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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Kilkenny County Council**

**Planning Register Reference Number: 20/561**

**Appeal** by Karen McDonald of 20 Carroll's Village, Logan Street, Thomastown, County Kilkenny against the decision made on the 14<sup>th</sup> day of October, 2020 by Kilkenny County Council to grant subject to conditions a permission to Torca Developments Limited care of Brian Dunlop Architects of 15 Patrick Street, Kilkenny in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** The proposed works consist of the following: (a) Use of the existing external smoking area to the rear of the building for use as a seated dining space for customers of the public house. (b) The construction of a new link lobby to rear of building connecting the existing public house to the associated ancillary facilities which are located in the adjacent building. All to the rear of Carroll's public house, Logan Street, Thomastown, County Kilkenny (a protected structure).

## **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 mixed use zoning of the site within the town centre location, the established use and planning history of the site, the relevant policies and objectives of the Kilkenny County Development Plan 2014-2020 and the documentation submitted on file, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenity of the area, would not adversely affect the character of the protected structure or the Architectural Conservation Area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the conditions imposed with this permission would not exacerbate any noise nuisance for neighbouring residents and the imposition of limitations on times of use and on amplified music in the outdoor area would be likely to address some of the current issues being experienced by residents of the adjoining apartments.

## **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. No patrons are permitted to use the external seating area after 2200 hours Monday to Sunday.

**Reason:** In the interests of orderly development and protecting residential amenity.

3. The seated dining area shall no longer be used as a smoking area, and no live or amplified music shall be permitted in this outdoor area.

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

4. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:
  - (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
  - (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.
- (b) 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. Site development and building works shall be carried out only between the hours of 0800 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 properties in the vicinity.

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**Dave Walsh**

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

**Dated this            day of            2021.**