



An  
Bord  
Pleanála

## Inspector's Report ABP-304309-19

### Development

Demolish and remove all existing single storey and two storey structures currently on site (formerly Dooley Motors site), removal of all underground storage tanks and hardstand areas, removal of perimeter walls and replacement with a 2.5m high boundary panel and all associated site works.

### Location

Junction of College Street and Old Dublin Road, Carlow.

### Planning Authority

Carlow County Council

### Planning Authority Reg. Ref.

18/198

### Applicant(s)

Carlow College, St. Patrick's

### Type of Application

Permission

### Planning Authority Decision

Grant subject to conditions

### Type of Appeal

Third Party v. Decision

### Appellant(s)

Thomas Clerkin

### Observer(s)

None.

**Date of Site Inspection**

29<sup>th</sup> July, 2019

**Inspector**

Robert Speer

## 1.0 Site Location and Description

- 1.1. The proposed development site is located within the 'Cultural Quarter' and the historic core of Carlow town centre, where it occupies a corner plot at the junction of College Street / Court Place, in the vicinity of a number of structures of cultural, historical and architectural heritage interest, including the Courthouse, the VISUAL Centre for Contemporary Art and The George Bernard Shaw Theatre, St. Patrick's College, and Carlow Cathedral. The wider site surrounds can be described as mixed-use and include a variety of retail, commercial, entertainment and office uses typical of a town centre location, although there is an increasing residential component on travelling north-eastwards along Court Place.
- 1.2. The site itself has a stated site area of 0.405 hectares, is irregular in shape, and is presently occupied by a series of derelict warehouse-type structures, a dilapidated two-storey dwelling house (with its roof removed), several defunct petrol / fuel pumps, and various yard / hardstanding areas, which previously traded as Dooley Motors. It is bounded by the service road accessing the VISUAL Centre within the wider grounds of St. Patrick's College to the immediate east / northeast, an area of undeveloped land to the southeast, and by the Carlow Sports & Social Club to the southwest, whilst it also retains frontage onto Court Place (to the north / northwest) and College Street (to the west / southwest). The perimeter site boundaries are defined by a combination of existing structures proposed for demolition and a variety of masonry, blockwork, and mass concrete walling.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the demolition and removal of all existing buildings (floor area: 2,344m<sup>2</sup>), hard-standing areas, and underground storage tanks on site. It is also proposed to remove a number of perimeter walls and to replace same with 2.5m high composite timber panelling.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Following the receipt of a response to a request for further information, on 4<sup>th</sup> April, 2019 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 21 No. conditions. These conditions are generally of a standardised format and primarily relate to issues pertaining to construction and waste management, however, the following conditions are of note:

Condition No. 2: Requires the submission of an alternative site boundary treatment for the written agreement of the Planning Authority, prior to the commencement of development, which is sympathetic to the urban fabric of the area given the visually prominent location of the site, including its siting adjacent to Architectural Conservation Areas and within the Cultural Quarter of Carlow town.

Condition No. 4: Prohibits the display of any signage or advertising on site or along the site boundaries, without the prior written consent of the Planning Authority.

Condition No. 5: Requires the submission of a traffic management plan etc. for the written agreement of the Planning Authority, prior to the commencement of development.

Condition No. 6: Requires the submission of a waste management plan, including arrangements for the removal of asbestos-laden materials from the site, for the written agreement of the Planning Authority, prior to the commencement of development.

Condition No. 7: Requires details of the arrangements for the decommissioning of the fuel storage tanks on site to be submitted for the written agreement of the Planning Authority, prior to the commencement of development.

Condition No. 21: Requires an Archaeological Impact Assessment (to include test trenches) to be prepared prior to the commencement of

development whilst no sub-surface work is to be undertaken in the absence of an archaeologist without his / her express consent.

### 3.2. **Planning Authority Reports**

#### 3.2.1. *Planning Reports:*

An initial report details the site context and the applicable planning policy considerations before stating that the current condition and appearance of the existing derelict structures on site does not contribute positively to the area and thus the merits of demolishing the said buildings is accepted, although there were concerns as regards the uncertainty of redevelopment proposals for the property.

Following the receipt of a response to a request for further information, a final report was prepared which recommended a grant of permission, subject to conditions.

#### 3.2.2. *Other Technical Reports:*

*Tullow Civic Office:* Recommends that a number of items be sought by way of a request for further information, including pedestrian and traffic management plans, proposals for dust control, and details of haulage routes.

*Water Services:* No objection, subject to conditions.

