



An  
Bord  
Pleanála

Board Order  
ABP-306395-20

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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Offaly County Council**

**Planning Register Reference Number: PL2/19/96**

**Appeal** by Lena Power and others of Riverside, Tullamore, County Offaly and by Grapemont Limited care of Scott Hobbs Planning of 24a Stafford Street, Edinburgh, Scotland against the decision made on the 11<sup>th</sup> day of December, 2019 by Offaly County Council to grant subject to conditions a permission to the said Grapemont Limited in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** (a) Permission for demolition of existing buildings and structures on site and erection of retail-led, mixed use town centre development on an approximate 4.25 hectare brownfield site, including Block A: two-storey retail building, Block B: comprising two-three storey retail, café/restaurant and eight number residential apartments, Block C: single storey retail building, Block D: cinema, Block E: single storey retail unit with attached garden centre, access, access roads, car and cycle parking, pedestrian linkages/paths, riverside walkway, hard and soft landscaping and street furniture, SuDs pond, foul sewer pumping station and associated pump house, ESB sub-stations and switch rooms and all associated site development works to complete the development and (b) retention of Matthew Kane Memorial at Riverside Road, all at Church Road, Tullamore, County

Offaly, as amended by the further public notice received by the planning authority on the 17<sup>th</sup> day of October, 2019.

## **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 Town Centre location of the proposed development on an identified Opportunity Site within Tullamore in the Tullamore and Environs Development Plan 2010-2016 (as extended) and to the relevant Retail and Transport, Movement and Accessibility policies and objectives of the Development Plan, it is considered that the proposed development, subject to compliance with the conditions set out below, would be in accordance with retail and transport policy provisions of the Development Plan, would not seriously injure the residential and visual amenities of the area and would not pose a risk to pedestrian and traffic safety. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted that the first party appealed conditions numbers 2, 3, 10 and 12 and was satisfied based on the reasons and considerations set out above that conditions numbers 2, 3 and 12 should be omitted and that condition number 10 should be amended (as detailed in condition number 14 below). In particular, the Board was satisfied that conditions number 2 and 3 could be omitted as the proposed development was in accordance with the Town Centre zoning objective for this Opportunity Site provided for in the Tullamore and Environs Development Plan 2010-2016 and was in accordance with the Retail Planning Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in April, 2012.

In relation to condition number 10, the Board noted the provision for a link road between Riverside and Church Avenue was provided for in objective TTEO 08-06 of the Tullamore and Environs Development Plan 2010-2016 (as extended) but had regard to the fact that the location and route for this did not appear to have been mapped in the plan and nor was it detailed and or assessed in the submitted plans and particulars including the Environmental Impact Assessment Report for the development. The Board had regard to the submissions from the applicant, the appellant and the planning authority on this issue and was satisfied that revised wording for the condition which provided for the developer to submit revised proposal that would facilitate the future construction of a road would ensure that the objective of the Development Plan could be met in the future if necessary. In the context of the amended wording for condition number 10 of the planning authority's grant of permission, the Board also considered that condition number 12 could also be omitted until such time that a linkage road is progressed.

## **Environmental Impact Assessment**

The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- (a) the nature, scale, location, and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the application,
- (c) the submissions from the applicant, the appellants, the planning authority, the observers and the prescribed bodies, and
- (d) the Planning Inspector's report.

The Board considered that the Environmental Impact Assessment Report (EIAR), supported by the information submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Planning Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation and are incorporated into the Board's decision.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, as set out in the Environmental Impact Assessment Report and, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the Planning Inspector.

