



An  
Bord  
Pleanála

## Inspector's Report ABP-308929-20

### Development

Change of use of existing protected structure from commercial use to residential use to comprise four apartment units and two detached two storey houses in rear garden space, select demolition works and reconfiguration of existing structures.

### Location

The Ouncel, the Square, Johnstown, Co. Kilkenny.

### Planning Authority

Kilkenny County Council.

### Planning Authority Reg. Ref.

20/304.

### Applicant

Walsh & Sheehan Investments Ltd.

### Type of Application

Permission.

### Planning Authority Decision

Grant.

### Type of Appeal

Third Party

### Appellant

William Queally.

### Observer(s)

None.

### Date of Site Inspection

16<sup>th</sup> March 2021

**Inspector**

Fergal O'Bric

## 1.0 Site Location and Description

- 1.1. The appeal site comprises a three bay, two storey commercial premises, with south facing frontage onto the Village Square and frontage also onto Main Street within Johnstown village. The northern gable faces onto a passageway shared with the property to its north and is the means of access to the rear garden space of the property. The building, known as “The Ouncel” is a vacant and underutilised building which is boarded up. There is a long narrow rear garden space to its west, which accommodates two by two-storey garage/store type structures and a single storey garage structure.
- 1.2. The appeal site is located on the western side of the Main Street, known as Chapel Street. Site levels are consistent with those of the neighbouring properties and street frontages. There are footpaths and streetlighting along the street frontages and also street parking available adjacent to the appeal site.

## 2.0 Proposed Development

- 2.1. The proposed development is for:
  - Change of use of existing protected structure from commercial use to residential use to comprise four number one bed apartment units within a protected structure, and the development of two detached two bed roomed two storey houses within existing two storey garage type structures within the rear garden area.
  - Select demolition works and reconfiguration of existing structures.
  - Modification to existing facades.
  - Landscaping and all ancillary site works.
- 2.2. A conservation appraisal (Architectural Heritage Impact Assessment) was submitted as part of the planning documentation.
- 2.3. Further information was submitted to the Planning Authority on the 28<sup>th</sup> day of October 2020 in relation to: Parking provision for the development: Clarification of ownership of adjoining laneway: Access for emergency and waste services; Waste storage arrangements; Design of the two out-buildings; Window, fanlight and side-light detailing; Revised open space proposal for future occupants; Public open space

proposals, landscaping proposals and a lighting plan for the site and compliance with Part M of the Building Regulations. It also addresses issues raised within the third party observation.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority granted planning permission subject to 20 conditions, many of a standard nature. The following is a summary of the pertinent conditions:

Condition number 2: Car parking shortfall contribution €11,000.

Condition number 4: Details of a Management Company

Condition number 9: Construction Traffic and Management Plan

Condition number 10: Details on window, fanlight, and side light specifications.

Condition number 17: That no traffic or material on the public road or footpath or block the access laneway to the rear of the property.

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

##### **3.2.1. Planning Reports**

The basis for the Planning Authority decision include:

- The proposed development was screened for Appropriate Assessment and Environmental Impact Assessment. Both screenings concluded that due to the nature, modest scale, and absence of sensitive receptors, neither were required.
- Following the submission of further information (which included the deletion of the new road access to the north-east), the Executive Planner recommended a refusal of planning permission on the following grounds: Over-development of the site; Lack of on-site car parking and unsatisfactory standard of residential and visual amenity for future occupants.
- However, the Senior Executive and Senior Planners recommended a grant of planning permission. They noted that the building has been vacant for many

years, and the re-development of the site would enhance the streetscape within the centre of the village and that the shortfall in car parking spaces can be addressed by means of a car parking levy.

### 3.2.2. Other Technical Reports

Roads Design: No objections, subject to conditions.

Environment: No objections, subject to conditions.

Housing: No objections.

Conservation Officer: No objections, subject to issues in relation to the replacement of windows being addressed in accordance with best practice conservation principles.

### 3.3. Prescribed Bodies

Irish Water: No objections, subject to conditions.

### 3.4. Third Party Observations

One received, which raised similar issues to those raised within the third-party appeal submission.