*Carlow Fire Authority:* No comments as the works do not relate to the construction of a building.

*Environment:* Recommends a grant of permission, subject to conditions.

*Transportation:* States that the proposed works will improve the streetscape along both Court Place and College Street while reducing the risk to road users from structural collapse and loose debris. It subsequently recommends a grant of permission.

*Carlow Municipal District:* No objection, subject to conditions.

### 3.3. **Prescribed Bodies**

3.3.1. *Department of Culture, Heritage and the Gaeltacht:* In terms of architectural heritage considerations, it is stated that the proposed development will not impact on a protected structure or the curtilage of a protected structure.

With regard to the archaeological implications of the proposed development, it is noted that the site is located within the Zone of Archaeological Potential established around the historic town of Carlow (which is a Recorded Monument, RMP No. CW007-018) and, therefore, it is possible that archaeological features / deposits associated with the early settlement of the town may be disturbed during the course of the groundworks required for the development. Accordingly, it is recommended that the completion of an Archaeological Impact Assessment (including testing) be required as a condition of any grant of permission.

### **3.4. Third Party Observations**

3.4.1. A total of 2 No. submissions were received from the appellant and the principle grounds of objection contained therein can be summarised as follows:

- The loss of an area presently used / frequented by various wildlife pending the submission of redevelopment proposals.
- Concerns with regard to anti-social behaviour.
- The retention of the existing structures on site would be preferable to the presence of an open / barren plot of land within this historic part of Carlow town for a prolonged period of time.
- Site clearance works should not be permitted in the absence of redevelopment proposals.

## **4.0 Planning History**

4.1. *On Site:*

PA Ref. No. 03/5307. Was granted on 29<sup>th</sup> May, 2005 permitting S. Murphy and M. Madden permission for a development consisting of 6 No. office units at ground floor level on the Court Place facade, 12 No. one bed units, 58 No. two bed units and 6 No. three bed units in three blocks of three and five storey over basement bicycle/car park/domestic storage with access off Court Place with a central landscaped courtyard at ground floor level and roof gardens over the Court Place/College Street block.

PA Ref. No. 09/6202. Was granted on 17<sup>th</sup> August, 2009 permitting Paul Browne T/A Court House Square Developments permission for 42 no. apartments - 5 no. one bedroom apartments, 34 no. 2 bedroom apartments, 3 no. 3 bedroom apartments, 530m<sup>2</sup> office space, alterations to basement layout, alterations to landscaping layout, ESB Sub-station and all associated site works.

PA Ref. No. 18/165. Application by Carlow College, St. Patricks, for permission to demolish and remove all existing single storey and two storey structures currently on site (formerly Dooley Motors), removal of all underground storage tanks and hardstand areas, removal of perimeter walls and replacement with 2.5m high boundary wall and all associated site works. This application was withdrawn.

## 5.0 Policy and Context

### 5.1. National and Regional Policy

- 5.1.1. The '*Architectural Heritage Protection, Guidelines for Planning Authorities, 2004*' provide detailed guidance in respect of the provisions and operation of Part IV of the Planning and Development Act, 2000, as amended, regarding architectural heritage, including protected structures and Architectural Conservation Areas. They detail the principles of conservation and advise on issues to be considered when assessing applications for development which may affect architectural conservation areas and protected structures.

### 5.2. Development Plan

- 5.2.1. **Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area, 2012-2018:**

*Land Use Zoning:*

The proposed development site is located in an area zoned as '*Town Centre*' with the stated land use zoning objective '*To protect the vitality and vibrancy of the town centre and provide for town centre activities*'.

*Other Relevant Sections / Policies:*

*Part 2: Core Strategy:*

*Carlow Town Development Plan Core Strategy*

*Part 3: Thematic Strategy:*

*Section 1: Economic Development and Inward Investment:*

*Carlow College:*

Carlow College, founded in 1782, offers a wide range of courses in humanities and social studies to its 500 strong student population at graduate and post-graduate levels. In 2007, Carlow College agreed a strategic collaborative partnership with Trinity College Dublin in the humanities and social sciences areas. The two institutions recognised the potential for exploiting their strong synergies particularly in the South Leinster region: TCD as a city university renowned for its research, Carlow College as a regional hub engaged in the delivery of flexible programmes in the humanities and social sciences.

*ECN P07:* Continue to facilitate and promote the development of the third and fourth-level education and research base in the Greater Urban Area in order to enhance its competitiveness and strengthen the collaborative links between education and industry.

