



Planning and Development Acts 2000 to 2020

Planning Authority: Kildare County Council

Planning Register Reference Number: 19/757

Appeal by James Browne care of Collins Maher Martin Architects of Dodder Park Road, Rathfarnham, Dublin against the decision made on the 18th day of March, 2020 by Kildare County Council to grant subject to conditions a permission to H & I Partnership care of Merrigan Doyle Phelan and Partners Limited of 2/3 Colbeck Street, The Viking Triangle, Waterford in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of an existing single storey disused health centre, construction of a mixed use three-storey building comprising one number ground floor restaurant, one number ground floor café, one number ground floor retail space, six number two-bedroom apartments, two number three-bedroom apartments, public and private amenity areas and all associated ancillary site and entrance works at Ballinagappa Road, Clane, County Kildare.

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' zoning objective of the site in the current Development Plan for the area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity or give rise to a traffic hazard. 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 on the 2nd day of December 2019 and on the 21st day of February 2020 by way of clarification of further information, 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. 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.

3. The hours of operation of the café/restaurant unit shall be between 0700 hours and 2300 hours Monday to Sunday unless otherwise agreed in writing with the planning authority.

Reason: In the interest of the residential amenities of property in the vicinity.

4. Final details of the signage associated with the café/restaurant unit shall be agreed in writing with the planning authority prior to occupation of the unit.

Reason: In the interest of visual amenity.

5. One clearly identified car parking space shall be assigned permanently to each residential unit and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

6. All proposed car parking spaces shall be capable of accommodating functioning electric vehicle (EV) charging stations/points, details to be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

7. Prior to commencement of development final details of the location and facilities provided in the play area shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of residential amenity.

8. Proposals for the naming and numbering of the scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

Reason: In the interest of urban legibility.

9. (a) The landscaping scheme shown on Drawing number AR-006 submitted to the planning authority on the 2nd day of December 2019 shall be carried out within the first planting season following substantial completion of construction works.

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.

- (b) All biodiversity enhancement measures included in the further information submitted to the planning authority on the 2nd day of December 2019 shall be implemented in full by the developer.

Reason: In the interests of residential and visual amenity.

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

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

11. All external lighting of the proposed development shall be cowled and directed away from the public roadway and from surrounding residential dwellings.

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

12. No additional development shall take place above roof parapet level, including air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and 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 the commencement of any site operation relating to the proposed development,

- (b) 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.

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. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

- 15. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

- 16. 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.

17. 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 but not limited to, noise and dust management measures, the management of construction traffic and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety, residential amenity and protection of the environment.

18. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

19. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

20. 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