### **Reasoned Conclusion on Environmental Impacts**

Having regard to the examination of environmental information contained above, and in particular to the Environmental Impact Assessment Report and the submissions from the planning authority in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- (i) There are potential positive impacts for employment opportunities and retail activities. Impacts arising from noise, dust, traffic, and construction will be mitigated by a Construction Management Plan including traffic management measures. Noise and vibration levels would be within acceptable emissions limits during normal operation. There will be no negative impacts subject to mitigation measures outlined or otherwise addressed by condition.
- (ii) The proposed development entailing a series of large modern buildings would have an impact on the visual character of the area. This impact is considered acceptable given the location of the site within the Town Centre on zoned lands.
- (iii) Biodiversity impacts will be mitigated by a range of pollution prevention measures to protect surface water quality during construction and operation, landscaping or replacement of trees and hedgerows, lighting control measures and post construction monitoring.

Having regard to the above, the Board is satisfied that the likely significant environmental effects arising as a consequence of the proposed development

have been satisfactorily identified, described and assessed in accordance with Article 94 of the Planning and Development Regulations, 2001, as amended.

### **Retention of the Matthew Kane Memorial**

Having regard to the minor nature of the Matthew Kane memorial development, the Board was satisfied that the memorial was of local cultural heritage significance to the area and that the development would not seriously injure the visual and residential amenities of the area.

In deciding not to accept the Inspector's recommendation to refuse permission for the entire development on the basis that the Board is precluded from consideration of an application for permission for retention of development for which an Environmental Impact Assessment would have been required before the development was commenced, the Board was satisfied that the retention element of the proposed development was de minimus and that the Matthew Kane memorial was a minor development that would not have required an Environmental Impact Assessment in itself. The Board noted the cultural heritage significance of the monument for the town of Tullamore. The Board noted that a comprehensive Environmental Impact Assessment Report had been submitted for the overall mixed-use development and was satisfied that the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed in accordance with Article 94 of the Planning and Development Regulations, 2001, as amended.

## Conditions

1. The development shall be retained, 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 30<sup>th</sup> day of September, 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 mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report shall be implemented in full.

**Reason:** In the interests of clarity and the proper planning and sustainable development of the area.

3. 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.

4. Details, including photographs of samples, of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

5. Proposals for a development name, office/commercial unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

6. No amalgamation of units or subdivision of any unit shall take place without a prior grant of planning permission. This order shall not be construed as granting permission for any additional floor areas at "mezzanine level" within the buildings hereby permitted. No mezzanine floor development shall be carried out without a further grant of planning permission.

**Reason:** In the interest of clarity.

7. 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. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.



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

**Reason:** In the interest of public health.

9. A minimum of 10% of all car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fit-out of charging points. All car parking shall be clearly delineated. 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:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

10. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of the amenities of the area and visual amenity.

11. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the buildings (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

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

12. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development,
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings,
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating,
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes, and
- (e) details of plantings, of the proposed green wall facing onto the Tullamore River

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

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

13. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of the lighting. The agreed lighting system shall be fully implemented and operational, before any of the commercial units are made available for occupation.

**Reason:** In the interests of public safety and visual amenity.

14. (a) A revised proposal that would facilitate the future construction of a road following the current line of the proposed footpath between Unit C6 and Block D1 shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (b) The pedestrian and open space land use in this area shall remain as proposed in the planning application unless a replacement roadway is authorised by a further grant of planning permission.

**Reason:** In the interests of traffic safety and accessibility.

15. 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.

16. 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) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
  - (b) location of areas for construction site offices and staff facilities,
  - (c) details of site security fencing and hoardings,
  - (d) details of on-site car parking facilities for site workers during the course of construction,
  - (e) 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,
  - (f) measures to obviate queuing of construction traffic on the adjoining road network,
  - (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
  - (h) 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,
  - (i) provision of parking for existing properties during the construction period,
  - (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
  - (k) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
  - (l) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil, and

(m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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 interests of amenities, public health and safety.

17. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive, 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.

18. 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 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.

19. 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 the commencement of development or in such phased payments as the planning authorities 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 authorities 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.

*DR. Maria FitzGerald*

**Maria FitzGerald**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

Dated this *7<sup>th</sup>* day of *May* 2021.

