



Planning and Development Acts 2000 to 2019

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 19/639

Appeal by Marie and Ted Ruth of Patrick Street, Ballyragget, County Kilkenny and by Norma Bergin of Patrick Street, Ballyragget, County Kilkenny against the decision made on the 26th day of May, 2020 by Kilkenny County Council to grant subject to conditions a permission to Good Shepherd Centre Kilkenny Limited care of C.J. Falconer and Associates Architects of Saint Patrick's House, Newtown, Waterford in accordance with plans and particulars lodged with the said Council.

Proposed Development: The demolition of existing two-storey dwelling to Patrick Street, adjoining out-buildings and existing barn to the rear thereof, in addition undertake alterations and refurbishment of existing Red Barn Building to Patrick Street, to include minor works to fenestration and front façade within the curtilage of a protected structure RPS Number C12 and NIAH Reference Number 12303011, to accommodate six number apartments within the existing building envelope and adjoining rear yard area and also to undertake the construction of six number apartment units to the rear of the site (a total construction of 12 number apartment units to the entire development). The works are to include all associated site works, ancillary accommodation,

drainage, road works and traffic control systems. The development entrance will be via the current site entrance to Patrick Street. All at Red Barn Site, Patrick Street, Ballyragget, County Kilkenny. Further public notices were submitted to the planning authority on the 18th day of February, 2020.

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 provisions of the Kilkenny County Development Plan 2014-2020 and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March, 2018 and 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 detract from the setting and character of the protected structure, or of the Ballyragget Architectural Conservation Area, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of pedestrian and traffic safety and would constitute an appropriate form of development at this location. 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 29th day of January, 2020, the 18th day of February, 2020 and the 5th day of May, 2020, 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. A detailed layout plan of the access laneway and the interface of the vehicular entrance and public footpath shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

3. Prior to commencement of development, the developer shall submit a revised site layout plan showing the following amendments for the written agreement of the planning authority:
 - (a) The passageway along the northern boundary to the rear of Units Numbers 6-9 shall be omitted and the relevant areas included within the rear curtilage of each unit.
 - (b) The external stairs along the northern boundary shall be omitted. The public open space, bicycle parking area and bin storage area shall be relocated closer to the boundary wall.
 - (c) The footpath area to the side of Unit Number 9 shall be incorporated within the curtilage of that unit.
 - (d) The triangular public open space area to the east of Unit Number 11, behind the building line, shall be included within the curtilage of that unit.

Reason: In the interest of residential amenity.

4. (a) The front wall of the two-storey three-bay part of the Red Barn building, including carriageway and opes, shall be retained. All stabilisation works shall be undertaken under the supervision and methodologies of a suitably-qualified conservation expert.
- (b) Details of the type of gate to be used at the carriageway shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of conservation of architectural heritage and the proper planning and sustainable development of the area.

5. A controlled entrance shall be provided between Apartment Number 1 and the site boundary to control access to the five number apartments in this area. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

6. The recommendations and proposed methodologies set out in the 'Assessment of Existing Boundary Walls' report submitted by the applicant, shall be carried out.

Reason: In the interests of conservation of architectural heritage and the proper planning and sustainable development of the area.

7. 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.

8. 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) The species, variety, number, size and locations of all proposed trees and shrubs,

- (ii) Details of roadside/street planting,

- (iii) Hard landscaping works, specifying surfacing materials, street furniture and finished levels.

- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment,

(c) A timescale for implementation,

(d) Detail of all internal boundary types.

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.

9. Drainage arrangements, including the 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.

10. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to commencement of development.

Reason: In the interest of public health.

11. (a) Site development and building works shall be carried out only between the hours of 0800 to 1800 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.
- (b) 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 traffic management measures, noise management measures and off-site disposal of construction waste.

Reason: In order to safeguard the residential amenities of property in the vicinity.

12. 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.

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 (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 internal road network serving the proposed development, including parking areas, markings, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

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

15. A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle (EV) charging stations/points. and ducting shall be provided for all remaining car parking spaces to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electrical vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the making available by the developer for occupation of any of the residential units in the proposed development.

Reason: In the interest of sustainable transport.

16. Public lighting shall be provided in accordance with a scheme, 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 residential unit.

Reason: In the interests of amenity and public safety.

17. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground, except where otherwise agreed in writing with the planning authority. 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.

18. (a) A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each 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: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

19. Proposals for an estate/street name, unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and unit numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

Reason: In the interest of urban legibility.

20. 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.

Chris McGarry

Member of An Bord Pleanála

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

Dated this day of 2020.