



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307339-20

#### Development

Demolition of two-storey house and outbuildings, alterations and refurbishment of The Red Barn building within the curtilage of protected structure RPS No. C12 to accommodate 6 no. apartments and 6 no. apartments to the rear of the site (12 no. in total)

#### Location

Red Barn Site, Patrick Street, Ballyragget, Co. Kilkenny

#### Planning Authority

Kilkenny County Council

#### Planning Authority Reg. Ref.

19/639

#### Applicant

The Good Shephard Centre Kilkenny Ltd.

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

Third Parties v Grant of Permission

#### Appellants

(1) Marie & Ted Ruth  
(2) Norma Bergin

**Observers**

(1) Ballyragget Development  
Association

(2) Martin Ruth

**Date of Site Inspection**

02.09.2020

**Inspector**

Anthony Kelly

## 1.0 Site Location and Description

- 1.1. The site is centrally located within the town of Ballyragget in north Co. Kilkenny.
- 1.2. The site is located on Patrick St. The prominent Red Barn building comprises a three storey element and a two-storey area which it was proposed to demolish. The Red Barn building is adjacent to the junction of the N77/Castle Street and is attached to an unoccupied three-storey protected structure which is located at the junction of Patrick St., Castle St. and Chapel Avenue. There is a two-storey four bay house attached to the north of the structure subject of the application. The site has an unusual shape with the substantial proportion of the site in a backland position angled away from The Red Barn building. The backland area of the site contains some structures it is proposed to demolish. Ground levels rise in an easterly direction toward the rear/east of the site and the site boundary largely comprises stone walls. There is limited tree coverage and the rear area of the site is covered in grass. To the north of the site is the rear areas of houses addressing Patrick St. and High St. To the east is the rear area of property(s) on High St. and a national school. There is a backland area, similar to the subject site, adjacent to the south and there is a church and church grounds approx. 40 metres to the south east. The backland area is accessed by a narrow existing entrance which does not appear to be in regular use. This access is located approx. 30 metres north of the two-storey part of The Red Barn between the side curtilages of the adjacent two-storey four bay house and a detached two-storey house.
- 1.3. The site has a stated area of 0.252 hectares.

## 2.0 Proposed Development

- 2.1. The planning application was for:
  - The demolition of the two-storey house, outbuildings, and barn to the rear,
  - Alterations and refurbishment of The Red Barn building within the curtilage of protected structure RPS No. C12 to accommodate 6 no. apartments within the existing building envelope and rear yard, and
  - Construction of 6 no. apartment units to the rear of the site,

- All associated site works.
- 2.2. In addition to standard planning application plans and particulars the application was accompanied by an Archaeological Desktop Study and an Engineering Services Report.
- 2.3. Further information was submitted in relation to, inter alia, the vehicular and pedestrian access arrangements, general site layout, surface water and the removal of the proposed ground floor apartment to the rear of the building onto Patrick St., reducing the number of proposed units to 11 no. The application was re-advertised as significant further information. The further information response was accompanied by additional documentation including:
- A Stage 1/2 Road Safety Audit.
  - An Engineering Services Report similar to that submitted with the original application but including a Site Specific Flood Risk Assessment (negligible flood risk arises).
  - Assessment of Existing Boundary Walls.
  - An Architectural Heritage Impact Assessment.
  - Bat Survey Report. No evidence of bats was found within the site.
- 2.4. Clarification of further information was submitted in relation to, inter alia, a letter from the applicant, the vehicular and pedestrian access arrangements, conservation issues, private and public open space and shadowing impact on adjoining properties. The clarification of further information response was accompanied by additional documentation including:
- Overshadowing and Loss of Light Impact Report
  - Outline Construction and Demolition Waste Management Plan.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant permission subject to 25 no. conditions including amendments to the private and public open space layouts, provision of a privacy screen, public lighting, retention of the front wall of the two-storey structure, works to the boundary walls, external finishes, landscaping, Irish Water connection, a Waste Management Plan, archaeological monitoring, vehicular entrance detail, a Stage 3 Road Safety Audit, a Construction and Traffic Management Plan, working hours, estate naming and numbering and lodgement of a security bond.

### 3.2. Planning Authority Reports

3.2.1. The Planning Reports (dated 25.10.2019, 12.03.2020 and 26.05.2020) form the basis of the planning authority decision. The third report considers that, having regard to the policies and objectives of the County Development Plan, the documentation submitted, submissions received and referral responses received, the development, subject to conditions, would not seriously injure the amenity of the area and would be in accordance with the proper planning and sustainable development of the area.

#### 3.2.2. Other Technical Reports

**Road Design** – Following the clarification of further information submission there is no objection subject to conditions.

**Environment Section** – Following the further information submission there is no objection subject to conditions.

**Conservation Section** – Following the clarification of further information submission there is no objection subject to conditions.

**Fire & Rescue Service** – A Fire Safety Cert. is required before works commence.

### 3.3. Prescribed Bodies

**Irish Water** – No objection. Observations made.

**Dept. of Culture, Heritage and the Gaeltacht** – An archaeological monitoring condition should be included as a condition of planning permission.

