



Planning and Development Acts 2000 to 2019

Planning Authority: Kerry County Council

Planning Register Reference Number: 18/965

Appeal by Barra an tSean Bhaile Property Management Company care of 13 Barra an tSean Bhaile, Goat Street, Dingle, County Kerry against the decision made on the 18th day of April, 2019 by Kerry County Council to grant subject to conditions a permission to Micheal Slattery care of Kane Williams Architects Limited of 3 Godfrey Place, Tralee, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolish redundant old school structures and outbuildings and to refurbish and change of use of the main school building fronting Goat Street to a Bed and Breakfast facility with five guest bedrooms, and to erect a new three storey detached apartment building accommodating thirteen residential units (four one bedroom units, seven number two bedroom units and two number three bedroom units) complete with car parking, landscaping and ancillary structures at the site of the old secondary school, Goat Street, Dingle, County Kerry.

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 brownfield nature of the site, and to its location within the town centre of Dingle and to the policy objectives as set out in the Kerry County Development Plan 2015-2021, to encourage sustainable development on serviced sites within the centres of town and villages in proximity to local services, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenity of the area or the amenities of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. 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 26th 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 proposed development shall be amended as follows: -
 - (a) The proposed parking bays numbered 18-29 inclusive, shown on the boundary treatments plan drawing number 1804_214 (submitted to the planning authority on 26th day of March 2019), shall be omitted and a revised parking layout shall be submitted which would provide for a continuation of the parking bays in Row 1-7 as far as the western boundary wall. A minimum of 22 number car parking spaces shall be provided within the revised parking layout.
 - (b) The lands to the south of this parking area, adjoining the southern section of the western boundary wall, shall be laid out as communal open space.
 - (c) The windows on the first and second floors on the western elevation shall be glazed with obscure glass. The western side of the balcony serving unit 11, shall be provided with an obscure glazed screen, 1.8 metres in height.

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 the interests of the residential and visual amenity of the area.

3. Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

4. 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.

5. 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.

6. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of roads and communal open space areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

7. (a) The use of the 13 apartments shall be as primary permanent all year-round private residences.
- (b) None of the proposed apartments shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission.

Reason: In the interest of residential amenity.

8. Prior to commencement of development, detailed site layout plans showing how the development will comply with the recommendations contained in the Stage 1 Road Safety Audit submitted on 26th day of March, 2019, shall be submitted to, and agreed in writing with the planning authority.

Reason: In the interest of road safety.

9. 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, subject to compliance with condition 2(a) of this Order.

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

10. 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.

11. All of the communal parking areas serving the residential units shall be provided with ducting for electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

12. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
 - (a) notify the planning authority in writing at least four weeks prior to commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

14. The site 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) existing trees, hedgerows, stone walls, specifying which are proposed for retention as features of the site landscaping,
 - (ii) the measures to be put in place for the protection of these landscape features during the construction period
 - (iii) the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder,
 - (iv) details of screen planting which shall not include *cupressocyparis x leylandii*,

- (v) details of tree planting along the western boundary and in the communal open space as required under condition 2(a) of this Order, and
 - (vi) 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.
- (b) 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 interests of residential and visual amenity.

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. Such lighting shall be provided prior to the making available for occupation of any apartment unit.

Reason: In the interests of amenity and public safety.

16. 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.

17. (a) 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 for each apartment unit 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.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

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

18. 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.

19. The construction of the development shall be managed in accordance with a Construction and Environmental 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.

20. 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.

21. 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, communal 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.

22. 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.

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

Dated this day of 2019.