



An
Coimisiún
Pleanála

Commission Order
ABP-322480-25

Planning and Development Act 2000, as amended

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 24/60350

Appeal by Ann Phelan of 6 Dean's Court, Kilkenny and by Brendan and Gemma Brett care of Setanta Solicitors of 39/40 Mount Street Upper, Dublin against the decision made on the 23rd day of April, 2025 by Kilkenny County Council to grant, subject to conditions, a permission to Gemstack Limited care of Manahan Planners of 38 Dawson Street, Dublin.

Proposed Development: Demolition of an existing shed along the north boundary and the removal of existing trees. It is proposed that part of the existing wall and piers are planned to be removed by hand and reconstructed to facilitate the widening of the existing gate/entrance off Waterford Road. A memorial garden and sculpture is proposed in front of the convent in remembrance of the St. Joseph Community. Two separate blocks are proposed, Block A and Block B. Block A four-storey building with 21 apartments located at the western corner of the site, and Block B five-storey building with 19 apartments located at the northern corner of the site, with a total of 40 units. All with associated realignment of internal road, car parking spaces, cycle parking, bin storage, landscaping, boundary treatments, drainage all with associated site works, all at Deansground, Waterford Road,

Kilkenny, as revised by the further public notices received by the planning authority on the 9th day of January, 2025 and on the 27th day of March, 2025.

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 nature, scale and extent of the proposed development on this infill site in Kilkenny City, to the pattern of development in the area, the mixed use nature of the site, the structure on the site that is listed in the National Inventory of Architectural Heritage (NIAH), the adjoining residential properties, and to the amendments made to the scheme during the application process that reduced the impact on the residential amenity of adjoining properties, the Commission decided the scale, density and design of the residential development is appropriate at this location.

The proposed development, subject to compliance with conditions set out below, would be appropriate, and would be in accordance with the following provisions, as set out in the Kilkenny City and County Development Plan 2021-2027:

- (a) the Core Strategy that recognises the importance of infill sites to achieving compact growth,
- (b) the mixed-use zoning, the objective of which is to consolidate and facilitate the development of inner suburban sites for mixed use development including residential,

- (c) Placemaking, the sites setting in proximity to education, retail, community services and sports facilities as well as having ease of access to Kilkenny High Street,
- (d) the sites proximity to the Talbot Quarter in Figure CS5 of the Plan and upgrades to cycle and pedestrian facilities as shown on Figure MS4, of the Plan,
- (e) Heritage, Culture and the Arts, Chapter 9 Section 9.3.2.2 National Inventory of Architectural Heritage
- (f) Section 2.8, Other opportunity sites, and
- (g) Section 6.4 Infill Development.

The Commission had concerns regarding the layout of carparking but considered this could be dealt with by condition. The Plan provides for a relaxation of standards in opportunity sites in appropriate situations. The Commission considered a relaxation of parking standards is appropriate at this location due to the existing mix of uses immediately adjoining the proposed development, the proximity of services and amenities in the immediate environment and, to provide for the future use of the existing NIAH structure on the site. The proposed development subject to conditions accords with the Kilkenny City and County Development Plan 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 for reason of excessive density, the Commission had regard to the totality of the Kilkenny County Development Plan 2021-2027, including

- (a) the Core Strategy, the Zoning Objective and the wider policy context including opportunity sites,
- (b) the context of the site within the boundary of Kilkenny City, near schools, retail, sports, and community facilities, and
- (c) adjoining existing residential and the permeable routes connecting to the City Centre,

and considered that the cluster of buildings and their grounds could accommodate the proposed residential blocks but noted that this area is in transition and that it is important that this development does not undermine the future potential of the existing structure on the site and adjoining sites that are accessed through this site. Therefore, and for reasons specific both to this site and its context the Commission considered a relaxation in parking standards is appropriate as provided for in the Plan.