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

3.4.1. Nine submissions were received from local residents, the Ballyragget Development Association, Ballyragget Village Protection Group (countersigned/with a petition signed by approx. 355 no. people) and BEIC (with an address c/o Ballyragget Community Hall). The issues raised are largely covered by the grounds of appeal and observations with the exception of the following:

- Overlooking, impact on views, and overshadowing and a loss of light to property to the north.
- No 3D images provided.
- Scale of the proposed development is out of character with the open spaces to the rear gardens of properties on Patrick St. and High St.
- The vast majority of occupants will not be from Ballyragget and will result in an influx of visitors at weekends. Occupants may have substance abuse issues and criminal histories with an ongoing high turnover of tenants. Newspaper cuttings submitted showing court reports of individuals with a 'Good Shephard' address. Anti-social and criminal behaviour will result with the likely creation of a 'ghetto'. Given the profile of potential residents there is concern in relation to the safety of the young and the elderly, in particular.
- Bin storage and collection issues/litter.
- Lack of emergency access to the rear.
- Additional traffic congestion to that already experienced.
- An independent Traffic and Transport Assessment is required.
- Concern about structural issues of the northern boundary wall.
- Noise and disruption during the construction phase and during occupancy of the development.
- Negative impact on the value of adjoining property.

- Absence of information in terms of management of common areas, waste management, maintenance, tenant welfare etc. and no on-site support services or supervision.
- Short-term/hostel type accommodation/apartment development will have an adverse impact on the character of the Architectural Conservation Area (ACA).
- BACA 6 of the County Development Plan 2014-2020 states carriage arch openings should be retained. An archway is clearly visible to the front of the property to be demolished.
- The BEIC submission welcomes the development of this prominent central area. The planning authority is requested to consider the housing strategy and requirements in the area, the extent of social and affordable housing provision in the community as a percentage of overall private development, the prominent site location, passive supervision of the units to the rear, traffic hazard, impact on existing abutting structures and available community facilities and services.
- Extreme concern expressed by Norma Bergin in relation to the structural impact on her property. An engineer was engaged, and a Structural Inspection Engineer's Report was submitted with the submission. This concludes there is a significant risk of structural damage from the demolition of the two-storey building. Excavations for new substructures and underground services threaten the stability of walls. Appropriate risk assessment and mitigation is essential. The report recommends the applicant makes available a preliminary Engineering Design Statement.
- There will be an unreasonable population explosion within an ACA.
- Possible non-compliance with building regulations.

3.4.2. On foot of the receipt of the further information response, the application was re-advertised. Six submissions were received, all from people or groups who had made a submission on the original application including Ballyragget Village Protection Group and Ballyragget Development Association. The issues raised are largely covered by the grounds of appeal and observations with the exception of the following:

- The further information response did not satisfactorily address issues raised in the original submissions or the further information request.

- The finished floor levels for the units to the rear should be lowered and a greater separation provided between the rear of these units and the boundary wall.

## 4.0 Planning History

P.A. Reg. Ref. 19/01 – An application for permission for the demolition of a two-storey building and outbuildings, construction of a three-storey apartment building containing six apartments to Patrick St. and construction of 2 no. two-storey apartment buildings containing 10 no. apartments to the rear of the site (16 no. apartments in total) was withdrawn prior to a decision being made.

## 5.0 Policy Context

### 5.1. Kilkenny County Council Development Plan 2014-2020

- 5.1.1. In the 'County Settlement Hierarchy', Ballyragget is included in the 'smaller town and village' type of urban centre. The site is located within the settlement boundary of the town. There is no land use zoning and development proposals within the boundary will be considered on their merits against the policies and objectives contained within the Plan. The Ballyragget Local Area Plan 2004-2010 has expired and is no longer the statutory plan for the area. Section 3.3.5.1 (Expired LAPs) of the County Development Plan 2014-2020 states these expired plans contain a significant amount of information on natural and built heritage and other planning issues and will be used as a supplementary guidance document. The site was zoned 'town centre' within the development boundary of the LAP (and therefore I refer to Ballyragget as a 'town').
- 5.1.2. Section 8.3.6.1 (Ballyragget ACA) of the County Development Plan 2014-2020 sets out the description and historical background, a statement of character, ACA development management standards (including BACA 6 referenced in the Conservation Officer's reports which state that 'carriage arch openings are a feature of many of the buildings around the square. These openings should be retained with planning permission required for alterations'). Figure 8.4 sets out the ACA boundary



and the site is included within this (the eastern site boundary and part of the northern site boundary forming part of the overall ACA boundary). Protected structure RPS No. C12 is referenced in the public notices and in the application. This is described in the LAP as "Cantwells' – has Ionic pilasters on a very solid mid 18<sup>th</sup> century house of 3-bays, 3 storeys plus another 2 bays' at the east end of the square. In the County Development Plan 2014-2020 it is also identified with the National Inventory of Architectural Heritage (NIAH) reference 12303011.

- 5.1.3. Section 5.2 (Housing and Community – Housing strategy) states the Council recognises the important role played by the voluntary sector in meeting social housing need and will support and facilitate the expansion of that role.

## **5.2. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018)**

- 5.2.1. These guidelines are relevant to the planning application.

