



Planning and Development Acts 2000 to 2019

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 19/37

Appeal by Eleanor Cleeve care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 29th day of May, 2019 by Kilkenny County Council to grant subject to conditions a permission to The Good Shepherd Centre care of C.J. Falconer and Associates of Saint Patrick's House, Newtown, Waterford in accordance with plans and particulars lodged with the said Council:

Proposed Development: The demolition of the existing single storey buildings on this site, and undertake the construction of a new development consisting of a three-storey apartment building to contain a total of 12 number apartment units - the works to include bin storage and all associated site works, ancillary accommodation, drainage works, development entrance and road works, all at Blackmill Street, 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 its design, scale and height and to the established character and pattern of development in the vicinity of the site which is located on the fringe of Kilkenny City Centre in an area incorporating a range of building heights, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of adjoining property by reason of overlooking or overshadowing, would not seriously injure the amenities of the area, would be acceptable in terms of its visual impact on the streetscape, would be acceptable in terms of its impact on the architecture and heritage of the area, would not seriously prejudice the future development of adjoining sites, 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 3rd day of May, 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. Site development and building works shall be carried out only between the hours of 0700 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.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

4. Prior to commencement of development, the applicant shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interests 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. Construction and demolition waste shall be managed in accordance with a construction and demolition waste 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.

7. 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:
- (a) Details of site security fencing and hoardings;
 - (b) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (c) Measures to obviate queuing of construction traffic on the adjoining road network;
 - (d) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (e) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - (f) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (g) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
 - (h) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
 - (i) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

8. 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.

Reason: In the interest of residential amenity and to ensure the provision of adequate waste management to serve the development.

9. The developer shall facilitate the protection of archaeological materials or features which may exist within the site. In this regard, the developer shall -
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development,
 - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works,
 - (c) fully adhere to all mitigation measures and conclusions identified in Section 4 and 5 respectively of the Archaeological Assessment submitted to the planning authority with the planning application, and

- (d) 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.

- 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. 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 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.

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

Dated this day of 2020