



An
Bord
Pleanála

Inspector's Report

ABP-305754-19

Development	Erection of a permanent pre-fabricated Marquee structure for occasional functions to be located over the tennis courts to include a licensed bar area.
Location	Kilcreene Lodge, Kilcreene, Kilkenny.
Planning Authority	Kilkenny County Council.
Planning Authority Reg. Ref.	1959
Applicant(s)	Christine Byrne.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party V. Grant.
Appellant(s)	Conor Foley and Claire Kenealy.
Observer(s)	None.
Date of Site Inspection	7 th May 2020.
Inspector	Susan McHugh

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1.0 Site Location and Description

- 1.1. The appeal site is located within the grounds of Kilcreene Lodge estate on the western outskirts of Kilkenny City.
- 1.2. The area in the vicinity of the overall estate, is characterised by agricultural land to the north with residential areas to the east. The area to the south of the estate comprises open grassland on rising ground known as Crokershill, which adjoins Kennyswell Road and the R695 Circular Road. The area to the west of the estate includes Kilcreene Hospital and former Kilcreene House.
- 1.3. The appeal site which comprises a lawn area, disused tennis court and woodland area immediately abuts Kilcreene Lodge house a protected structure and home to the applicant.
- 1.4. The house and appeal site are on rising ground approx. 25m at closest point above a lake which is fed from a stream that is a tributary of the nearby River Breagagh and formerly used as a millrace. The Breagagh River is a tributary of the River Nore SAC to the east.
- 1.5. There are two entrances and associated driveways to the estate. The appeal site includes the original driveway (approx. 500m in length) which is from the east and leads towards Kilkenny City. The entrance gates (currently locked) are accessed from the L68763, an arm off the Water Barrack roundabout. The entrance is located at the end of the L68763 which is a cul-de-sac. The second entrance and driveway from the south is from the R695 Circular Road and is currently the principal access to the estate.
- 1.6. The appellants property at Rothe Terrace, is located approx. 350m to the south east along Kennyswell Road.
- 1.7. The stated area of the overall site is 2,699m².

2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the 8/02/2019 with further plans and details submitted on 6/09/2019.
- 2.2. The proposal as lodged comprises;

- the erection of a permanent pre-fabricated marquee structure for occasional functions to be located over the existing tennis courts to include a licenced bar area, food preparation area and toilets and all associated site development works, and
- the provision of 20. no. car parking spaces and set down areas within the curtilage of the protected structure.

2.3. The stated floor area of the proposed structure is 343m².

2.4. It is proposed that all guests at the events will stay at city centre hotels and be taxi ferried to the event, and that the development will further expand the 'offer' of Kilkenny.

2.5. In terms of site services, it is proposed to use the existing water supply and public sewer connections.

2.6. The application was accompanied by:

- Conservation Report - Rob Goodbody, Historic Building Consultants
- Cover letter - Dalton + O'Donnell Architects

2.7. In response to the further information request a Revised site layout plan Drawing No. P-010-B was submitted on 06/09/2019.

2.8. This includes the site and entrance driveway outlined in red and corresponding site location map. It also indicates 15 no. additional car parking spaces located to the south of the appeal site within the existing driveway and outside the red line boundary.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority decided to **grant** permission subject to 13 no. conditions. Conditions relevant to the appeal include;

Condition No. 2 Development Contribution €2,829.00.

Condition No. 3 Temporary permission of 3 years.

Condition No. 4	Use of Kilcreene Lodge as guest accommodation associated with the wedding venue shall be subject to planning permission.
Condition No. 5	Management of waste.
Condition No. 6 & 11	Surface Water requirements for the gravel car park
Condition No. 7	Driveway, parking bays and lighting requirements.
Condition No. 8	Archaeological investigations and monitoring requirements.
Condition No. 9	Revised location of additional car parking proposed to be agreed.
Condition No. 10	Noise survey, mitigation, monitoring requirements.
Condition No. 12	Irish Water requirements.
Condition No. 13	Mobility Management Plan.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports** (dated 3/04/2019 and 3/10/2019)

The initial Planners Report is the basis for the Planning Authority decision, it includes;

- No objection in principle.
- Clarity needed on how the proposal meets Objective Z11 of the Kilkenny City and Environs Development Plan i.e. will Kilcreene Lodge be used for guest accommodation in tandem with the marquee wedding venue.
- Queries the quantum and management of car parking spaces proposed.
- Notes location of passing bays along the avenue to the venue from Water Barracks gates, and seeks confirmation on potential operation of a one way in and out system.
- Notes absence of lights along the avenue beyond the tennis court area but can be conditioned.