## **5.3. Natural Heritage Designations**

- 5.3.1. The closest Natura 2000 site is River Barrow and River Nore SAC approx. 500 metres to the south west.

## **5.4. EIA Screening**

- 5.4.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced urban 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 stage, and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal were received from Marie and Ted Ruth, Patrick St. (the property adjacent to the north of the vehicular access) and Norma Bergin, Patrick St. (the property onto the street which the site wraps around). Photographs are included in the Ruth grounds of appeal. The main issues raised can be summarised as follows:

#### Traffic/Access

- In its use as a public house for over 40 years the access lane was not used as customer parking or deliveries and was only used by the owner/family.
- The access lane/right-of-way has been used daily by the Ruth family for over 28 years. The lane is not being widened but will be expected to cater for a significant increase in activity. Cars from the Ruth property will be unable to safely reverse onto the lane from their rear yard leading to conflict with vehicles, pedestrians and cyclists. The potential for queuing on Patrick St. will potentially cause a traffic hazard. It is the Ruth's intention to realign their boundary wall to its original position reducing the entrance width to the lane to 3 metres impacting on sightlines/visibility for drivers emerging from the access lane.
- The access lane width does not comply with the 'Design Manual for Urban Roads and Streets' (2019). It is 2.7 metres wide at the narrowest point not 3 metres wide as indicated.
- Pedestrians on the public footpath will be at risk from vehicles emerging from the development, including school children and the elderly.
- Sightlines onto Patrick St. are not compliant with current guidance (49 metres required) and parked vehicles could impact on these.
- The Stage 1/2 Road Safety Audit is not adequate.
- The entrance width, sightlines and access are less than those not previously accepted under other applications in Ballyragget and elsewhere in the county with planning reference numbers provided.

- The access lane is too narrow for construction traffic. This has not been adequately addressed.
- It is not clear whether the Local Authority have investigated alternative safer access routes into the site via Chapel Avenue or High St.
- Concern about a large number of wheelie bins being left on Patrick St. because a standard refuse vehicle will not be able to access the site. Similar concerns are expressed in relation to fire tenders remaining on Patrick St. and relying on internal fire hydrants, ambulances or furniture and larger kitchen appliance deliveries.
- Inadequate car parking, including disabled spaces, given people with disabilities is a target group, is provided on site and is not compliant with the County Development Plan 2014-2020 or Apartment Guidelines. The town has very limited public transport infrastructure.
- Concern about the management of car parking spaces.
- Concern that overflow car parking on Patrick St. could cause obstruction, potential traffic hazard and a loss of car parking to existing residents.

#### Impact on Existing Residential Amenity

- Norma Bergin engaged a structural engineer to prepare a report on the risks and potential structural impacts on her property and submitted the report as part of the initial submission. A further information request from the planning authority required the applicant to address and clarify whether there would be any adverse structural impact on walls and adjoining properties during construction and operation. The response focused entirely on the boundary walls and the particular concerns raised in the Bergin structural report were largely avoided and ignored e.g. construction traffic and underground services.

#### Occupancy of the Development

- At a public meeting in 2019 the applicant stated the units would be used to house homeless people for short durations. Due to existing residents' concerns about anti-social behaviour and a high turnover of tenants the further information response stated people on the local housing list would be prioritised, followed by the elderly, people with disabilities and a small number

of families. The letter from the applicant's CEO as part of the clarification of further information response updates this to include people experiencing homelessness. The applicant's website indicates they are predominantly a homeless charity offering emergency accommodation, transitional housing and resettlement services. Anxiety and uncertainty remain among neighbouring residents regarding future plans if the development is approved. Ballyragget has no Garda Station, limited medical facilities and limited transport and job opportunities. If used as a short-term homeless facility then it will adversely impact the character of the town.

- Given the location remote from the applicant's Kilkenny City base, the timely availability of management and support services may be less effective. There is no provision for on-site management and the potential for anti-social behaviour cannot be ignored.

#### Residential Amenity for Occupants

- It is difficult to match the cited targeted groups of the elderly, people with disabilities and a number of small families with the reliance on external staircase accesses, proliferation of ramps and level changes on the pathway, dominance of two-bed, three-person units and absence of a safe or suitable play space.
- Inadequate private open space is provided for the six houses to the rear in terms of area and location.
- Balconies for the apartments are less than the required 1.5 metres in depth and the usable area is inadequate. Privacy for balconies is an issue.
- Overshadowing of apartments and visual intrusion from the external access stairs.
- Public open space provision is 227.6sqm (9.03%). This is less than the 10% required. Public open space is also used for car parking and as a vehicular turning area.

#### Miscellaneous

- The scheme fails to deliver on the objective in Section 3.3.5.3 of the County Development Plan to ensure new residential development in smaller towns is

of a design, layout, character and scale that fits well and presents a high quality of living.