## 4.0 Planning History

None relevant.

## 5.0 Policy Context

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

The site is located with Johnstown, which is designated as a small town/village within the Plan.

There is no development boundary identified for Johnstown within the Plan and no land use zonings are set out for the settlement either.

Section 3.5.3.3 for Small towns and villages sets out the following regarding development in these settlements, which would include Johnstown:

The scale and density of development will depend on number of factors including the:

- Availability of infrastructure including appropriate wastewater treatment facilities and water supply,
- Contribution to the enhancement of the village form by reinforcing the street pattern or assisting in the redevelopment of backlands.
- Contribution to the protection of the architectural and environmental qualities of the village.

The Ouncel is identified as a protected structure, within the Development Plan and is also located within the Johnstown Architectural Conservation Area (ACA).

Section 8.3.5 pertains to Architectural Heritage and sets out the following objectives and development management standards in terms of development:

Objective 8N: To promote principles of best practice in conservation and the use of appropriate materials and repair techniques through the administration of the Conservation Grants Scheme and the Structures at Risk Fund, funded by the Department of Arts, Heritage and the Gaeltacht.

Development Management standards:

- The Council will have regard to the Architectural Heritage Protection Guidelines (2011) when assessing proposals for development affecting a protected structure.
- To encourage the sympathetic retention, reuse and rehabilitation of protected structures and their setting.:

Section 8.3.6.4 of the Plan pertains to the Johnstown Architectural Conservation Area and sets out the following terms of development management standards:

- JACA 1 To seek the retention, repair and maintenance of the buildings which make up the streetscape of the ACA.

- JACA 2 To seek the refurbishment of derelict or vacant properties which are of historic interest or which contribute to the visual coherence of the streetscape.
- JACA 3 Care should be taken during works on external wall finishes, the practice of removing render to expose stonework significantly alters the character of the structure and can damage the fabric of the building. Works such as sandblasting, repointing ashlar stonework, repainting of natural stone or brick require planning permission.

## 5.2. Draft Kilkenny City and County Development Plan 2021-2027

Johnstown is designated as a small town or village within the Settlement Strategy as set out within Section 4.3 of the Plan. Section 4.6 outlines the following in terms of development within small towns and villages: A development boundary for Johnstown is identified and centred around the village square, however, no site-specific land use zonings are set out for the settlement.

Section 9.3.2 pertains to Architectural Heritage where the following development management standards are set out:

- To encourage the sympathetic retention, reuse and rehabilitation of protected structures and their setting, while ensuring the involvement of suitably qualified professionals.
- To ensure proposed development within the curtilage or attendant grounds of a protected structure respects the protected structure and its setting,
- To require an architectural impact assessment where appropriate for developments within the grounds of country house estates which are Protected Structures.
- To promote principles of best practice in conservation in terms of use of appropriate materials, repair techniques, and thermal upgrades by adhering to the guidelines as set out in Department of Culture, Heritage and the Gaeltacht's Advice Series publications

### **5.3. Sustainable Urban Housing: Design Standards for New Apartments Guidelines' 2020.**

Section 3 of the Guidelines in relation to design standards is relevant in this instance.

### **5.4. The Architectural Heritage Protection Guidelines 2011**

The Architectural Heritage Protection Guidelines for Planning Authorities, 2011, offers guidance to planning authorities on determining planning applications in relation to protected structures.

Chapter 2 of the Guidelines deals with Protected Structures.

Chapter 7: Principles of Conservation. A number of the key principles are particularly relevant to these proposals as follows:

Section 7.3: Keeping a building in use.

Section 7.5: Using expert conservation advice.

### **5.5. Natural Heritage Designations**

None relevant.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A third-party appeal from a neighbouring resident within the town square was received and raises the following issues:

- Lack of adequate parking spaces for residents who reside within the Town Square.
- Lack of car parking spaces to support current and future local businesses.



