

**An
Bord
Pleanála**

**Board Order
ABP-311654-21**

Planning and Development Acts 2000 to 2021

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 20/930

Appeal by Joe Brennan care of PBA Architects of Stoneyford, Kilkenny against the decision made on the 16th day of September, 2021 by Kilkenny County Council to grant subject to conditions a permission to Veridical Limited care of Bluett and O'Donoghue Architects of 1 Chancery Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of wholesale warehouse and construction of hotel and short-let apartments comprising: Demolition of single storey, two-storey and three-storey wholesale warehouses, stores and associated facilities. Construction of detached hotel on four levels (138 bedrooms on three upper levels over hotel lobby and reception, bar/restaurant, kitchen and ancillary support services at ground level). Construction of detached short-let apartments on four levels (34 one-bedroom units and two two-bedroom units). Construction of detached single storey service building comprising electricity sub-station and plant room. Reconfiguration of vehicular and pedestrian entrance from Lower New Street and relocation of vehicular and pedestrian entrance from Walkin Street. Provision of all associated site services, including hard and soft landscaping,

site lighting, car parking, boundary walls, gates and railings, all at Lower New Street/Walkin Street, Kilkenny (former Smithwick's Cash and Carry premises).

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.

Reasons and Considerations

Having regard to the General Business zoning objective for the area and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not have a significant adverse impact on the special character of the Patrick Street Architectural Conservation Area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 received by the planning authority on the 20th day of August, 2021 and the further plans and particulars received by An Bord Pleanála on the 6th day of December, 2022, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of development, the developer shall submit revised plans illustrating the following revisions to the proposed development for the written agreement of the planning authority:
 - (a) The omission of the proposed masonry wall and the public pedestrian entrance in the vicinity of the existing residential unit associated with Brennan's Bottling Bar to the north of the site, and the provision of soft landscaping and a low-level fence/wall boundary treatment in its place.
 - (b) Details of proposed boundary treatment between the ground floor private amenity areas in Block A.

Reason: In the interest of residential and visual amenity.

3. Short-term letting apartments shall not be used for long-term rental without a separate grant of planning permission.

Reason: In the interest of orderly and sustainable development.

4. Details, including samples, 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 and the streetscape.

5. 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.

6. 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 operations (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 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.

7. Full details of the following shall be submitted to the planning authority for written agreement prior to commencement of development:
- (i) Details of all external signage and lighting. No signage shall be internally illuminated on the building.
 - (ii) The name and numbering of the long-term apartment block.

Reason: In the interest of visual amenity.



8. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

9. The developer shall set up a Management Company/Companies to provide for the long-term operation, maintenance, administration and management of the apartment block and short-term let blocks within the scheme. Full details of this arrangement shall be submitted to the planning authority for approval prior to any long-term apartment unit being sold or occupied. Any changes in ownership of the overall site or of any individual dwelling which is part of the Management Company shall be notified to the planning authority.

Reason: To ensure adequate maintenance and administration of the proposed development.

10. 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.

Reason: In the interest of public health.

11. The developer shall enter into water and wastewater connection agreements with Uisce Éireann (formerly Irish Water) prior to commencement of development.

Reason: In the interest of public health.

12. Prior to commencement of development, the developer shall submit the following for the written agreement of the planning authority:

- (a) A car parking management plan for the site which illustrates dedicated parking areas for the residential and hotel aspects of the proposed development.
- (b) A revised Site Layout Plan which incorporates the recommendations of the Stage 1/2 Road Safety Audit and enhanced pedestrian connections within the site.
- (c) A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage 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: In the interest of orderly development.

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

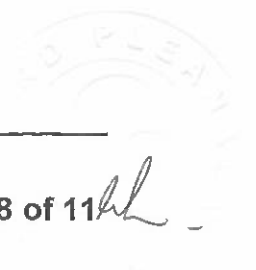
Reason: In the interest of visual and residential amenity.

14. 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 or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

15. No additional development shall take place above roof parapet levels, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, machinery or telecommunications aerial, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: In the interest of residential and visual amenity.



16. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff car parking. The management strategy shall include policies and strategies to minimise the impact of car parking on existing on street parking within the vicinity of the site. The mobility strategy shall be prepared and implemented by the management company for the development. Details to be agreed with the planning authority shall include the provision of adequate facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

17. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

18. The construction of the proposed 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. The plan shall provide a demolition management plan, together with details of intended construction practice for the proposed development, including a detailed traffic management plan and noise management measures.

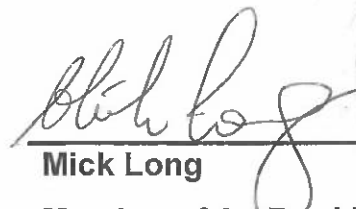
Reason: In the interest of public safety and residential amenity.

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 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.



Mick Long

Member of An Bord Pleanála

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

Dated this 22 day of June 2023.