



An
Coimisiún
Pleanála

Inspector's Report ACP-322831-25

Development	Planning permission for amendments to Planning Reference No. 23/60571.
Location	St. John of God Convent, College Road, Kilkenny, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	25/60162
Applicant	Sophia Housing Association
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Conor Gorey (on behalf of St. John of God School Board of Management)
Observers	None
Date of Site Inspection	27 th August 2025
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.428 Ha. and is located on the southern side of College Road (R909), south-west of the centre of Kilkenny.
- 1.2. The appeal site accommodates a three storey, 'T' shaped convent building¹ (a Protected Structure RPS Ref. B23). St. Patricks Catholic Church adjoins the convent building but is not included within the red line boundary of the application/appeal site.
- 1.3. Car parking is accommodated to the front/north and side/west of the convent building.
- 1.4. A garden area is situated to the immediate south of the convent building. Beyond this garden area (south) is a small narrow area within which is a nun's cemetery. The nun's cemetery is partially bound to the north and west by a low wall with a decorative railing atop. The southern boundary of the cemetery is formed by a c. 2 metre high wall separating it from St. John of God National School, which is located to the south of the appeal site, and immediate south of the graveyard.

2.0 Proposed Development

- 2.1. The development description contained in the public notices refers to the proposed development as comprising amendments to PA. Ref. 23/60571, specifically –
 - construction of a set down area adjacent the new entrance road.
 - amendments to Boundary Wall Type 'B'.
 - relocation of apartments bin store to adjacent car parking space no. 26.
 - removal and re-use of an existing sash window and construction of a new fire escape door and footpath at ground level on the north-west elevation.
 - relocation of the existing door and screen in the corridor at ground level.
 - construction of new walls on the ground, first and second floor plans.
 - new fire rated sash windows to the first and second floors.

¹ See page 3 of Architectural Heritage Impact Assessment (AHIA) for detailed description of building. The AHIA states that the convent was vacated in 2019. The applicant's response to the third party appeal notes that the convent building was recently used to accommodate 100 no. Ukrainian refugees.

- relocation of the existing stained-glass window in Apartment No. 03 from the north-east facing elevation to the south-east elevation.
- connection to existing services and all associated site development works.

2.2. The particulars submitted with the planning application and appeal state that the majority of the changes proposed are required in order to comply with TGD Part B². Other changes, i.e. relocation of the existing door and screen in the corridor at ground level, are proposed so as facilitate separate ownership and use.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to GRANT permission on the 23rd of May 2023 subject to 4 no. conditions. The following conditions are relevant.

C2 – links the life of the permission to the original/parent permission, i.e. PA. Ref. 23/60571.

C3 - In lieu of condition 2(e) of PA. Ref. 23/60571³ (i.e. the original/parent permission), the existing pedestrian gate located at the southwest corner shall be removed and access to the school blocked from the site to the school. Full details of the arrangement shall be submitted to and agreed with the Planning Authority.

C4 – stipulates specific requirements in relation to floor boards, fireplaces, windows etc. within the building on foot of the internal report of the Conservation Officer.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report of the Planning Officer noted that, in respect of the submission from St. John of God BOM, that the height of the party wall is to be agreed between the

² Technical Guidance Document B – Fire Safety.

³ Condition 2 (e) of PA. Ref. 23/60571 states that ‘the applicant shall, subject to agreement with the Board of Management of St John of God’s primary school, provide pedestrian connectivity to the school during school hours as outlined in the further information to assist with traffic congestion at the school during drop of/collection times’.

applicant and St. John of God BOM, but that this will require a separate planning application. This recommendation did not form a planning condition.

The report recommends that permission is GRANTED consistent with the Notification of Decision which issued.

3.2.2. Other Technical Reports

Conservation Officer – report recommends specific conditions in relation to the recording of floor boards; retention of fireplaces; re-use of historic building fabric and methodology for the relocation of stained glass window.

Road Design Engineer – report recommends that conditions of PA. Ref. 23/60571 are adhered to, and that there is no objection to amending Condition 2 (e) of PA. Ref. 23/60571, which was originally included to assist with traffic congestion at school drop off/collection times, to allow for agreement between the applicant and Board of Management of St. John of God's National School in relation to pedestrian connectivity/access to the school.