- Notes issues in relation to noise raised in third party submission and impact on the proposed 9 no dwellings permitted within the landholding.
- Recommends further information.

The 2nd Planners Report can be summarised as follows;

- No objections in principle to the marquee which is a temporary structure.
- Applicant is aware of requirement to meet Objective Z11 of the Kilkenny City and Environs Development Plan but has no immediate plans to change the use of Kilcreene Lodge.
- Proposal to taxi guests to the venue will reduce the parking requirement and recommend a mobility management plan be submitted.
- The main access and entry is solely from the existing Water Barracks gates, is acceptable from a roads perspective. If the access avenue is subject to division by the next phase of the Central Access Scheme, the entrance to the site will then need to be addressed.
- Notes the absence of lighting along the avenue, beyond the tennis court area, which can be conditioned.
- Notes the third party submission regarding noise, the capacity of the venue to accommodate 170 guests and concerns that a marquee structure does not contain any sound buffering. Recommend that a noise monitoring condition be attached.
- The temporary nature of a marquee will not detract from the protected structure, subject to the requirements of the Conservation Officer.
- Due to noise concerns, the success of proposed transport arrangements, the fulfilment of Objective Z11 which is dependent on a number of factors, namely another house being applied for, granted and built for the current owners and occupiers of Kilcreene Lodge, a temporary permission of three years is recommended. This timeframe will also allow the PA to monitor the structure and determine whether noise or traffic are a concern.

3.2.2. Other Technical Reports

Roads Department: 1st Report dated 02/04/2019 recommends further information. 2nd Report dated 27/09/2019 recommends no objection subject to conditions.

Conservation Officer: 1st and 2nd Report dated 3/04/2019 and 20/09/2019 recommends no objection subject to conditions.

CFO: Report dated 6/03/2019 recommends no objection subject to requirements.

HSE: Report dated 27/03/2019 recommends no objection subject to requirements.

3.3. Prescribed Bodies

Irish Water: Report dated 11/03/2019 recommends no objection.

Department of Culture, Heritage and the Gaeltacht: Report dated 15/03/2019 recommends further information. Report dated 4/04/2019 recommends no objection subject to conditions in relation to archaeological monitoring.

The application was also referred by the Board to the Heritage Council, Fáilte Ireland, An Chomhairle Ealaíon, and An Taisce, no response was received.

3.4. Third Party Observations

One submission was received by the planning authority and has been forwarded to the Board and is on file for its information. The issues raised are comparable to those raised in the third-party appeal summarised in section 6 below.

4.0 Planning History

Area to the South East of Kilcreene Lodge

P.A.Reg.Ref.18/856: Permission **granted** 03/07/2019 for construction of infrastructural works to include, water supply, foul and surface water system, road layout and bridge, electricity and public lighting system and all ancillary site development works to service 9 no. residential development sites within the curtilage of a protected structure. (see file attached).

P.A.Reg.Ref.18/565: Permission **refused** 19/10/2018 for the thinning of a 25-year old oak plantation, water supply, foul and surface water system, road layout and bridge, electricity and public lighting system and all ancillary site development works to service 9 No. residential development sites within the curtilage of a protected structure. The reason for refusal referred to the Phase 2 Residential zoning objective and noncompliance with the Core Strategy. (see file attached).

