



Planning and Development Acts 2000 to 2019

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 19/59

Appeal by Conor Foley and Claire Kenealy of 14 Rothe Terrace, Kilkenny against the decision made on the 3rd day of October, 2019 by Kilkenny County Council to grant subject to conditions a permission to Christine Byrne care of Dalton and O'Donnell of The Butterslip, Kilkenny in accordance with plans and particulars lodged with the said Council:

Proposed Development: The erection of a permanent pre-fabricated marquee structure for occasional functions to be located over the existing tennis courts to include a licensed bar area, food preparation area and toilets and all associated site development works; and the provision of car parking and set down areas within the curtilage of a protected structure, all at Kilcreene Lodge, Kilcreene, 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 marquee and the provisions of the current Development Plan for the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not interfere with the integrity and context of Kilcreene Lodge, a protected structure, would contribute to continuation of use and the viability of a significant heritage resource, would not seriously injure the amenities of the area or of residential properties in the vicinity and would be acceptable in terms of 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 proposed 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 6th day of September, 2019, except as may be 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 period during which the temporary marquee may be used is for a limited period of five years from the date of this order. Upon expiry of this period, the marquee and all associated site works shall be removed from the site permanently.

Reason: Having regard to the nature of the development as proposed and in the interest of orderly development, the Board considers it appropriate to specify a period of validity of this permission.

3. Details of a Noise Impact Assessment with arrangements for noise monitoring at twice yearly intervals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. (1) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:-
 - (i) an LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. The T value shall be one hour,
 - (ii) an LAeqT value of 45 dB(A) at any other time. The T value shall be 15 minutes. The noise at such time shall not contain a tonal component.

- (2) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site.

5. The development shall be carried out under the direction of an architect with specialist expertise in historic building conservation who shall prepare an architectural heritage impact assessment report and method statement which shall be submitted to, and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of the protection of the architectural heritage of Kilcreene Lodge, a protected structure.

6. 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.

7. Prior to commencement of development, the developer shall enter into a water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

8. The internal driveway serving the proposed development including driveway cross sections, passing bays, parking areas, surface finish and lighting shall comply with the detailed standards of the planning authority for such road works.

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

9. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, shuttle bus, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking.

Reason: In the interest of encouraging the use of sustainable modes of transport.

10. Twenty car parking spaces only shall be provided as indicated on Site Layout drawing number P-010-A received by the planning authority on the 8th day of February, 2019.

Reason: In the interest of encouraging the use of sustainable modes of transport.

11. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:
 - (a) specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.

- (b) trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

Reason: In the interest of visual amenity.

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

- 13. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and 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 (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

14. 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.

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

Dated this day of 2020.