- That inadequate car parking provision is set out to serve the proposed development. This would result in traffic conflict and endanger public safety by reason of a traffic hazard.
- The car parking requirement for the development disappeared after the further information stage of the application.
- The bus service available locally has a low frequency.
- An assumption is made that as the development pertains to social housing, that there is no requirement to provide on-site car parking.
- The lack of on-site parking would result in parking on the town square becoming more difficult to access.
- It would be unfair for this single development to use up the car parking capacity available for the other townhouses within the town square.
- The car parking spaces within the square are often fully occupied during the week by residents and workers in local businesses.
- Car parking requirements have not been fully met within the proposed development and will only cause problems for local residents.
- A less intensive development would rejuvenate the building, provide a return for the developer and sustainable living conditions for future occupants.

## 6.2. Applicant Response

- The proposed change of use is suitable and sustainable in the context of the Development Plan for Johnstown.
- The residential units would be of high quality and would specifically provide for social housing units. The Local Authority have deemed the area as being under pressure for the delivery of social housing units.
- The proposal would involve the reuse of a vacant building, vacant for the last twenty years.
- The delivery of sustainable housing units presents a positive opportunity for the regeneration of Johnstown.

### 6.3. Planning Authority Response

The Planning Authority made the following response to the planning appeal:

- The re-use of this prominent building is welcomed by both the third party and the Planning Authority.
- The issue of car parking was raised as part of the further information request, and following consideration of the further information response, the Road Design Section of the Local Authority recommended that planning permission be granted subject to the inclusion of a car parking levy.
- The Planning Authority accepted that the amenity space of the development would be compromised if on-site car parking were to be provided.
- The site is located on a bus corridor.
- The modal shift to walking, cycling, and using the public bus service were important considerations in permitting the development
- Now that the village is by-passed by the M8 Motorway, the vitality and vibrancy of the town is of greater importance.
- The visual aesthetics and the impact on the streetscape were important considerations in permitting the development.
- The shortfall in car parking provision is accepted, however the reasons outlined above are why the development should be looked upon favourably and the parking shortfall addressed by means of an appropriate levy.

### 6.4. Further Submissions

Further submissions were invited by the Board from the Development Applications Unit, Fáilte Ireland, The Arts Council, The Heritage Council and An Taisce. No comments were received from any of these bodies.

### 7.0 Assessment

The re-use of the vacant protected structure within the village centre ACA is supported and accepted by all parties to the appeal from a built heritage perspective.

Therefore, I consider that this appeal can be addressed under the following headings:

- Principle of development
- Parking and Traffic safety
- Design and Layout
- Other issues.
- Appropriate Assessment.

### **7.1. Principle of Development**

- 7.1.1. The site is centrally located within the settlement of Johnstown as set out within the Kilkenny Development Plan (KDP), 2014-2020. Although, no site-specific zonings are set out for sites within the settlement, *it is a village centre location, fronting onto the Village Square and the Main Street where there is a mix of commercial (retail and non-retail), residential and community uses.*
- 7.1.2. The apartments/dwellings would be developed inside the fabric of the existing vacant and under-utilised protected structure and garage structures within the rear garden space of the early 19<sup>th</sup> Century building, within the Village centre Architectural Conservation Area (ACA). An Architectural Heritage Impact Assessment was submitted as part of the planning documentation. This was carried out by a suitably accredited conservation architect and I consider it to be in accordance with the relevant guidance. I consider the re-use of the buildings for residential use to be consistent with national and local policy for re-development of protected structures subject to issues in relation to car parking and access, and the scale and density of development on site being satisfactorily addressed. I, therefore, conclude that the use of the protected structure and outbuildings for residential use is acceptable in principle.

### **7.2. Parking and Traffic safety**

- 7.2.1. This is the primary issue raised within the appeal.
- 7.2.2. The appeal site is located within the village centre 50 kilometre per hour speed control zone. The issue of on-site car parking provision was raised as part of the further information request. The proposals provide for no on-site parking to serve the proposed development. The applicants stated that the provision of on-site car

parking would compromise the quality and quantity of amenity space that would be afforded to future residents of the development. The Road Design Section of the Local Authority accepted the argument put forward by the applicants and recommended that a special contribution of €11,000 be conditioned in lieu of the eleven-car parking space shortfall.