P.A.Reg.Ref.11/62: Application deemed **withdrawn** 12/10/2011 following no response to further information request for the erection of a permanent prefabricated Marquee structure for occasional functions to be located over the existing tennis courts to include a licensed bar area, food preparation area and toilets and all associated site development works; alterations to the existing vehicular entrance at Water Barrack; the provision of car parking and set down areas within the curtilage of a protected structure.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The **Kilkenny City and Environs Plan 2014-2020** is the operative plan.
- 5.1.2. The site is located on lands zoned '**Amenity/Green links/Biodiversity**'. The objective is '*to allow for green links and biodiversity conservation and to preserve, provide and improve recreational open space*'. Permitted uses include recreational buildings, stands and pavilions.
- 5.1.3. **Objective Z11** refers to Kilcreen Lodge which states '*notwithstanding the general open space zoning objective, to allow for use of Kilcreen Lodge for guest accommodation in tandem with a temporary structure for the purpose of holding weddings/receptions with due regard to any effect on the setting of the protected structure*'.
- 5.1.4. **Chapter 4** refers to Economic Development
- 5.1.5. **Chapter 7** refers to Heritage
- 5.1.6. **Chapter 8** refers to Built Heritage
- 5.1.7. Table 10.5 outlines car parking standards.

5.1.8. **Appendix G** Record of Protected Structures

RPS No. B117 Kilcreen Lodge - Detached four-bay two-storey house, redeveloped 1863, incorporating fabric of earlier house, c.1675. House containing a fine seventeenth-century chimney-piece taken from the now demolished Kilcreen House. National Inventory of Architectural Heritage (NIAH): Ref. 12401927.

5.1.9. Zone of Archaeological Protection - Ring ditches KK019-022002, KK019-022003, and Linear earthwork KK019-022004.

5.2. **Natural Heritage Designations**

The following designated sites are located in proximity to the site.

Location	Designation	Site Code	Distance
River Barrow and River Nore	SAC	002162	1.2km E
River Nore	SPA	004233	1.2km E

5.3. **EIA Screening**

5.3.1. Having regard to the nature and scale of the proposed development, an events marquee with a relatively limited floor area, 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**

The Third Party appeal was lodged by Conor Foley and Claire Kenealy with an address at 14 Rothe Terrace, Kilkenny and can be summarised as follows;

- As a noise sensitive receptor i.e. residents in the immediate vicinity of the proposed development, would welcome a requirement that the developer

ensures all operations on site are carried out in a manner such that noise does not result in significant impairment of, or significant interference with the environment, or amenities beyond.

- Contend that conditions in relation to noise are too imprecise to be enforceable. Conditions in relation to noise management in section 10, do not stipulate any absolute or relative noise level to establish what is or is not interference or impairment. Without that the Council could have difficulty enforcing any conditions on the operator.
- Conditions do not address noise nuisance arising from Low Frequency Noise (LFN) such as base tones in amplified music.
- Would like to see the following in the permission;
 - A standard of existing background noise plus 5Db at evenings and nights at 1 meter from the front windows of appellants property at all times.
 - A requirement to have an LFN assessment carried out as part of the noise impact study to take into account the effects of intermittent low frequency base notes in amplified music. This should be written into the planning permission by a competent acoustic consultant to ensure such standards can be measured and enforced.
 - A standard applied that as a noise sensitive receptor there should not be any noise from the venue inside the appellant's house at any time, even with windows slightly open.
 - A clear process by which complaints can be made to the council and act on deviations from the conditions stipulated in the planning permission.
- The noise impact study, baseline noise survey, identification of noise sensitive receptors, assessment of impact and mitigation measures are carried out by an independent and competent acoustic consultants. Would like to be made aware of when the background noise study is being carried out and would like to see the noise impact report and opportunity to comment.
- Request that the developer be required to monitor the onsite activity and the resulting noise emissions and to report on same for planning permission

renewal. This should be done independently of the developer and ask to have sight of such report.

6.2. Applicant Response

A response to the Third Party appeal was submitted by the applicant 25/11/2019.

The response can be summarised as follows;

- Condition No. 3 – Given the specific zoning contend that there should be no time limit to the permission, particularly given the investment required.
- Condition No. 4 – Application does not provide for guest accommodation, but the applicant may from time to time rent out the house which does not require permission.
- Condition No. 6 – Existing car park has been in place for 20 years, has a gravel finish and there is no surface water run-off.
- Condition No. 7 – Driveway and passing bays already exist.
- Condition No. 9 – Car park already exists and has no adverse impact on the vista of the building.

