

Planning and Development Acts 2000 to 2021

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 21327

Appeal by Joe Lafferty of Dunningstown Road, County Kilkenny and by PM Cantwell Limited care of Peter Thomson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny against the decision made on the 2nd day of September, 2021 by Kilkenny County Council to grant subject to conditions a permission to the Board of Management of CBS Secondary School Kilkenny care of Coakley O'Neill Town Planning Limited of NSC Campus, Mahon, Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of the construction of a part three-storey, part two-storey 37-classroom school building with a total floor area of 10,564 square metres and incorporating associated support teaching spaces, offices and meeting rooms, a multi-use hall, library, staff rooms and all ancillary accommodation, including photovoltaic panels and green roofs at roof level. Works to the new school grounds will consist of the provision of six number ball courts, outdoor seating and breakout areas, a sensory garden, a covered tech yard, external store building (50 square metres) and substation (22 square metres) and associated hard and soft landscaping throughout. Provision is made for the future development of a full sized sports pitch, but which does not form part of this proposal. The

development will also include the construction of a new access roadway incorporating footpaths, cycleways, public lighting, and landscaping, that will tie into Kilkenny County Council's proposed Loughmacask Link Road at its Dunningstown Road junction at Lousybush. Parking and access arrangements will incorporate an internal drop-off and pick-up area for cars and an external set down for buses, the provision of 92 number car parking spaces, incorporating five number disabled parking spaces, and 342 number bicycle parking spaces, 264 number of which are sheltered. Permission is also sought for new foul, water and surface water drainage system works, associated with both the school and the roadway and incorporating a swale, attenuation, rainwater harvesting, and a flood storage compensation area, boundary treatments, including retaining walls, and all other site development works at Dunningstown Road and Lousybush Lane, (the L-10075 local road) in the townlands of Lousybush and Loughmacask in Kilkenny City.

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 City and County Development Plan 2021-2027, and in particular, to the community facilities land use zoning objective pertaining to the school building site and associated ballcourts, car parking and part of the access road, the specific R6 roads objective within the Development Plan for the development of the Loughmacask link road and tie-in with the private school access road, Section 6.6.2 of the Development Plan (Volume 2) regarding the relocation of the CBS secondary school to these specific lands in Loughmacask, to the nature, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed educational development would not seriously injure the residential or visual amenities of the area and would not give rise to the creation of a traffic hazard in the vicinity. 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 9th day of August 2021, 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. (a) Details of the tie-in between the private school, access road and the Loughmacask link road west of the junction with the Dunningstown Road shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Details of the proposed pedestrian/cycleway connectivity between the subject site and Lousybush Lane to the south-west of the site shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of proper planning and sustainable development of the area.

4. The landscaping scheme shown on drawings submitted to the planning authority on the 9th day of August, 2021 shall be carried out within the first planting season following substantial completion of external 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.

Reason: In the interests of residential and visual amenity.

5. The developer shall facilitate the archaeological appraisal of the site 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 the 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 works.

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.

6. All works shall take place in accordance with mitigation measures as set out in the revised Ecological Impact Statement as submitted to the planning authority on the 9th day of August, 2021.

Reason: In the interests of protection of species and habitats.

7. The proposed ball courts and pitches shall not be floodlit without a separate planning permission having first been obtained. The proposed site lighting shall not incorporate any floodlighting of these courts/pitches. The ball courts and pitches shall not be used between the hours of 2100 and 0800.

Reason: To protect the residential amenity of properties in the vicinity.

8. Retaining structures and boundary walls shall be agreed in writing with the planning authority. A letter of certification shall be provided by the Design Engineer responsible for the retaining walls, confirming that the structures have been constructed as per the design and as per the as-built drawings/details. Alternatively, this certification shall be provided by a suitably qualified structural design engineer, to the written approval of the planning authority.

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

9. 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.

10. Final details of the Mobility Management Plan as submitted to the planning authority on the 23rd day of April, 2021 shall be submitted to, and agreed in writing with, the planning authority. It shall be the responsibility of the school authorities to manage all school's related travel in accordance with the Mobility Management Plan. The Mobility Management Plan shall, at a minimum, incorporate the following measures:
- (a) Monitor and record all school's related travel on an on-going basis.
 - (b) To achieve compliance with modal targets and objectives of the Mobility Management Plan and report compliance details of same to the planning authority at the appropriate agreed intervals.
 - (c) Traffic and parking arrangements, including cycle parking shall comply with the requirements of the planning authority.

Reason: In the interests of public safety and sustainable transportation.

11. Lighting shall be provided in accordance with a scheme, which shall include lighting of pedestrian/vehicular/cycle routes through the site and car parking areas, 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 occupation of the school.

Reason: In the interests of amenity and public safety.

12. No further structures, plant or antennae shall be erected on the roof of the proposed building without a prior grant of planning permission.

Reason: In the interest of visual amenity.

13. All service cables associated with the proposed development shall be located underground. 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.

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. A minimum of 10% of all car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

16. Electric charging facilities shall be provided for cycle parking, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: In the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric cycles.

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 noise management measures and off-site disposal of construction/demolition waste.

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

18. 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.

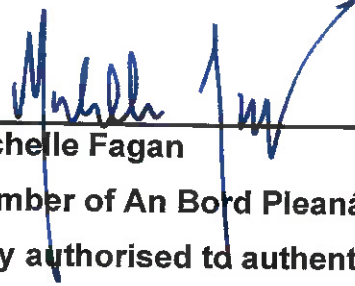
Reason: In order to safeguard the residential amenities of property in the vicinity.

19. 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.

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.

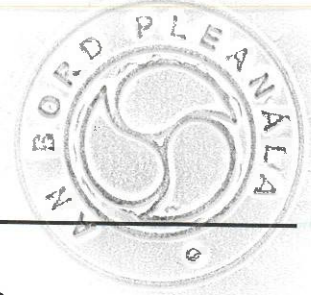
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Michelle Fagan

Member of An Bord Pleanála

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



Dated this *20th* day of *January* 2022.