions) Act, 1992. Neither the development in its entirety nor separate units shall be disposed of, except for the purposes of 'not for profit' voluntary housing provision.

Reason: In order to comply with the requirements of section 96(13) of the Planning and Development Act 2000, as amended.

3. The proposed development shall be amended as follows:
 - (a) Block C, houses numbers 1 to 4 (and their rear gardens), shall be omitted and the area thus released, including the walkways to the rear, shall be laid out and developed as landscaped communal open space for the use of the residents of the scheme and as access to basement services.
 - (b) The roof profile of Block A shall be revised so as to provide a unified ridge profile when viewed from approaches on Walkin Street and Old Callan Road.
 - (c) The wall enclosing the private open spaces accessed from Old Callan Road at ground floor level of Block A shall be replaced by railings, not greater than 1.6 metres in height, and soft landscaping.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to create a satisfactory standard of residential development, having regard to the inadequate level of communal open space proposed, and in the interests of residential and visual amenity.

4. The site (including the additional area of open space required by condition 3(a) of this permission) shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
 - (a) A plan to scale of not less than 1:500 showing –
 - (i) the species, variety, number, size and locations of all proposed trees and shrubs;
 - (ii) details of screen planting;
 - (iii) details of roadside/street planting; and
 - (iv) hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels;
 - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment;
 - (c) A detailed layout and specification for the play area, to include seating for parents / guardians, and fencing/boundary treatment; and
 - (d) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which 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.

Reason: In the interest of residential and visual amenity.

5. (a) A Management Company (which may be the voluntary housing body), details of which shall be submitted to, and agreed in writing with, the planning authority shall be established by the developer. All communal areas and infrastructural services associated with the development (including but not limited to open space, car parking facilities, waste and refuse disposal arrangements, screening, landscaping, walkways etc.) shall be vested in the Management Company prior to occupation of any residential unit.
- (b) Prior to the occupation of any apartment, a Management Scheme for the management of communal areas and infrastructural facilities of the complete development shall be submitted to, and agreed in writing with, the planning authority. The scheme shall have particular regard to the maintenance and upkeep of the pedestrian access to the apartment building, to the vehicular entrance to the basement car park and to all public areas.

Reason: To ensure the long-term maintenance and management of the proposed development.

6. 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 prior to commencement of development. The pitched roof of apartment Block A, as modified by condition 3(b) of this permission, shall be blue-black or slate-grey in colour only (including ridge tiles).

Reason: In the interest of visual amenity.

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting within the open space (including that area specified as open space under condition 3(a) of this permission), details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be so designed as not to overspill onto adjoining residential properties to the rear and side of the site, and shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

9. 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.

10. Proposals for a development name, and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs and numbers shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/ signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interests of urban legibility, and to ensure the use of locally appropriate place names for new residential developments.

11. (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works.
- (b) The footpaths shall be dished at the basement car park access ramp in accordance with the requirements of the planning authority.
- (c) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (d) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.

Reason: In the interests of traffic, cyclist and pedestrian safety.

12. 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 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, in particular recyclable materials, in the interest of protecting the environment.

13. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

14. 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 noise management measures and off-site disposal of construction/demolition waste.

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

15. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

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

16. The developer shall pay a financial contribution to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of the landscaping and public realm works indicated on submitted drawings, which are outside the subject site on Old Callan Road and Walkin Street, and are to be carried out by the planning authority, and which will benefit the proposed development. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The amount of the contribution and the application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs of public realm and landscaping works outside the site, which will be incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

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

Dated this day of 2017.