The response was accompanied by a letter from Dr. Peter Hill, Acoustic Designs addressing the acoustic aspects of the appeal. This can be summarised as follows;

- Condition No. 10 deals with noise and is sufficient to address the potential adverse impact due to noise from the permitted development.
- Noise Assessment Report which will be submitted to KCC will be in the public domain, and available for access.
- Contend that it would not be appropriate to consult with the appellant in the preparation of the baseline noise assessment.
- Notes that the appellants property is 200m from the appeal site, between which is an agricultural field with a hill that blocks the direct line of sight between both locations. This will act as a natural noise barrier reducing noise transmission. Also notes the location of the new relief road which will pass between Kilcreene estate and the appellants property. This will be a major road from which the road traffic noise is likely to significantly increase the

background noise level in the area further masking noise emissions from the permitted development.

6.3. Planning Authority Response

The planning authority made a response to the Third Party appeal and had no further comments.

6.4. Observations

None.

6.5. Further Responses

A further response was lodged by the appellants which can be summarised as follow;

- Welcome the admission in report from Acoustic Designs (AD) that the development 'could have the potential to create noise if unregulated'.
- Note that in advance of any study it is not possible to establish if there is an adverse impact with regard to noise from the proposed development.
- Query the assertion by Dr. Hill that noise from the development will be limited by some rising ground and masking road noise. The road referred to does not currently exist, nor has a planning application been obtained for same.
- Question how façade reflectance is an issue with noise or how noise from the proposed development will be experienced at the appeal site.
- Any noise study that does not include the appellants house as a noise sensitive receptor is unacceptable.
- Request that whoever carries out the noise studies, that they consult with the appellant at each stage and that findings and data are made available.
- Would accept any precise noise standard from the proposed development.

- Would encourage the noise consultant to include other noise sensitive locations for the purpose of noise monitoring, and that monitoring would be undertaken 1m from the front and rear of the appellants property.
- Would like certainty that the evaluation of results from noise models pre and post mitigation measures includes the appellants property. Request to be informed of when tests are carried out, if it is to be modelled, information on the basis for same and assumptions made.
- Would like to see the detail of the study results, assumptions and methodology in relation to noise receptors chosen, baseline noise, noise modelling, anticipated noise emissions from the proposed venue, and noise study post noise mitigation.
- Do not regard claim to freedom from noise nuisance inside their house as an extremely high standard, in a residential area.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Principle of Development
- Residential Amenity – Noise
- Access and Parking
- Architectural Heritage
- Other Matters
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The proposed development is for the permanent erection of a marquee for occasional functions. In granting permission, the Planning Authority imposed a condition no. 3 limiting the timeframe of the permission to 3 years, in order to allow a

full assessment of the potential impacts of the proposed development and to safeguard the amenities of the surrounding area.

- 7.2.2. The appeal site is zoned 'Amenity/Green links/Biodiversity' in the Kilkenny City and Environs Plan 2014-2020. The objective is *'to allow for green links and biodiversity conservation and to preserve, provide and improve recreational open space'*. Permitted uses include recreational buildings, stands and pavilions.
- 7.2.3. Objective Z11 refers to Kilcreen Lodge states *'notwithstanding the general open space zoning objective, to allow for use of Kilcreen Lodge for guest accommodation in tandem with a temporary structure for the purpose of holding weddings/receptions with due regard to any effect on the setting of the protected structure'*.
- 7.2.4. The Planning Authority sought clarity by way of further information on the intended future use of Kilcreene Lodge, to which the applicants indicate that there are no immediate plans to change the use of Kilcreene Lodge. Notwithstanding, the Planning Authority were satisfied that the proposal for a temporary structure was acceptable. In this context, I consider the limitation of permission for what is a temporary structure and use to be a reasonable approach, and still allows for a future application to be made to extend the temporary permission.
- 7.2.5. Condition no. 4 of the notification of grant of permission also requires that the use of Kilcreene Lodge as guest accommodation associated with the wedding venue be subject to planning permission. I can confirm from my site inspection that Kilcreene Lodge is currently in use as the applicants family home.
- 7.2.6. Given the temporary nature of the prefabricated structure and the proposed use, and policy objectives in the Kilkenny City and Environs Plan 2014-2020 for such a use, the principle of development, therefore, is acceptable in principle, but subject to the detailed considerations below.