*Section 4: Environmental Management*

*Section 5: Education and Skills:*

*E&S P06:* Continue to facilitate and promote the development of the third and fourth level education and the research base in the Greater Urban Area to its maximum potential, relevant institutions include:

- Institute of Technology Carlow
- Carlow College (St. Patrick's)
- Carlow College of Further Education
- Teagasc Oak Park Research Centre

*Section 9: Built and Natural Heritage:*

*HER 008:* Preserve and enhance the special character of Architectural Conservation Areas within the Greater Carlow Graiguecullen Urban Area.



*HER O10:* Ensure the appropriate management of development within Zones of Archaeological Potential to preserve monuments and artefacts in situ or by record.

*HER P26:* Conserve and enhance the built heritage of the Greater Carlow Graiguecullen Urban Area and ensure new development is sensitive to the character of the Area.

*N.B.* The proposed development site adjoins the College Street Architectural Conservation Area.

*College Street ACA:*

It shall be an objective of the Council to consider replacing the wall between St. Patrick's College and Carlow Cathedral with railings. This would have the potential to open up this area, displaying the impressive architectural details of Carlow Cathedral and St. Patrick's College. The removal of the wall between St. Patrick's College and College Street would provide the opportunity to develop.

*Section 10: Urban Design and Built Form:*

*Part 4: Sub-Area Spatial Strategy:*

*Section 1: Carlow Town:*

*CTP 30:* Support the principle of redeveloping the former Penny's site (Opportunity Site 1), Barrow Track site (Opportunity Site 2), Court Place site (Opportunity Site 3).

The proposed development site encompasses Opportunity Site No. 3: '*Court Place*':

- Currently benefiting from planning permission for mixed-use development.
- Suitable for high-density development, given proximity to railway station, traditional commercial core and cultural quarter.
- Located within the setting of the Dublin Street and College Street Architectural Conservation Areas.
- No known contamination issues.
- Site benefits from proximity to traditional commercial core and cultural quarter.

### 5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the vicinity of the proposed development site:

- The River Barrow and River Nore Special Area of Conservation (Site Code: 002162), approximately 230m west of the application site.

### 5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Notwithstanding the applicant's stated intention to develop the site for residential purposes within a timeframe of 3-5 years, there are multiple examples within Carlow town of other sites where the relevant landowner has failed to deliver on prospective redevelopment proposals for a variety of reasons (e.g. the site bounded by the Barrow Track, Cox's land & Andy Murphy Road and the property at Shamrock Square between Staplestown Road and Lower Pollerton Road). Each of these sites were either subject to demolition works in order to facilitate their future redevelopment or are currently in various states of neglect and / or abandonment. These properties thus detract from Carlow town and its wider development potential. Accordingly, it is considered that to apply for permission to undertake site clearance works in the absence of any specified redevelopment proposals will not serve to progress the re-use of these lands for the benefit of the town or its inhabitants.

- The proposal to clear the site with the result that it may be left idle and unkempt for any number of years would be a retrograde step.
- The erection of a 2.5m high timber fence around the site will not provide for adequate security against instances of anti-social behaviour / criminality as have been experienced at comparable sites in the town. Indeed, it is considered that the subject proposal would serve to draw such undesirable activities closer to the town centre thereby reducing its potential to re-establish itself as a vibrant and confident area for retail, residential & service uses etc.
- Permission should be refused for the proposed works until such time as the applicant can be bound to a specific redevelopment proposal and a timeframe for its implementation.
- By preventing the subject site from being cleared and subsequently languishing in a state of atrophy, the Local Authority would not only give the impression of a defined and planned objective for the land but would also demonstrate that it '*means business*' as regards the hoarding of lands / properties that fail to contribute to the wider betterment of the town.
- The site in question presently supports a thriving population of urban wildlife and any decision to grant permission for its clearance in the absence of suitable redevelopment proposals would not advance it from either a human or wildlife preservation perspective.

## 6.2. Applicant's Response

- The proposed works will make the site safe and will also address the current unsightly nature of the property which is located in Carlow town centre opposite the historic Courthouse.
- Carlow College has been designated as an Educational Institution and operates within the parameters set by the Department of Education & Skills and the Higher Education Authority.

