



An
Bord
Pleanála

Board Order ABP-319894-24

Planning and Development Acts 2000 to 2022

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 23/60414

Appeal by Residents of Flaggy Lane care of J.J. Egan of Flaggy Lane, Callan, County Kilkenny against the decision made on the 20th day of May, 2024 by Kilkenny County Council to grant subject to conditions a permission to Coláiste Abhain Rí Board of Management care of Wejchert Architects of 23 Lower Baggot Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Extension to existing Coláiste Abhain Rí post primary school of generally two storeys in height, including Special Educational Needs Unit, six number classrooms, special teaching rooms, support spaces, single storey link to existing school building, total building extension area of 2,175 square metres, external play and yard spaces, new school access road from south-west corner of site off Flaggy Lane and separate independent access road to Saint Mary's Convent off Flaggy Lane, relocation of existing grotto on site, re-opening of pedestrian access path from Kilkenny Road, demolition of existing single storey study hall and all related site and ancillary related works, all on a site area of circa 0.64 hectares at Coláiste Abhain Rí School and Saint Mary's Convent, Kilkenny Road/Lower Bridge Street/Flaggy Lane, Callan, County Kilkenny. The works are within the curtilage of protected structures Saint Mary's Convent, Scoil Mhuire National School (old) and Saint Mary's Chapel, RPS Numbers C751, C750 and C749.

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 relevant provisions of the Kilkenny City and County Development Plan 2021-2027 and the Callan Local Area Plan 2019-2025, the current established use of the site for educational purposes, the land use zoning for 'community facilities', and the scale and nature of the proposed development to facilitate a school extension, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute a facility of value to the community, would not seriously injure the residential or visual amenities of the area, and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Based on the information submitted with the planning application, the Board was not satisfied that there was sufficient justification to provide a second access off Flaggy Lane to serve as a separate entrance for the convent buildings and decided to omit this by way of condition.

Appropriate Assessment: Stage 1:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the River Barrow and River 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 in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an Appropriate Assessment of the implications of the proposed development on the River Barrow and River 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 sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

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

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.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

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 15th day of March, 2024 and the 24th day of March 2024, 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. The mitigation measures contained in the submitted Natura Impact Statement shall be implemented in full.

Reason: To protect the integrity of European Sites.

3. 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.

4. Access from the public road, pedestrian crossings and internal road and vehicular circulation network serving the proposed development, including turning bays, car parking areas, footpaths and kerbs, signage and traffic calming measures, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of the Environment, Community and Local Government in March 2019, as amended.

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

5. Prior to commencement of development, the developer shall submit the following details to the planning authority for written agreement:
- (a) A revised Site Layout Plan showing the proposed separate independent access to the convent via Flaggy Lane omitted and access and circulation via the school access and internal access route.
 - (b) Details of all on-site carparking and electric vehicle charging infrastructure.
 - (c) Details showing the location of covered cycle parking to be provided on site.

Reason: In the interest of pedestrian and traffic, cyclist and pedestrian safety and to protect residential amenity.

6. Prior to commencement of development, the developer shall agree the following with the planning authority:
- (a) The design and detail, including specification of signalling equipment, of the proposed new pedestrian crossing on the R695 north of the school site.
 - (b) The design and detail of the left out exit arrangements from the school on to the Kilkenny Road.
 - (c) The design and detail of the pedestrian crossing at the school entrance and the form and layout of the school entrance and gate location.

Reason: In the interest of pedestrian and traffic safety.

7. (a) A Road Safety Audit (Stages 1, 2 and 3) shall be submitted to, and agreed in writing with, the planning authority prior to commencement and completion of development, in order to demonstrate that appropriate consideration has been given to all relevant aspects of the proposed development in accordance with the Design Manual for Urban Roads and Streets (DMURS).
- (b) The measures recommended by the Road Safety Audit shall be undertaken, unless the planning authority approves any departure in writing. A detailed drawing(s) showing all accepted proposals and a feedback report shall also be submitted.

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

8. Prior to the opening of the development, the developer shall submit for the written agreement of the planning authority an Operational Stage Mobility and Traffic Management Plan in accordance with the requirements of the planning authority. This shall provide incentives to encourage the use of public transport, cycling, walking and car-pooling and shall include an assessment of the quantum of additional bicycle parking spaces required to meet the development management standards of the development plan. The Plan shall be implemented in accordance with this agreement and shall be updated annually, in agreement with the planning authority.

Reason: In the interest of traffic safety and to protect residential amenity and sustainable transport.

9. Final details of all proposed site boundary treatments, including walls and fencing, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenities.

10. 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.

Reason: In the interest of the amenity of the area.

11. 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 and surface water management.

12. Prior to commencement of development, the developer shall enter into a connection agreement with Uisce Éireann to provide for a service connection to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

13. (a) Lighting shall be provided in the car park areas and along the circulatory route and pedestrian walkways throughout the site, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) Such lighting shall be provided prior to the opening of the school extension and shall be designed to avoid light pollution on neighbouring properties and the riparian setting of the tributary of the Kings River to the south of the site.

- (c) No floodlighting shall be erected without prior planning permission for such structures.

Reason: In the interest of amenity and public safety.

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) 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 interest of visual and residential amenity.

15. A management plan for the control of alien invasive species, including a monitoring programme, 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 prevent the spread of alien plant species.

16. The demolition and construction of the proposed development shall be managed in accordance with a Construction and Demolition and Environmental Management Plan, to include a Traffic 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 proposed development, including:

- (a) Details of the removal of asbestos waste and the excavation and removal of contaminated soil.
- (b) The location of the site and materials compound(s), including area(s) identified for the storage of construction refuse.
- (c) The location of areas for construction site offices and staff facilities.
- (d) Details of site security fencing and hoardings.
- (e) Details of on-site car parking facilities for site workers during the course of construction.
- (f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.

- (g) Measures to obviate queuing of construction traffic on the adjoining road network.
- (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- (j) Provision of parking for existing properties during the construction period.
- (k) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (l) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (m) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (n) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (o) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be made available for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety and environmental protection.

17. Prior to commencement of development, the developer, or any agent acting on its behalf, 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 a 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 the 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 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. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 hours to 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 residential amenities of property in the vicinity.

19. 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.

20. 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 and for the ongoing operation of these facilities for the school shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the 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.

21. 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.

Mary Gurrie

Mary Gurrie

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this *07* day of *March* 2025.