7.3. Residential Amenity – Noise

- 7.3.1. The issue of residential amenities arises in relation to nearby residential properties, both permitted within the grounds of Kilcreene Lodge under P.A.Reg.Ref.18/856 and existing along Kennyswell Road to the south east.

- 7.3.2. The Planning Authority sought clarity by way of further information on mitigation measures to prevent noise travelling, and on the hours of operation of the Marquee venue, noting that noise travelling late at night especially from amplified music could result in disruption to local residents.
- 7.3.3. The applicant in response states that the proposed Marquee will include a music system for use with either recorded or live music during functions and events. This will be designed to ensure that breakout noise from the marquee is minimised and may include a limiter to automatically control the maximum permissible sound level inside the Marquee. The closest noise receptors are identified as being between 250m and 300m from the proposed marquee including housing along Kennyswell Road to the south and south east.
- 7.3.4. The applicant notes that the land between Kilcreene House and all noise sensitive receptors is either densely wooded or rises into a hill, blocking the direct path from the proposed building and the receptors. It is claimed that the combination of distance and the physical barriers of the hill and woodland would significantly attenuate breakout noise from the proposed building, and that it is unlikely that noise from the proposed building will have a significant impact on the neighbouring properties. The applicant also indicates that normal wedding hours will apply.
- 7.3.5. Condition no. 10 of the notification of the notification of permission requires a noise survey, mitigation measures, and monitoring in order to protect the environment and the residential amenities of nearby residents. As outlined above the planning authority also limits the permitted use to a period of 3 years.
- 7.3.6. The Third Party appellant cites noise as a concern arising from the development and requests that the appellants property be identified as noise sensitive receptor in any future noise study, and that they be kept informed in relation to noise modelling and testing. In my opinion this is the crux of the appeal.
- 7.3.7. The applicant does not dispute that there are potential noise impacts but argues that, given the separation distances between the both properties, intervening topography and future road proposal, that some noise over and above existing and future development would further mask noise emissions from the permitted development.

- 7.3.8. In this regard the appellants property is located 350m to the south of the appeal site, and I can confirm from my site inspection the significant tree planting within the Kilcreene Lodge estate and mound on the land between both properties.
- 7.3.9. I can also confirm that road works as part of Phase 1 Central Access Scheme are currently on site terminating at the southern entrance to Kilcreene Lodge from Circular Road.
- 7.3.10. I do accept that noise impacts from a function such as a wedding, operating after midnight would have a significant impact in terms of noise volume's and disturbance. I also accept that the lack of sound insulation from a marquee is an issue. It is indicated that the external walls will be solid with infill glass panels and the area enclosed with white tensioned roof covers.
- 7.3.11. In my opinion the potential noise impacts on the permitted houses on the other side of the Protected Structure and the residential properties to the south along Rothe Terrace including the appellants property does require careful consideration.
- 7.3.12. I have examined the applicants response to the third party appeal and contents of the letter from Dr. Hill, Acoustic Designs submitted in support of the proposal, and further comments from the third party in this regard.
- 7.3.13. On balance however, I am reasonably satisfied that subject to a comprehensive noise impact assessment report and noise mitigation measures as required based on the findings is appropriate in this instance.
- 7.3.14. I consider the specific requests of the appellants in terms of early consultation in the preparation of this assessment overly onerous on the applicant and is unwarranted in the circumstances.
- 7.3.15. I am satisfied that subject to the preparation and approval by the planning authority of agreed noise levels and mitigation measures that the proposed use should not negatively impact on the residential amenities of the appellant or adjoining existing and permitted development.

7.4. Access and Parking

- 7.4.1. The proposed access to the proposed venue is via the original existing vehicular and pedestrian entrance gates and avenue on the eastern perimeter of the estate. This

entrance although not currently in use, is accessed from Water Barrack road and roundabout. The other entrance to the estate which is currently in use is from the southern perimeter of the estate located along Circular Road.