- The subject site was purchased in 2016 for the sole purpose of integrating it into the existing campus in order to enhance the facilities on offer to students. The purchase of the property was the first phase of the project.
- The College is presently in negotiations with the Higher Education Authority as regards the significant part it will play as a higher education provider in the future. The outcome of these negotiations will determine what facilities will be required and what level of investment will be available. Pending the conclusion of these discussions, the College embarked on Phase 2 of the project which was the submission of the subject application in order to make the property safe from a health & safety perspective whilst improving its overall visual appearance.
- There is an urgent need to proceed with the demolition of the existing structures on site as the increased frequency of storms is giving rise to damage with associated risks to public safety.
- Upon receipt of a grant of permission, Phase 3 of the project will proceed whereby the works approved will be implemented and a suitable boundary treatment agreed with the Council in order to secure the site.
- Phase 4 of the project will be the development of plans for further campus facilities which may include the provision of student facilities such as accommodation, lecture halls, sports facilities and administration offices. The property will only be developed for the purpose of an Educational Institution with the support of the Department of Education & Skills and the Higher Education Authority once negotiations are concluded with those bodies.
- The applicant is anxious to proceed with its plans as quickly as possible. Rather than leave the property in its current dangerous and unattractive condition, it is proposed to proceed, subject to the receipt of planning permission, with the integration of the site into the college campus.
- The assertion by the appellant that the site will be developed as '*residential accommodation*' within a timeframe of 3-5 years is incorrect and no reference is made to any such proposal in the planning application.

- With regard to the unkempt nature of the site, the need to secure the property against anti-social behaviour, and the state of atrophy being experienced at present, it is considered that the proposed clearance works will address all of these points.

### 6.3. Planning Authority's Response

- The current condition and appearance of the site does not contribute positively to the area and the Planning Authority accepts the merits of demolishing the existing derelict buildings as proposed.
- A reasonable case has been made as regards progressing the development of the site as follows:
  - The applicant's negotiations with the Higher Education Authority, the outcome of which will determine what facilities will be required and what level of investment will be available.
  - The applicant's ambitions in the short term to make the site safe, to improve its appearance, and to proceed with development plans when the negotiations referred to above have advanced.
- The provision of a suitable boundary treatment will serve to secure and screen the site and will also ensure that there is no negative visual impact on the area pending its redevelopment following the demolition / site clearance works. This was considered to be of particular relevance given the site context and its visually prominent location at the junction of College Street / Court Place, adjacent to Architectural Conservation Areas, in the Cultural Quarter of the town, close to the Courthouse, the VISUAL, Carlow College, and the Cathedral, and along an important approach to the town centre. The location of the site thus warrants boundary treatment utilising materials and finishes more sympathetic to the built fabric of the area and Condition No. 2 was included in this regard.

### 6.4. Observations

None.

## 6.5. Further Responses

None.

## 7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the grounds of appeal are:

- The principle of the proposed development
- Impact on the character and visual amenity of the area
- Wildlife considerations
- Appropriate assessment
- Other issues

These are assessed as follows:

### 7.2. The Principle of the Proposed Development:

7.2.1. The proposed development site is located on lands zoned as '*Town Centre*' with the stated land use zoning objective '*To protect the vitality and vibrancy of the town centre and provide for town centre activities*' in the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area, 2012-2018. It also occupies a prominent corner plot at the junction of College Street / Court Place within the 'Cultural Quarter' and historic core of Carlow town in the vicinity of a number of structures of cultural, historical and architectural heritage interest, including the Courthouse, the VISUAL Centre for Contemporary Art and The George Bernard Shaw Theatre, St. Patrick's College, Carlow Cathedral, and the College Street & Dublin Street Architectural Conservation Areas. It is of further relevance to note that the subject lands are presently occupied by a series of derelict structures, including a dilapidated two-storey dwelling house with its roof removed, which serve to detract from the visual amenity, streetscape and character of the wider area whilst the northernmost extent of the application site, which adjoins Court Place and College Street, has been expressly identified as an '*Opportunity Site*' (i.e. '*OP3: Court Place*') in the

Development Plan with Objective CTP 30 serving to support the principle of redeveloping such lands.