- No confirmation as to whether there will be adverse structural impacts on boundary walls or adjoining properties.
- Unclear if the views from the rear of the Ruth house will be affected.
- All residential units are described in the application as apartments. The six units to the rear are houses.
- Refuse bins would have to be brought down to the Red Barn frontage because blocking neighbouring gateways or standing outside houses would be unacceptable.
- There may be difficulties in obtaining a Fire Safety Cert.
- The cobblestone surface of the laneway gives character to the street and is maintained by an existing resident. No mention was made of this by the planning authority. The site is within the ACA.
- The relocation of the main entrance of the structure(s) fronting Patrick St. from the front to the rear would turn its back to the historic streetscape and has the potential to detract from the visual coherence of the streetscape.
- The scheme imposes a design solution on a site that is entirely unsuitable leading to compromised outcomes rather than a design solution for the needs of its tenants and the wider community that satisfies the requirements for quality housing as expressed in best practice guidelines and the County Development Plan 2014-2020.

## 6.2. Applicant's Response

The main points made can be summarised as follows:

- The applicant is an approved housing body which provides affordable housing for the elderly, people with disabilities, people experiencing homelessness and families with full-time support and management services with the aim of providing high quality housing to long term tenants. There is a 24 hour on call and call out service to support tenants and properties. It is a higher level of

management service than would be generally available in apartment developments. Housing is targeted to meet specific housing needs. These needs influence the type of accommodation provided. In addition, the need to locate in close proximity to existing services and social infrastructure is paramount. The scheme is designed to provide a targeted residential accommodation identified as necessary in the Kilkenny area. The internal layout and units as proposed reflect a need specific social housing accommodation.

- The scheme reflects national policy as stated in Delivering Homes Sustaining Communities DoEHLG 2007. This identifies a clear aim to achieve a step change in the provision of housing support.
- The scheme meets the criteria set out in the County Development Plan 2014-2020 in that the development respects the context in which it is located in relation to scale, layout and character, is appropriate to the village and does not adversely impact on the capacity of existing services.
- Chapter 5.2 (Housing Strategy) of the County Development Plan 2014-2020 requires that a mixture of house types is developed including the special requirements of elderly persons and persons with disabilities, notes an increase in the number of single persons requiring accommodation and it also recognises the role of the voluntary sector.
- The development has taken into account the Apartment Guidelines 2019 and complies with the standards in relation to e.g. area, storage and private open space. It meets internal requirements for qualitative living.
- The scheme has respected the ACA designation and the adjoining protected structure.
- The planning authority granted permission after raising a number of matters and a number of reports were provided, all of which indicated no adverse findings in relation to the proposal. Internal reports indicated no objection.
- Documentation submitted in support of the development addresses the twelve design criteria set out in the Urban Design Manual Best Practice Guidance.

- The existing buildings were subject of detailed assessment in relation to architectural conservation. The Red Barn building is not a protected structure, but it incorporates part of the upper floors of an adjoining structure which is a protected structure. The development proposes to retain the façade of the Red Barn and carry out required works in accordance with the best architectural practice. Although surveys questioned whether it can be retained the applicant will comply with the requirement of Condition 6(a) to retain the front wall of the two-storey structure. The design is considered appropriate in the context of the built heritage of the area.
- The development to the rear is modern and contemporary and respects traditional design and proportion in close proximity to the centre of the village. It will not impact the streetscape.
- The site is within a 50kph area of the village utilising an existing access onto the road network. The access complies with the highest geometric standards given the constraints presented. The development will represent an intensification of an existing access but it is to provide for the development of a backland area within an existing built-up area. It provides for a safe access. It is not considered that the entrance inhibits the use of the adjoining property's access as currently enjoyed. The Roads Dept. indicated no objection.
- Car parking spaces provide optimum proximity to individual units. There is a shortfall in spaces as per the development plan standards but the level of parking is adequate to meet the needs of the development. When existing buildings in central locations are being refurbished many are unable to meet parking requirements and the previous use of the site was largely as a licenced premises with limited parking provision.
- The development retains the important landmark frontage and will refurbish a frontage which has deteriorated considerably. The development represents a significant visual enhancement of the streetscape.
- Any development of any scale has the potential to impact on adjoining property. There will be no change to existing overlooking in the refurbished buildings and the buildings to the rear are single-storey in scale. A detailed report submitted during the course of the application demonstrated there would be no adverse

impact as a result of shadowing. The removal of existing outbuildings and extensions will assist in improving daylight. Works relating to the two-storey building will require risk assessment and the introduction of mitigating measures in response.

- All units have a minimum 5sqm private open space as per the 2019 national guidance and the units to the rear greatly exceed the minimum standard. 0.03346 hectares communal open space is provided in four areas equating to 13.2% and it is a reasonable response in terms of providing usable public areas. Landscaping is also proposed, and the existing masonry walls will be retained.
- Autotrack detail was submitted indicating that a refuse truck can satisfactorily service the site. Issues relating to bin/waste management are addressed.
- Photographs of the site are provided.

### 6.3. Planning Authority Response

6.3.1. The planning authority has no further comment to make.

### 6.4. Observations

Two observations were received from the Ballyragget Development Association and Martin Ruth, Naas, Co. Kildare (son of Marie & Ted Ruth). The issues raised are generally similar to those referenced in the grounds of appeal but also include:

#### Ballyragget Development Association

- Additional traffic generated by the development poses further traffic friction on Patrick St. where there is already HGV traffic all day seven days a week.
- Ballyragget is a village with limited resources and amenities to offer the specific social housing units. The nearest town is set to be allocated four such specific Good Shephard units which raises concern about prudent planning.
- The community has concerns in relation to new development. The town development plan is out of date with the planning authority seemingly pushing new development without forward thinking. 22 houses are at an advanced stage of construction off High St. and 50 no. houses accessed via a private housing



estate are proposed. Backland and new build seems favoured in preference to infill and rejuvenation of derelict properties. Lack of infrastructure to meet demand is a major concern in Ballyragget e.g. healthcare, school and childcare places, water and sewerage and recreation amenities which are essential for sustainable development and population growth and it cannot just be hoped that existing services will suffice for all.