7.2.3. There is on-street parking available along Chapel Street and within the Village Square area. I acknowledge that the provision of some level of on-site car parking would be preferable. However, I also note that the laneway access to the rear part of the site where car parking could potentially be available is narrow and is shared with the adjoining property to the north. Two cars could not pass simultaneously given the laneway width, and, therefore the opening of the rear of the property for the purpose of car parking would create a greater traffic hazard than if the on-street car parking option is utilised.

7.2.4. I note the special site-specific circumstances that apply in this instance. The application is for a change of use of existing structures, and while it represents an intensification of the use of the site, it is not clear to me that the intensification is significant having regard to the size and extent of the property. I further note that this proposal would facilitate historic structures to be maintained in accordance with best practice conservation principles, in terms of keeping a building in use and incorporating best practice conservation measures.

Having regard to the above, I consider that there are extenuating circumstances that apply in this regard, and that granting permission for the apartments and houses would not significantly impact on traffic safety or parking space occupation and would not represent a precedent for other such developments.

7.2.5. In conclusion, I consider that the proposals to charge a levy for the shortfall in on-site car parking provision is the appropriate one in this instance, having regard to traffic safety. Given the location within a settlement centre with many amenities and services within reach on foot or by bicycle and within an area that is served by a public bus service to Kilkenny City four times daily, the parking proposals are considered to be acceptable.

### 7.3. **Design and Layout**

- 7.3.1. The suggestion that the proposals represent overdevelopment must be considered in terms of development management measures, including density, quantity and quality of amenity space, traffic and parking impacts, and impact on residential amenity.
- 7.3.2. The proposed apartments follow the general layout of the pre-existing outbuildings. The overall layout is attractive, albeit constrained somewhat by the historic fabric. I am satisfied that in terms both the amenity that would be afforded to future occupants and impacts on neighbouring residents, that there would be no excessive overlooking or overshadowing of neighbouring properties. The floor areas and the public and private amenity spaces of the proposed residential units meet the standards as set out within Section 3 of the Sustainable Urban Housing, Apartment Guidelines, 2020.
- 7.3.3. In terms of density, the density proposed is six units on a site area of 0.0814 hectares, which amounts to a site density of 74 units per hectare. However, this is a single criterion and must be considered in terms of other qualitative considerations, as set out in the paragraph above. Given that the residential units meet the residential standards as set out with the Apartment Guidelines 2020, and accord with local policy standards and would allow for the re-development of this brownfield site, centrally located within the settlement of Johnstown, the proposals are considered acceptable.
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#### 7.4. **Appropriate Assessment**

The development is located within a village centre and involves the re-use of existing buildings, with a very modest increase in the overall footprint of 13 sq. m. It would be served by connections to the piped water services.

Having regard to these matters, and the modest scale of the development, no Appropriate Assessment issues arise, and I do not consider 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 be granted for the development subject to the conditions set out below.

## 9.0 Reasons and Considerations

It is, subject to the conditions set out below, that the proposed development, comprising the reuse of a long vacant Protected Structure in a prominent location in the centre of Johnstown Village, and within the Johnstown Architectural Conservation Area, and notwithstanding the absence of on-site parking, would be acceptable in terms of traffic safety and convenience and would otherwise be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 28<sup>th</sup> day of October 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 method statement and a schedule of samples of all materials to be used in the internal and external treatment of the development to including plasterwork, joinery, roofing materials, windows and doors shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In order to facilitate the conservation, preservation and/or recording of the architectural heritage of the site.

- 3 Proposals for a development name and numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

- 4 Water supply and 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.

- 5 The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

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

- 6 (a) Site development and building works shall be carried out only between the hours of 0800 to 1900 Monday to Fridays inclusive, between 0800 to 1400 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) Construction of the development shall be managed in accordance with a Construction Traffic Management Plan which shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. This plan shall provide details of intended construction practise, noise management measures and off-site disposal of construction/demolition waste.

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

- 7 The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management

company. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

- 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.

All plantings 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 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.

- 10 The developer shall pay the sum of € 11,000 to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of the shortfall in on-site car parking provision. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this



condition 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.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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Fergal Ó Bric  
Planning Inspectorate

4<sup>th</sup> May 2021