- 7.2.2. Having regard to the foregoing, it is clear that the subject site is entirely suitable for redevelopment as further evidenced by the fact that permission was previously granted for varying scales of mixed-use development on the lands in question in 2005 and 2009 pursuant to PA Ref. Nos. 03/5307 & 09/6202 respectively. However, concerns have been raised that it is proposed to undertake site clearance / demolition works in the absence of any specified / binding redevelopment proposals and thus there is the potential for the property to remain vacant and disused for any number of years thereby detracting from the overall amenity and development potential of Carlow town. In support of the grounds of appeal, the appellant has also referred to a number of sites within Carlow town, which were either the subject of demolition works in order to facilitate their future redevelopment or are presently in a state of neglect and / or abandonment, where the relevant landowner has failed to deliver on redevelopment proposals for a variety of reasons.
- 7.2.3. In response, the applicant has expanded on its position as previously outlined in response to the request for further information issued by the Planning Authority by asserting that the submission of the subject planning application forms part of wider plan for the development of Carlow College whereby the application site was acquired in 2016 for the sole purpose of integrating it into the existing campus in order to provide for improved student facilities, possibly including the provision of accommodation, lecture halls, sports facilities and administration offices. It has also been clarified that the applicant (as an educational institution) is presently engaged in negotiations with the Higher Education Authority as regards the part the college will play as a higher education provider into the future and that the outcome of these negotiations will determine what facilities will be required and what level of investment will be available. Accordingly, in the interim, the decision was made to lodge the subject application with a view to clearing and securing the property in the interests of public safety and to improve its overall visual appearance given the dilapidated condition of the existing structures on site.
- 7.2.4. Whilst I would acknowledge the appellant's concerns, in my opinion, it would be reasonable to categorise the proposed site clearance / demolition works as comprising the carrying out of preparatory / enabling works that will ultimately serve

to facilitate the future redevelopment of the property (pending the finalisation and ultimate approval of the applicant's development proposals). In this respect, I would suggest that the progression of the proposed clearance works will serve to minimise any delays as regards the implementation of any future redevelopment of the site by the applicant (or any other party should the property be disposed of) which would in turn be of benefit to the wider town / area.

7.2.5. Although it would be preferable if the site clearance works were to be undertaken in tandem with any redevelopment of the property within a specified timeframe, it would appear that the applicant is not presently in a position to provide further details as regards same. However, in my opinion, the applicant's acquisition of the site and its broad outline for the future development of the property (including the suggested 2-3 No. year timeline for the submission of a planning application for the redevelopment of the site) further aid in establishing a reasonable basis on which to consider the merits of the subject proposal.

7.2.6. Accordingly, having regard to the nature of the development proposed, the site location in a mixed-use area on lands zoned for town centre purposes, the designation of the site as an 'Opportunity Site' in the Development Plan, and the stated intention of the applicant as regards the incorporation of the property into the campus of Carlow College, I am satisfied that the proposed development is consistent with the broader policy objectives of the Development Plan and will serve to facilitate the redevelopment of this key town centre site.

### **7.3. Impact on the Character and Visual Amenity of the Area:**

7.3.1. The proposed development site occupies a key location within the 'Cultural Quarter' and historic core of Carlow town centre in an area that is characterised by a notable number of buildings of built heritage interest, including several protected structures and architectural conservation areas. In this regard, it is readily apparent that the current dilapidated / derelict condition of the subject site serves to detract from the overall visual amenity, streetscape and character of the surrounding area, which includes the Courthouse.

7.3.2. The proposed development provides for the demolition of all the existing structures on site, the retention of the existing walls along the eastern and southernmost site boundaries, and the erection of 2.5m high composite timber panelling along the full



extent of the site frontage onto College Street and Court Place / Old Dublin Road. Further details of the proposed fencing were submitted to the Planning Authority in response to the request for further information and it has been stated that the new structural boundary fence is designed to last between 6 – 7 No. years without regular treatment and is typical of that used alongside motorways due of its lifespan and composite construction thereby reducing the need for maintenance.

- 7.3.3. Following a review of the available information, and having conducted a site inspection, at the outset, I am satisfied that the demolition of the existing derelict structures on site and the screening of the property in its entirety from public view along Court Place and College Street would be acceptable from a visual amenity perspective as it will involve the removal of a number of unsightly and derelict structures which detract from the streetscape whilst also providing for a consistent boundary treatment alongside the public road.
- 7.3.4. However, with regard to the actual nature / design of the proposed roadside boundary treatment, I note that the Planning Authority has expressed concerns that the proposed timber fencing would be inappropriate given the site context. Specific reference has been made to the urban setting of the site and its visually prominent location, including its siting adjacent to Architectural Conservation Areas and within the Cultural Quarter of Carlow town. Accordingly, the Planning Authority has imposed a condition in its notification of a decision to grant permission which requires the submission of an alternative boundary treatment that is more sympathetic to the urban fabric of the area.
- 7.3.5. The use of hoarding to screen sites from public view in an urban context is not uncommon, such as during the course of development works, and in this respect I would have no outright objection to the type of timber fencing proposed by the applicant. However, I would concede that the erection of any such screening is typically of a temporary duration pending the completion of a particular development. Given that the applicant is not presently in a position to proceed with the redevelopment of the subject site, I would acknowledge the legitimacy of the Planning Authority's concerns that the fencing proposed could potentially remain in place for a considerable period of time post-demolition / site clearance works. Such a scenario is not ideal, however, I would suggest that cognisance must also be taken of the need to achieve a suitable balance between the desirability of facilitating the