### Martin Ruth

- The observation supports the grounds of appeal submitted by his parents relating to safety concerns about the access lane when reversing from the Ruth property and the lack of engagement with his parents in relation to these concerns. A Risk Matrix Table has been prepared which summarises a moderate risk level (the hazard can result in injury, property or equipment damage) to critical risk level (the hazard can result in serious injury, property or equipment damage) with the highest risk to pedestrians and cyclists from reversing vehicles from the Ruth property. It again notes the proposal to revise the boundary wall to its original configuration. Photographs are included.

## 6.5. Further Responses

6.5.1. None.

## 7.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Traffic/Access/Car Parking
- Impact on Adjoining Property
- Residential Amenity for Occupants

- Impact on Architectural Conservation Area (ACA)/Protected Structure
- Appropriate Assessment

## 7.1. Principle of Development

7.1.1. The grounds of appeal, and other submissions received during the application, refer to the nature of the proposed development and its location within the town/ACA.

7.1.2. The site is located centrally within the settlement boundary of the town. There is no land use zoning objective within the current settlement boundary. Development proposals will be considered on their merits against the policies and objectives in the core strategy and the County Development Plan 2014-2020 generally. Section 3.3.5.3 (Development Objectives for smaller towns and villages) of the Plan states smaller towns need to be developed in a way that strengthens their role as local service centres whilst respecting their character, and achieving the right balance between encouraging development and the scale and nature of such development is critical. The scale and density of development will depend on a number of factors and in this case, having regard to the factors set out, I note the following:

- Irish Water has indicated no objection in relation to the availability of water or wastewater infrastructure.
- The street frontage is retained and the backland area developed.
- The development involves the refurbishment and re-use of three-storey Red Barn building, a prominent structure within the town, and retains the front façade of the adjacent two-storey property.
- Issues relating to surface water, waste and roads have been considered acceptable by the planning authority.

I consider the scale of the development, 11 no. units, five of them in existing structures, is limited and appropriate to the size of the town.

7.1.3. Much concern has been expressed in the grounds of appeal and other submissions received on file about the likely transitory and temporary nature of the future occupants of the development and anti-social and other issues that may arise. However, the applicant has stated, in the letter submitted with the clarification of further information, that all tenants will have long-term tenancy agreements. The planning application is

for eleven residential units for an approved housing body and the application is assessed on that basis. I do not consider it the role of the planning system to dictate the nature or profile of potential occupants or minimum or maximum lengths of tenancies etc. In this regard I note the content of Section 5.2 (Housing strategy) of the County Development Plan 2014-2020 which states, inter alia, that the Council recognises the important role played by the voluntary sector in meeting social housing need and will support and facilitate the expansion of that role.

- 7.1.4. The site is in an ideal location in the centre of the town, a backland area would be developed and existing structures would be refurbished. I consider the development to be acceptable in principle, notwithstanding the more detailed considerations below.

## **7.2. Traffic/Access/Car Parking**

- 7.2.1. Access to the site, sightlines, traffic generation and car parking are some of the main areas of concern expressed in the grounds of appeal, observations and submissions. The main area of the site is accessed by way of a narrow laneway between two third party properties, one of which currently uses part of the laneway to access and egress their property (the Ruth property). The vehicular entrance used to be in use when The Red Barn was operating as a public house, though it appears not for customer or commercial parking, so car parking associated with that occurred on-street.

### Traffic Generation

- 7.2.2. There are 11 no. residential units associated with the proposed development. The units are to be operated by an approved housing body rather than as a private development. I do not consider that the amount of traffic generated would be substantial and certainly not to the extent that there would be any significant impact on the normal operation of the road in terms of traffic congestion.

### Sightlines

- 7.2.3. The inadequacy of sightlines is referenced in the grounds of appeal. The footpath at this location, which is already dishd to accommodate vehicular traffic, is relatively wide. Sightlines are indicated on the site layout plan as 38.9 metres to the north and 59 metres to the south though, effectively, they are longer than this. Patrick St. is a relatively low-speed traffic environment given the bend in the road and the junction to The Fairgreen/Moate St. to the north and the more significant and larger junction with

the N77/Castle St. to the south. I do not consider sightlines to be deficient. I note the potential for cars parked on the street to hinder sightlines. I consider this could be reduced by the Council providing yellow lines for a distance either side of the entrance if necessary.

