



Planning and Development Acts 2000 to 2018

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 17/742

Appeal by the Residents of Cedarwood care of Teresa Culleton of 20 Cedarwood Avenue, Loughboy, County Kilkenny against the decision made on the 26th day of July, 2018 by Kilkenny County Council to grant subject to conditions a permission to Ken and Marie Walsh and others care of Cummins and Voortman Limited of Ballyline, via Callan, County Tipperary in accordance with plans and particulars lodged with the said Council.

Proposed Development: (a) Construction of two-three storey nursing home, with accommodation for 80 number residents, basement car parking, staff areas, ancillary services rooms and associated services, landscaping on site and between site and footpath together with associated site works and services and (b) connection to all local authority services and all associated works.

Bohernatonish Road, Loughboy, Kilkenny, County 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 nature and scale of the proposed development, to the zoning of the site and its location within the development boundary of Kilkenny in the Kilkenny City and Environs Plan 2014-2020, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would be acceptable in terms of traffic safety and convenience and would be in accordance with the provisions of the Kilkenny City and Environs Plan 2014-2020. 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 to the planning authority on the 3rd day of July, 2018, 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 landscaping scheme submitted to the planning authority on the 3rd day of July, 2018 shall be carried out within the first planting season following substantial completion of external construction works. 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 visual amenity.

3. Prior to the commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant throughout the life of the site development works and shall notify the planning authority of that appointment in writing. The developer shall engage the Landscape Consultant to procure, oversee and supervise the landscape contract for the implementation of the permitted landscape proposals. When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, he/she shall submit a Practical Completion Certificate (PCC) to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented.

Reason: To ensure full and verifiable implementation of the approved landscape design proposals for the permitted development, to the approved standards and specification.

4. 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.

Reason: In the interest of visual amenity.

5. Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.

No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

6. Details of the proposed southern boundary treatment with the N10, including crash barrier and planting, shall be in accordance with the detailed standards and requirements of Transport Infrastructure Ireland for such works and submitted to the planning authority for written agreement before the commencement of development.

Reason: In the interests of traffic safety, residential and visual amenity.

7. Details of noise mitigation measures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the nursing home is made available for occupation.

Reason: In the interest of residential amenity.

8. Pedestrian and cycle access shall be provided from the proposed development to Cedarwood Estate as indicated on Drawing Number A.03.04.5 submitted to the planning authority on the 3rd day of July, 2018.

Reason: In the interest of clarity.

9. 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 measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network, noise management measures and off-site disposal of construction/demolition waste.

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

10. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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 adjoining property in the vicinity.

11. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

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. Details of signage for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity and legibility.

14. 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.

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

15. 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. Public lighting within the proposed development shall be directed and cowled such as to reduce as far as possible the light scatter to adjacent properties and the public road.

Reason: In the interests of amenity and public safety.

16. 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.

Paul Hyde

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

Dated this day of 2019.