



Planning and Development Acts 2000 to 2020

Planning Authority: Carlow County Council

Planning Register Reference Number: 19/478

Appeal by Paddy Murphy of Number 8 Rochford Manor, Leighlin Road, Carlow and by Thomas Nolan of Kilbricken Lane, Fenagh, County Carlow against the decision made on the 6th day of July, 2020 by Carlow County Council to grant subject to conditions a permission to Primark Limited care of J.C.A. Architects of Saint Albert's House, Old Navan Road, Dunboyne, County Meath in accordance with plans and particulars lodged with the said Council:

Proposed Development: Refurbishment of the existing store (3,892 square metres) including retail, staff area, stock room, external envelope, new plant buildings (29.16 square metres) and replacement roof to the retail store. The works will also include new signage, new canopy to loading bay, convert partial convenience retail to comparison retail, allocation of 47 number car parking spaces including three number disabled parking spaces, 15 number bicycle stands, upgrade of existing carparking surface, landscaping and entrance to store, temporary hoarding to adjacent properties and associated works, all at Penneys, Kennedy Avenue, Carlow, as revised by the further public notice received by the planning authority on the 24th day of March, 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.

Appropriate Assessment

The Board considered the Screening Report for Appropriate Assessment, the Natura impact statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European sites.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Barrow and Nore Special Area of Conservation (Site Code 002162), is the only European site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment Stage 2

The Board considered the Natura impact statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the European site, namely the River Barrow and Nore Special Area of Conservation (Site Code 002162), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European site.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European site, in view of the site's conservation objectives.

Reasons and Considerations

Having regard to the existing pattern of development in the area and to the nature of the proposed development which relates substantially to the refurbishment and reconfiguration of an existing premises at a prominent location in the town centre, it is considered that, subject to compliance with the conditions set out below, the proposed development would not conflict with the Carlow Retail Strategy as contained in the Carlow Development Plan 2016 - 2021, would contribute positively to the revitalisation of the town centre and would be acceptable in terms flood risk, natural conservation and traffic safety. 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 24th day of March, 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. The proposed temporary screen sheet fence along the western boundary shall not be used for advertising, shall be maintained to a visually high standard and shall be removed in its entirety within four years of the date of this Order whereupon the area shall be suitably reinstated and landscaped unless prior permission is obtained for its retention. Drawings and photomontages showing details of the proposed finishes and materials and future reinstatement landscaping shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to allow for a review of the fencing and access arrangements having regard to the circumstances then pertaining with particular regard to providing for future pedestrian access to Burrin Street.

3. The proposed subdivision of the car parking area within the site shall be for a period of four years from the date of this Order and shall be re-amalgamated with the surrounding car park/site unless prior permission is obtained for its retention.

Reason: In the interests of visual amenity and orderly development and to allow for a review of the car parking arrangements having regard to the circumstances then pertaining.

4. The site shall maintain pedestrian permeability to the wider area including from Hanover Park, the River Burrin, Kennedy Avenue and the R448 and details of this permeability, together with future provision for pedestrian access to Burrin Street, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity and to comply with the development plan objectives for town centre accessibility and vitality.

5. Details including samples of the materials, colours and textures of all the external finishes to the proposed refurbished building and additional structures/plant, 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. The existing stone wall bounding the site in the service yard shall be retained in full, made good where required and protected during any demolition and construction works. Details of these measures, together with a building condition report, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety, orderly development and to ensure that adequate off-street parking provision is available to serve the proposed development.

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

Reason: In the interest of public health.

8. 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. In respect of flood mitigation the following shall apply:

- (a) The recommendations and flood mitigation measures, as detailed in Section 6.3 and Figure 6.3 of the revised Site-Specific Flood Risk Assessment (February 2020) and Drawing Number 180205-3001 received by the planning authority on the 24th day of March, 2020 shall be strictly adhered to and carried out in full prior to opening the premises to the public.

- (b) The development shall include the construction of a kerb and embankments around the carpark perimeter, which shall protect against the 1% AEP Current Scenario plus 20% climate change (48.40mOD). Details of the measures including elevations and finishes shall be agreed in writing with the planning authority prior to the commencement of development.

- (c) Non-return valves shall be provided at the inlet to the existing services to mitigate against pluvial flooding. Oil interceptors and other infrastructure as detailed in the revised Site-Specific Flood Risk Assessment shall be provided.

- (d) Flood resilience measures shall be provided for the existing building to protect against the 1% AEP Current Scenario plus 20% climate change (48.40mOD). These shall have regard to best practice.

Reason: In the interest of public health.

9. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate the requirements of Fisheries Ireland and provide details of intended construction practice for the development, including hours of operation, noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of environmental protection of the River Burrin, traffic safety and to protect the amenities of the area.

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes, 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 unit.

Reason: In the interests of amenity and public safety.

11. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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: To protect the amenities of the area.

12. All the recommendation and remedial works and measures in the Road Safety Audit Stages 1 and 2 received by the planning authority on 24th day of March, 2020 shall be strictly adhered to and carried out in full.

Reason: In the interest of traffic safety.

13. All utility cables shall be located underground except as otherwise agreed in writing with the planning authority. Any service poles which require relocation on or from this site shall be relocated prior to construction works at the expense of the applicant.

Reason: In the interest of visual amenity.

14. Detailed measures in relation to the protection of bats shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures or felling of trees that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

15. The developer shall facilitate the archaeological appraisal of those parts of the site where groundworks are proposed 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 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 work.

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.

16. The landscaping scheme, as submitted to the planning authority on the 24th day of March, 2020, shall be carried out within six months of the date of commencement of development unless otherwise agreed in writing with the planning authority. All planting and associated works shall be in accordance with the mitigation measures contained within the Natura impact statement, as amended and submitted to the planning authority on the 24th day of March, 2020.

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 interest of visual amenity.

17. 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 2021.