#### Access Laneway

- 7.2.4. There is no doubt that the access laneway serving the rear area of the site is narrow and is an issue of concern. The narrowest section is an approx. 15 metres length towards the junction with Patrick St. where it is contained between the boundary walls of both adjacent properties. There is no scope to widen the access. The distance between the third party boundaries increases beyond the initial 15 metres or so.
- 7.2.5. The site access has been subject of further information and clarification of further information requests. As noted, there is an existing vehicular entrance, albeit not in regular use except by the adjacent Ruth property, and a dropped kerb in situ. Measures are proposed to ensure pedestrian and traffic safety by way of physical and visual cues such as a 'yield' marking within the development approx. 22 metres from the footpath, a distinction in surfacing between the footpath and entrance road, marking on the access road to delineate pedestrian travel (notwithstanding that pedestrians would also be able to access the site by way of the archway at The Red Barn building), signage giving pedestrians and incoming traffic the right of way, a speed control ramp approx. 6 metres from the footpath and bollards on the footpath (which should be limited in scale to reduce clutter for less mobile pedestrians). I consider that the combination of these measures results in a low-speed traffic environment that would not result in any undue significant threat to pedestrian safety or vehicular traffic.
- 7.2.6. As part of the clarification of further information response swept path analyses were provided for a small refuse vehicle, ambulance and box van. The planning authority's Road Design section has not indicated a concern with these analyses.
- 7.2.7. The access issue is of particular concern with regard to the Ruth property adjacent to the north and which currently has an angled access onto the laneway. It is stated in the relevant submissions, grounds of appeal and observation that the original boundary wall will be restored to its original position. This report makes no comment as to the exempt development status, or otherwise, of this proposed development. The

primary concern expressed relates to vehicles reversing from the Ruth property and the potential for conflict with other vehicles or pedestrians or cyclists. From a site inspection and photographs submitted with the submissions, grounds of appeal and observation there appears to be sufficient space to carry out reversing manoeuvre(s) within the Ruth property and emerge from the site in a forward gear should reversing from the property prove to be an issue.

### Car Parking

- 7.2.8. The grounds of appeal consider that inadequate car parking has been provided for the development. 11 no. spaces are provided for the 11 no. units. The further information response stated one of the spaces would be kept free for planned manoeuvres on occasion, when and if required, though it is difficult to see how such a proposal could work adequately in practice. Two of the spaces, including the one to be kept free for planned manoeuvres, are within an area the applicant considers public open space, which is unsatisfactory.
- 7.2.9. Though referred to as an apartment scheme for 11 no. units, the six units to the rear are houses. Notwithstanding, given the nature of the application I consider that apartment car parking standards can apply rather than requiring 2 no. spaces per house to the rear. The Kilkenny County Development Plan 2014-2020 requires 11 no. apartments to provide 16.5 no. car parking spaces. The Plan states that where car parking provision is not possible or desirable, the Council may consider the payment of a financial contribution in lieu. Variation No. 1 (c) of the Plan aligns the minimum development standards in the Apartment Guidelines (2015) to the Plan. The Guidelines were updated in 2018. In relation to car parking, of the various locations cited in Section 4 of the Guidelines (Sections 4.18-4.27), I consider the site to be in a 'peripheral and/or less accessible urban location'. The general benchmark equates to approx. 14 no. spaces being required. Section 4.27 states that for building refurbishment schemes on sites of any size car parking provision may be relaxed in part or whole on a case-by-case basis. Five of the proposed eleven units are contained within a building to be refurbished, within an ACA in the centre of town. I consider the number of car parking spaces provided to be acceptable having regard to the nature of the applicant and likely profile of some of the occupants, the town centre location, the refurbishment of The Red Barn building and the fact The Red Barn was previously

operated as a public house. On-street car parking is also available should this be necessary.

### Conclusion

7.2.10. I acknowledge that the narrow access laneway serving the main area of the site is not of the standard that would be expected to be provided on a greenfield or less constrained site. However, there is no scope for widening the laneway. The access exists and the footpath is dished to service it. It serves a backland area that it is proposed to develop and provide residential accommodation within the town centre. The number of units to be accessed by way of this entrance is relatively limited. I do not consider that it will generate significant traffic movement and the sightlines available are acceptable. The physical layout of the laneway will result in a very low speed traffic environment that would reduce the risk of conflict between pedestrians, cyclists and vehicles. I note the planning authority Road Design section had no objection to the development, subject to conditions, after further information and clarification of further information requests. Having regard to the foregoing, I consider the proposed development to be acceptable in terms of traffic generation, sightlines, the access laneway and car parking provision. The final layout of the entrance area should be agreed with the planning authority.

### **7.3. Impact on Adjoining Property**

- 7.3.1. A number of issues were raised in the course of the application in relation to impact on adjacent properties by way of shadowing, overlooking, structural impact and views.
- 7.3.2. An 'Overshadowing and Loss of Light Impact Report' was submitted during the planning application. It concludes that the surrounding area is generally unaffected with respect to direct shading by the proposed development. I consider this conclusion to be accurate.
- 7.3.3. I do not consider overlooking to be a concern. According to the 'Assessment of Existing Boundary Walls' report, the existing northern boundary wall is approx. 90 metres long and is approx. 3.0 metres high over the garden level generally, ranging from approx. 2.1 metres to approx. 3.6 metres. The proposed units to the rear are single-storey in scale.