redevelopment of this key opportunity site, the applicant's stated intentions as regards the future use of the property (including a 2-3 No. year timeline for the lodgement of a further planning application), the existing state of dereliction on site, and the need to preserve / improve the overall visual amenity of the wider area.

- 7.3.6. Clearly, the erection of more permanent / durable boundary treatment, such as rendered walling, will incur significant additional costs and may not in itself prove justifiable as an interim measure should the redevelopment of the site commence within a relatively short timeframe. In this respect I would suggest that the use of the structural composite timber fencing proposed perhaps represents a reasonable compromise between, for example, a boundary wall, and the less sturdy / temporary hoarding options common to construction sites.
- 7.3.7. Accordingly, I am amenable to the erection of the screen fencing as proposed by the applicant, however, should the Board disagree with this conclusion, consideration should be given to the imposition of a condition in any decision to grant permission requiring an alternative boundary treatment to be agreed with the Planning Authority.

#### **7.4. Wildlife Considerations:**

- 7.4.1. With regard to the suggestion that the proposed demolition / clearance works should not be permitted in the absence of redevelopment proposals due to the presence of 'urban wildlife' on site, I am unconvinced by the merits of such an argument. This is a key 'brownfield' site within an urban town centre which has been expressly identified for redevelopment in the Development Plan.
- 7.4.2. Therefore, having regard to the limited ecological value of the application site, the nature and scale of the works proposed, and the implementation of best practice construction management measures, I am satisfied that the subject proposal is permissible in this instance.

#### **7.5. Appropriate Assessment:**

- 7.5.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, it is situated approximately 230m east of the River Barrow and River Nore Special Area of Conservation (Site Code: 002162). In this respect it is of relevance to note that it is an objective of the Planning Authority, as set out in Section 9 of Part 3 of the Joint

Spatial Plan for the Greater Carlow Graiguecullen Urban Area, 2012-2018, to seek to realise the conservation objectives of the River Barrow and River Nore candidate Special Area of Conservation. By way of further clarity, Policy HER P01 of the Plan aims to ensure that all planning applications are screened to determine whether a full Appropriate Assessment is necessary in accordance with the *'Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities (2010)'* whilst Policy HER P03 restricts development that would be likely, either individually or in combination with other plans or projects, to give rise to significant adverse effects on Natura 2000 sites having regard to their conservation objectives.

- 7.5.2. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of 'appropriate assessment'.
- 7.5.3. Having reviewed the available information, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the nature and scale of the development proposed, the site location outside of any protected site, the limited ecological value of the lands in question, the availability of public services, and the separation distances involved between the subject site and nearby Natura 2000 designations, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of any Natura 2000 site. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same.
- 7.5.4. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

## 7.6. Other Issues:

### 7.6.1. *Construction / Demolition Works & Waste Management:*

In the event of a grant of permission, it is my opinion that matters pertaining to the proposed construction and demolition works, including traffic and waste management (with particular reference to the proper removal and disposal of any asbestos-laden materials), can be satisfactorily addressed by way of condition.

### 7.6.2. *Security / Anti-Social Behaviour Considerations:*

Concerns have been raised as regards the adequacy of the proposed fencing to secure the site from unauthorised trespass and anti-social behaviour, however, it is my opinion that the proposal to erect 2.5m high fencing alongside the public road, when taken in conjunction with the existing walls to be retained elsewhere on the site perimeter, will be sufficient to deter any such activities. Moreover, any such anti-social activities should be reported to the relevant authorities.

## 8.0 Recommendation

- 8.1.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

## 9.0 Reasons and Considerations

- 9.1. Having regard to the location of the site in Carlow town centre, its identification as an 'Opportunity Site 3' (OP3: Court Place) in the current Development Plan for the area, the nature and scale of the proposed development, the pattern of development in the area, and the existing use of the site, 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 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 8<sup>th</sup> day of March, 2019, 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. The site clearance / demolition works and 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

3. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

4. 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 investigations and other excavation 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 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.

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Robert Speer  
Planning Inspector

31<sup>st</sup> July, 2019