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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Kilkenny County Council**

**Planning Register Reference Number: 18/787**

**Appeal** by Helen Clarke of Ashbrooke, Tullamaine, Callan, County Kilkenny against the decision made on the 16<sup>th</sup> day of April, 2019 by Kilkenny County Council to grant subject to conditions a permission to Cedarglade Limited care of Colman Cotter Consulting Engineers of 'Sullane House', Great Island Enterprise Park, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Amalgamation and change of use of the existing ground floor retail unit and first floor restaurant into a single café unit with seating at ground floor and first floor with associated toilets, offices and staff facilities at first floor and associated signage at 84 High Street, Kilkenny. This application relates to a Protected Structure which is in an Architectural Conservation Area.

**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 zoning objectives for the area and the pattern of land use in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not unduly impact on the character of the Architectural Conservation Area or detract from the character of the existing protected structure or those adjoining number 84 and 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 21<sup>st</sup> day of March, 2019, 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 use of the premises shall be in accordance with the details as submitted. No change of that use shall take place without a prior grant of planning permission notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 and any statutory provision amending or replacing them.

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

3.
  - (a) Details of all external shopfronts, signage and lighting shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
  - (b) No external security shutters shall be erected on any of the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
  - (c) No awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission.
  - (d) No adhesive material shall be affixed to the windows or the shopfront.

**Reason:** In the interest of protecting the character of the Architectural Conservation Area.

4. 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 amenities of property in the vicinity.

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

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

6. 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 the commencement of development. The scheme shall include the provision of litter bins and refuse storage facilities.

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

7. Water supply and drainage arrangements, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

8. Prior to the commencement of development the developer shall submit, and obtain the written agreement of the planning authority, 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.

9. Prior to the commencement of development, the following shall be submitted for the written agreement of the planning authority:
  - (a) Details of the appointment of a conservation architect, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
  - (b) The submission of details of all finishes and of all existing original features to be retained and reused where possible, including interior and exterior fittings/features, joinery, fenestration, plasterwork, features (cornices and ceiling mouldings), roofs, staircases including balusters, handrail and skirting boards.

- (c) All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

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

**Dated this            day of            2019.**