- 7.3.4. The structural impact to the adjacent properties has been referenced, specifically that of Norma Bergin who submitted a Structural Inspection Engineer's Report with the original submission. While the content of this is noted, any concern about structural impacts that may occur is not a planning consideration, and any issue that may arise is a civil matter to be resolved between the parties.
- 7.3.5. While there is generally no entitlement to a view, I note the concern of some residents of property to the north of the site and, in particular, BACA 11 contained within Section 8.3.6.1 (Ballyragget ACA) of the County Development Plan 2014-2020 which states, inter alia, that established views to local landmarks should be maintained. While the development of the six units to the rear will be in the general sightline of the church when viewed from the rear of properties to the north I do not consider the impact of the single-storey structures to be such that there would be an undue, significant adverse impact.
- 7.3.6. Therefore, I do not consider the development would have an undue impact on the residential amenity of adjoining properties from shadowing, overlooking or on existing views.

#### **7.4. Residential Amenity for Occupants**

- 7.4.1. Issues have been raised in relation to the nature of the units for the profile of the occupants and open space provision. The applicant's response to the grounds of appeal states the scheme is designed to provide a targeted residential accommodation and the internal layout and the units as proposed reflect a specific social housing accommodation need.
- 7.4.2. Two of three two-bed apartments in the refurbished building have floor areas less than the 73sqm area required for two-bed/four person units in the Apartment Guidelines 2018. The Guidelines, in Section 3.5, state that in relation to social housing or purpose-built housing for older people, provision should be made for two-bedroom apartments to accommodate three people and planning authorities may consider such units with a minimum 63sqm floor area. The 63sqm has been exceeded in the two apartments that do not have a 73sqm floor area. Though over 73sqm in area, the third apartment is also identified on the floor plan/schedule as a three person unit. Minimum storage space and private open space are slightly below the minimum required for Apartment

No. 1, but I consider there is scope to amend the unit to achieve the minimum standards. Otherwise I consider the apartment units to be consistent with the guidelines.

7.4.3. The two-bedroom units to the rear are referred to as apartments but they are more accurately described as houses. The Quality Housing for Sustainable Communities Best Practice Guidelines (2007) states that a single-storey two-bedroom house should have a minimum floor area of 60sqm. The units have a minimum floor area of 69.6sqm and are therefore in excess of the floor areas cited for both houses and apartments. Private open space provision is clearly less than that normally required for a house. However, given the nature of the application, likely profile of the occupants, town centre location and the shape of the site I consider that private open space less than that normally required for a two bedroom house (48sqm under Table 12.5 of the County Development Plan 2014-2020), but at a minimum that required for a two-bed apartment (6sqm), is appropriate. Drawing No. 0105 submitted with the clarification of further information response sets out private open space areas for the houses. Each house has an area to both the front and rear. I do not consider the area to the front to be suitable for inclusion as 'private' open space however it does add to the amenity of the unit. To the rear of Nos. 6-9 a narrow passageway has been provided. I agree with the planning authority that this passageway should be removed, the area included within the private open space area to the rear of each house and the stairs to the public open space omitted. This would provide a minimum 15sqm to the rear of each of these houses. I also agree with the planning authority that the public open space area to the side of No. 11 should be brought inside the curtilage of that unit to avoid a section of public open space with poor passive surveillance.

7.4.4. The applicant states 334.6sqm public open space has been provided; 13.2% of the site area. However, this includes area which is also used as car parking and an area which will be re-allocated as private open space to No. 11 as referenced in the previous section. The omission of the external stairs along the rear/north boundary and the further set back of the bicycle parking/bin storage area closer to the wall would add to the public open space area and allow a slight relocation of the two car parking spaces while providing a larger space at this location to perform any required vehicle manoeuvres. Given the shape of the site, well overlooked public open space would be difficult to achieve and I consider the two main areas of public open space to be



adequately located. I estimate the public open space area to be approx. 254.6sqm (Area A – 47.6sqm + revised Area B – approx. 127sqm + revised Area D – approx. 80sqm). This would be slightly more than 10% of the 0.252 hectare site and excludes the shared public open space/car parking area.

- 7.4.5. Therefore, I consider the development to be adequate in terms of its provision of private and public open space for residential amenity.

## **7.5. Impact on Architectural Conservation Area (ACA)/Protected Structure**

- 7.5.1. The site is within the Ballyragget ACA and the adjoining property to the south is a protected structure (The Butler House/Phelan's Hotel; RPS No. C12, NIAH Ref. No. 12303011). The Archaeological Desktop Study submitted with the application states that the condition of Phelan's has declined since its inclusion in the NIAH. The Red Barn building and the protected structure are unusually interlinked. The Red Barn building encompasses the first and second floors above the portico entrance to Phelan's and the more recent vacant ground floor take-away. The overall building was internally divided at some point prior to 1937. The Red Barn building was burned in a fire in 1982. In terms of archaeology, there are no recorded monuments on/adjacent to the site, but it is part of a collective assignation of the town as an historic town (KK010-001). The Dept. of Culture, Heritage and the Gaeltacht have recommended inclusion of an archaeological monitoring condition in the event of a grant of permission.
- 7.5.2. A Structural Report was submitted with the original planning application which details the condition of the structure. The report concludes that three-storey area of the building is relatively sound. Alterations to the two-storey area have weakened the building structure and there is extensive deterioration of the timber structures and internal fabric. The report stated that it will be necessary to demolish most of it, but it may be possible to retain the front wall. The planning authority sought retention of the front wall in the further information and clarification of further information requests and included a condition to this effect as Condition 6(a). The applicant's response to the grounds of appeal state the provisions of this condition will be complied with. I consider this condition to be reasonable and appropriate given the site context in an ACA. An 'Architectural Heritage Impact Assessment' was submitted with the further information

