



An  
Bord  
Pleanála

## Board Order PL 10.248925

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### Planning and Development Acts 2000 to 2017

**Planning Authority: Kilkenny County Council**

**Planning Register Reference Number: 17/162**

**Appeal** by Dean Kavanagh Place and Circular Road Residents Association care of Ann Kelly of Number 26 Dean Kavanagh Place, Kilkenny City against the decision made on the 28<sup>th</sup> day of June, 2017 by Kilkenny County Council to grant subject to conditions a permission to Elm Park Construction Limited care of Bluett and O'Donoghue Architects of 2 John Street, Kilkenny in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of 15 unit residential development comprising (a) eight number apartments in a four-storey block (two number two-bedroom units per floor), (b) single storey detached bin store, (c) crescent of seven number three-storey terraced houses (four number four-bedroom units and three number three-bedroom units), (d) associated landscaped public and communal open space, (e) access road with pedestrian and vehicular entrance onto the Callan Road, (f) all associated site services, boundary walls and railings and diversion of existing watermain pipework, all at junction of College Road, Callan Road and Circular Road, Kilkenny.

## **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 provisions of the Kilkenny City and Environs Development Plan 2014-2020, the zoning of the site as "Existing Residential", the nature and pattern of uses in the vicinity, the nature, scale and design of the proposed development and the availability in the area of infrastructure, 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 and would be acceptable in terms of traffic and pedestrian 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 2<sup>nd</sup> day of June, 2017, 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. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour of the dwellings shall be blue-black, black, dark brown or dark grey in colour only.

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

4. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

The applicant 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 the agreed recommendations contained in the audit.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

5. Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority.

**Reason:** In the interest of pedestrian safety.

6. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

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

7. The two dormer windows at second floor level at the rear of houses numbers 5 and 6 shall be omitted from the overall design and replaced with Velux type windows.

**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 interests of visual and residential amenity.

9. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house 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/marketing 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 areas.

10. The open spaces shall be developed for, and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots.

**Reason:** In order to ensure the development of the public open space areas, and their continued use for this purpose.

11. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following: -
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
  - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
  - (c) details of proposed boundary treatments at the perimeter of the site, and internally within the site including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme and shall include a timescale for implementation.

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

12. 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.

13. Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

**Reason:** In the interest of public health.

14. The surface water drainage system shall be constructed in accordance with the details submitted and shall provide for an attenuation system as outlined, which shall be installed with provision for ongoing maintenance in accordance with the detailed requirements of the planning authority.

**Reason:** In the interests of orderly development and to ensure the proper and satisfactory servicing of the development.

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of storage, separation and collection of the waste shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

16. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between the hours of 0800 and 1400 on Saturdays and not at all on Sundays or 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.

17. 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.

18. 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 until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local 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 referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.



19. 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                                      2018**