- 7.4.2. The application as lodged provides for 20 no. car parking spaces to cater for approx. 170 guests and are located to the north of the existing disused tennis court.
- 7.4.3. The Road Design section of the planning authority noting the length of the main access driveway requested the applicant provide details in respect of the driveway cross sections, passing bays and general condition to cater for the anticipated traffic generation arising from the proposed development.
- 7.4.4. Following the response to further information the Road Design section recommended that details of lighting for the access, car parking and marquee surrounds be submitted prior to commencement of development works. Condition no. 7 imposed by the planning authority refers to these requirements to be agreed.
- 7.4.5. I can confirm from my site inspection that the surface of the driveway is in very good condition, and there are frequent open grassed areas which can function as passing bays.
- 7.4.6. The Road Design section of the planning authority determined that there was insufficient parking for the potential level of guests, staff and other support/delivery vehicles for events. It was recommended that the applicant review the parking arrangements for the proposed development having regard to the potential event attendances and provide an assessment of traffic generation arising from the proposed development.
- 7.4.7. In response to the further information request it was proposed to provide an additional 15 no. carparking spaces to be located to the south of the disused tennis court. This area which is to the northern end of Kilcreene Lodge is currently laid out as a gravel driveway/parking area, but is outside the appeal site boundary as outlined in red.
- 7.4.8. The applicant has indicated that it is proposed to operate a shuttle service for guests from city centre accommodation locations to cater for the parking shortfall. Condition No. 9 imposed by the planning authority requires a revised location of additional car parking proposed to be agreed. Condition No. 13 of the notification to grant planning

permission requires the submission of a Mobility Management Plan, to ensure adequate levels of accessibility and reduce the need for car generated trips.

- 7.4.9. In my opinion, given the temporary nature and use of the proposed venue, and proximity to Kilkenny City centre, that the 20 no. car parking spaces proposed, in tandem with a shuttle service, and mobility management plan to be agreed is a reasonable compromise. Any overflow parking that may arise within the existing gravel driveway will be temporary only.
- 7.4.10. The Kilkenny City and Environs Development Plan 2014-2020, as varied under Variation No.6 dated October 2018, indicates an indicative line of a new road referred to as the Central Access Scheme under Figure 3.3. This new road bisects the estate approx. mid-way along the avenue to the east and proposed access to the appeal site.
- 7.4.11. The Road Design section of the planning authority note that under the proposed Central Access Phase 2 a significant portion of the existing access may be subject to CPO and access arrangements to the new road infrastructure have not been submitted. In the subsequent report the Road Design section note that access arrangements to the new road infrastructure have not be finalised.
- 7.4.12. I note from my site inspection that road works have commenced on the southern section of this Central Access route to the southern boundary of the estate. However, given that the proposed access driveway to the appeal site is already in place, I am satisfied that subject to a temporary permission for the temporary use access arrangements can always be revisited at a future date.
- 7.4.13. In summary, given the temporary nature of the proposed use, the proposed access and parking arrangements are considered acceptable, are acceptable in terms of traffic safety and convenience, and does not prejudice the future delivery of Central Access Scheme route, which has yet to be finalised.

7.5. **Architectural Heritage**

- 7.5.1. The appeal site immediately adjoins Kilcreene Lodge which is included on the Record of Protected Structures (RPS B117) and in the National Inventory of Architectural Heritage (NIAH 12401927).

- 7.5.2. The appeal site comprises an existing gravel forecourt, disused tennis court, and woodland with associated avenue and entrance gates which are all within the grounds of the overall estate.
- 7.5.3. The application was accompanied by a Conservation Assessment, which concludes that there would be no significant impact on the protected structure or its setting arising from the provision of the marquee, car park and ancillary works. The report also notes that as the marquee could be removed from the site and the site reinstated the proposal is reversible, having no permanent impact.
- 7.5.4. In response to comments from the Department of Culture, Heritage and the Gaeltacht with respect to a lack of details and specifications, the planning authority sought further information.
- 7.5.5. In response the applicant submitted images of the type of marquee proposed, reiterating that the visual impact of the marquee on the setting of the house would be minimal, and further notes the separation distance of 35m between the marquee and the existing house.
- 7.5.6. I am satisfied that the proposed marquee which is temporary in nature would not have a significant impact on the protected structure or its setting and is acceptable.
- 7.5.7. I also note the proximity of the appeal site to a zone of notification or Recorded Monuments as identified in Figure 7.4 of the Kilkenny City and Environs Development Plan 2014-2020 and the report of the Department of Culture, Heritage and the Gaeltacht in relation to the archaeological monitoring.
- 7.5.8. I note the recommendations of the Conservation Officer of the Planning Authority who had no objections subject to the omission of additional car parking spaces in front of the northern elevation of Kilcreene Lodge, monitoring of works by a qualified archaeologist and the repair of the entrance prior to commencement of works.
- 7.5.9. Condition No. 8 of the notification of grant of permission refers to archaeological investigations and monitoring requirements. If the Board are minded to grant planning permission a similar condition should apply.
- 7.5.10. In my opinion, the proposed use is to be encouraged for the opportunity it offers of continuance of use of the Kilcreene Lodge estate, the availability to public access