response. This relates to the two upper floors which are part of the protected structure and an appraisal of the buildings in the rear area that it is proposed to demolish. It states the subject site and adjacent protected structure are in sharp contrast to the appearance of buildings on the Square and approach roads as they remain unoccupied and have been in physical decline. The upgrade of The Red Barn is an opportunity to maintain the streetscape and records indicate the structures to the rear were storage facilities for the prior use as a hotel and public house.

- 7.5.3. An 'Assessment of Existing Boundary Walls' was submitted with the further information response. It states the walls surround what appears to have been an enclosed garden space since the early to mid-19th century. The southern boundary wall is approx. 90 metres long and 2.0-2.2 metres high, the eastern boundary wall is approx. 23 metres long and 2.7-2.9 metres high and the northern boundary wall is approx. 90 metres long and is approx. 3.0 metres over the garden level generally, ranging from approx. 2.1 metres to approx. 3.6 metres. The walls are generally in good condition but need significant work to conserve them into the future. Recommendations and a methodology for proposed works are included in the report.
- 7.5.4. Having regard to the foregoing, I consider the proposed development is a welcome opportunity to refurbish and redevelop a vacant structures such as The Red Barn, which contributes substantially to the visual appreciation of the ACA. It is a positive development which will increase the population in the centre of the town and develop an underutilised backland area. I consider that it would have a positive impact on the ACA and would not adversely affect the setting or appreciation of the adjacent protected structure.

## 7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location with no hydrological pathway to any European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Kilkenny County Council Development Plan 2014-2020 and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018), and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the nature of the proposed development, traffic and access issues and the setting and character of the Ballyragget Architectural Conservation Area, and would not seriously injure the residential or visual amenities of the area. The proposed development 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 29.01.2020, 18.02.2020 and 05.05.2020, 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. A detailed layout plan of the access laneway and the interface of the vehicular entrance and public footpath shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of traffic safety.

3. Prior to the commencement of development on site the developer shall submit a revised site layout plan showing the following amendments for the written approval of the planning authority:
  - (a) The passageway along the northern boundary to the rear of Unit Nos. 6-9 shall be omitted and the relevant areas included within the rear curtilage of each unit.
  - (b) The external stairs along the northern boundary shall be omitted. The public open space, bicycle parking area and bin storage area shall be relocated closer to the boundary wall.
  - (c) The footpath area to the side of Unit No. 9 shall be incorporated within the curtilage of that unit.
  - (d) The triangular public open space area to the east of Unit No. 11, behind the building line, shall be included within the curtilage of that unit.

**Reason:** In the interest of residential amenity.

4.
  - (a) The front wall of the two-storey three-bay part of the Red Barn building, including carriageway and opes, shall be retained. All stabilisation works shall be undertaken under the supervision and methodologies of a conservation engineer.
  - (b) Detail of the type of gate to be used at the carriageway shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interests of conservation of architectural heritage and the proper planning and sustainable development of the area.

5. (a) Apartment No. 1 shall be amended to ensure full compliance with all minimum standards in Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018). A revised floor plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) A controlled entrance shall be provided between Apartment No. 1 and the site boundary to control access to the 5 no. apartments in this area. Detail shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of residential amenity.

6. The recommendations and proposed methodologies set out in the Assessment of Existing Boundary Walls shall be carried out.

**Reason:** In the interests of conservation of architectural heritage and the proper planning and sustainable development of the area.

7. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

8. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs,

- (ii) Details of roadside/street planting,
- (iii) Hard landscaping works, specifying surfacing materials, street furniture and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment,
- (c) A timescale for implementation,
- (d) Detail of all internal boundary types.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

- 9. Drainage arrangements, including the 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.

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

**Reason:** In the interest of public health.

- 11. (a) Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1500 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

(b) 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 traffic management, noise management measures and off-site disposal of construction waste.

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

12. 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.

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

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

14. The internal road network serving the proposed development [including junctions, parking areas, footpaths and kerbs] 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.

15. A Stage 3 Road Safety Audit shall be carried out by the developer at their own expense on completion of the works and submit it to the planning authority for comment and approval. The developer shall carry out and cover the costs of all agreed recommendations contained in the Audit.

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

16. A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle (EV) charging stations/points. and ducting shall be provided for all remaining car parking spaces to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the making available by the developer for occupation of any of the residential units in the proposed development.

**Reason:** In the interest of sustainable transport.



17. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

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

18. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground except where as otherwise agreed with the planning authority. 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.

19. (a) A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each unit 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.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

20. Proposals for an estate/street name, unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and unit numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

**Reason:** In the interest of urban legibility.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

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Anthony Kelly

Planning Inspector

18.09.2020