The Commission agreed with the Planning Inspector regarding the merits of the amended scheme in terms of design, height, scale, overshadowing and loss of light but the Commission did not consider that the proposed density on this site, which is within the city boundary and within walking distance of facilities, is too high. The Commission agreed with the planning authority that the density of development, as amended at application stage, is acceptable.

The Commission considered the totality of material regarding bats, including that provided by the applicant, the appellant and the Department. The Commission noted no works are proposed to 'the Village Campus' building, and, noting the detail in the Gannon report submitted with the appeal, considered that the date of the surveys is, in this case, acceptable as the date of the request for the information was itself dated September and the fact that the survey work was carried out within a reasonable time of the request and as close as possible to the recommended season for survey work. The Commission accepted the Conclusion of the Bat Survey Report received by the planning authority 20th day of December 2024 and did not agree with the Inspector that there was an absence of information.

In addition, the Commission noted that the car parking standards in the development plan are maximum standards and that the plan provides for relaxation of car parking standards in opportunity sites. The Commission considered the infill site the subject of this appeal to be an opportunity site that benefits from being near both commercial and community services and

that therefore future residents would not be reliant on access to a private car. The proposed location of the carparking, specifically that to the front and rear of the Village Campus building, lacks passive surveillance from the residences they are proposed to serve, the layout of these parking spaces relates more to the existing uses on site than the proposed. It also noted the site includes a structure listed in the NIAH, as the use of this structure evolves its repurposing may be hampered by the proposed layout of the carparking, therefore the carparking as proposed was considered piecemeal and not in the best interest of ensuring the continued use of the existing structure on site. The Commission decided that, on balance, the benefit of compact growth and the continued use of the existing structure on site justified a reduction in the proposed number of parking spaces, to those located between the two residential apartment blocks only.

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 received by the planning authority on the amended by the further plans and particulars received by the planning authority on the 20th day of December 2024, and on amended by the further plans and particulars received by the planning authority on the 20th day of March 2025, 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. (A total of 34 apartments is permitted).

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

- (a) The car parking to serve the apartments shall be limited to the car parking between Block A and Block B only, as shown on drawing titled Site layout/ access, (drawing reference number 3.1.101 Rev B included in The Traffic and Transport Assessment Report, Appendix A, NRB Consulting Engineers report submitted with the Clarification of Further Information 20th March 2025), that is eight car parking spaces.
- (b) The parking proposed to the front and rear of the existing building on site, identified as The Village Campus on drawing titled Site layout/access, (drawing reference number 3.1.101 Rev B included in The Traffic and Transport Assessment Report, Appendix A, NRB Consulting Engineers report submitted with the Clarification of Further Information 20th March 2025 shall be omitted from the development.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the car parking associated with the residential units do not limit any future development of the Village Campus building, and to ensure parking is appropriately located relative to the dwellings they serve.

3. Prior to the opening/occupation of the development, a Mobility Management Plan (MMP) 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 and walking by residents in the development. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

4. All balconies shall be adequately screened so as not to allow for overlooking towards existing residential units in Deans Court. Full details of balcony boundaries shall be agreed with the planning authority before commencement of development.

Reason: To protect existing residential amenity.

5. The developer shall engage a suitably qualified licence eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record [archaeological excavation] and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments

Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation, either in situ or by record, of places, caves, sites, features or other objects of archaeological interest.

6. 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 on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Coimisiún 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 for the area.

7. Proposals for the naming and numbering of the apartment scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

8. Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and wastewater collection network.

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

9. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable drainage.

10. 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 interests of visual and residential amenity.

11. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

12. Prior to the commencement of development, the applicant shall carry out a stage 3 Road Safety Audit of the completed development and recommendations or additional works arising from the Audit shall be incorporated into the proposed development and funded by the developer.

Reason: In the interests of traffic and public safety and in the interest of sustainable development.

13. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

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

14. 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 Coimisiún 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 Henchy

Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.

Dated this 9th day of September 2025.