through the use, and the survival and viability of the Lodge and built heritage protection.

7.5.11. I do not consider that the proposed marquee structure will detract from the setting of the protected structure, or archaeological heritage.

7.6. Other Matters

7.6.1. *Landscaping/Trees* – I note that the area identified to facilitate 20 no. car parking spaces associated with the development is located to the north of the disused tennis court and requires the removal of existing trees. The DAU notes in their initial report that the Kilcreene Lodge estate is also included in the Survey of Historic Gardens and Designated Landscapes (HGS KK-67-S-494562). I can confirm from my site inspection that the grounds of the estate are very well maintained, and that the trees in the vicinity of the tennis court are semi mature trees only. I have no objection to the removal of this area of trees subject to agreement with the planning authority. I am satisfied that this can be dealt with by condition.

7.7. Appropriate Assessment

7.7.1. The appeal site is not located within any European site. The closest such site is the River Barrow and River Nore SAC (Site Code 002162) and River Nore SPA (Site Code 004233), approx. 1.2km to the east. The Breagagh River is located approx. 25m at closest point from the appeal site and is a tributary of the River Barrow and River Nore.

7.7.2. The development is proposed to be connected to the existing public water supply and foul drainage system and the site is not at risk of flooding see map attached.

7.7.3. Having regard to these factors, to the nature and scale of development proposed and to the nature of the receiving environment, the intervening distances and to the lack of a hydrological connection, it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be **granted** subject to conditions for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the limited scale of the proposed marquee, and the provisions of the Kilkenny City and Environs Development Plan 2014-2020, it is considered that, subject to compliance with the conditions set out below, the proposed development would not interfere with the integrity and context of Kilcreene Lodge, a protected structure, and would contribute to continuation of use and the viability of a significant heritage resource, would not unduly impact on the amenities of the area or of residential properties in the vicinity 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.

10.0 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 submitted on 06/09/2019, except as may be 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 period during which the temporary marquee may be used is for a limited period of three years from the date of this permission. Upon expiry of this period the marquee and all associated site works shall be removed from the site permanently.

Reason: Having regard to the nature of the development as proposed and in the interest of orderly development, the Board considers it appropriate to specify a period of validity of this permission.

3. Details of a Noise Impact Assessment with arrangements for noise monitoring at twice yearly intervals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity.

4. During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:-

(i) An L_{AeqT} value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. The T value shall be one hour.

(ii) An L_{AeqT} value of 45 dB(A) at any other time. The T value shall be 15 minutes. The noise at such time shall not contain a tonal component.

Reason: To protect the residential amenities of property in the vicinity of the site.

5. The development shall be carried out under the direction of an architect with specialist expertise in historic building conservation who shall prepare an architectural heritage impact assessment report and method statement which shall be submitted to and agreed with the planning authority in writing prior to commencement of development.

Reason: In the interest of the protection of the architectural heritage of Kilcreene Lodge, a protected structure.

6. 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.

7. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

8. The internal driveway serving the proposed development including driveway cross sections, passing bays, parking areas, surface finish and lighting shall comply with the detailed standards of the planning authority for such road works.

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

9. 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, shuttle bus, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking.

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

10. Twenty car parking spaces only shall be provided as indicated on Site Layout Drawing No. P-010-A dated 8th February 2019.

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

11. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:
 - (a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.
 - (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged

or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

Reason: In the interest of visual amenity.

12. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

13. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any

further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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 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.

Susan McHugh
Senior Planning Inspector

18th May 2020