Environment Section – report recommends that conditions of PA. Ref. 23/60571 are adhered to.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

The report of the Planning Officer refers to 1 no. observation having been received in relation to the planning application. The report of the Planning Officer summarises the issues raised in the observation as following;

- existing gate between the school and the application site should be blocked up, or have a door with the school having the only key.
- graveyard access should be maintained.
- boundary wall can scaled at some points, an appropriate wall topping should be conditioned.

4.0 Planning History

Appeal Site:

PA. Ref. 23/60571 – Permission GRANTED for;

- change of use of convent to 14 no. apartments.
- construction of 8 no. semi-detached and terraced dwellings.
- construction of new site boundaries.
- refurbishment of existing timber sliding sash windows and replacement of existing P.V.C windows and doors with new timber sliding sash windows.
- relocation of existing stained-glass windows.
- demolition of the existing single storey extension.
- construction of new smoke vents.
- upgrading of floor ceilings.
- construction of a new internal stairs.
- bin stores.
- construction of steps and ramps to the main entrance and to the side of the existing building.
- demolition of the existing external fire escape stairs.
- additional car parking.
- new pedestrian links in the boundary walls for access to the existing graveyard and replacement of the existing railing surrounding the graveyard wall with new masonry wall.
- new vehicular and pedestrian entrance onto College Road.
- connection to existing services and all associated site development works.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Kilkenny City and County Development Plan 2021-2027 is the relevant development plan. The appeal site is zoned 'Existing Residential' under the Kilkenny City and County Development Plan 2021-2027.

5.1.2. The appeal property is a Protected Structure (RPS Ref. B23).

5.1.3. The appeal site is located within Patrick Street Architectural Conservation Area (ACA).

5.1.4. The appeal site is stated as being located within a Zone of Archaeological Impact⁴.

5.2. Natural Heritage Designations

The appeal site is not located within or close to any European Site, NHA, or pNHA. The closest European Sites are River Barrow and River Nore SAC (Site Code: 002162) and River Nore SPA (Site Code:004233), c. 460 metres north-east of the appeal site.

5.3. EIA Screening

The proposed development is not a class for the purpose of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations, 2001, as amended (or Part V of the 1994 Road Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination for EIA. Refer to Form 1/Appendix 1 of report.

6.0. The Appeal

6.1. Grounds of Appeal

This is a third-party appeal against the decision to grant permission. The grounds for appeal can be summarised as follows;

⁴ As stated in the report of the Planning Officer. This information is not available on the public on-line system.

Height of boundary wall:

- The Planning Officer's report stated that, the increase in the height of the party wall is to be agreed between the applicant and St. John of God School BOM, and will have to be the subject of a separate planning permission. St. John of God School BOM attempted to make contact with the applicant however no response has been received (necessitating this appeal).
- Due to its height, the boundary wall between the school and the development would allow uncontrolled access to school grounds.

Access:

- St. John of God School BOM have concerns in relation to a proposed new access point onto school grounds through the boundary wall leading to an existing graveyard in the convent grounds. St. John of God School BOM does not wish to deny access to the graveyard, however the school does not currently provide this access. Currently, the only access to the graveyard is in the convent grounds where the new development is being proposed. The proposed new access through the boundary wall is of concern as it results in uncertainty around uncontrolled access into the school grounds.

6.2. Applicant Response

The applicant has submitted a response to the third-party appeal submission. The applicant's submission notes;

Re. Extent of Proposal/Background:

- The issues raised by the appellant relating to the existing boundary between the site and the adjacent school are unrelated to the subject of this amendment application, and were dealt with under the parent permission. The issues raised should not therefore be considered.

Re. Wall:

- The existing boundary walls are 1.94 metres high (from the applicant's side). The development plan requires screen walls to be 1.8 metres in height, which the wall exceeds (see *Drawing 200305-03-007, Contextual Elevation - Sheet 03*). The height of the wall was addressed in the original/parent

permission/application. Permission has been granted for the overall development and no works are proposed to this boundary wall.

- The applicant queries the appellant's reference to "intensification of the area." The proposal results in a reduced occupancy on the site, which previously accommodated 100 no. Ukrainian refugees, and when used as a convent housed 30 sisters. The permitted residential density on the site is 48 dpha, which is at the lower end of the density guidelines.
- The concerns raised by the appellant regarding access to school grounds are not justified given that there is an existing low level (c. 0.8 metre high) sliding gate to the side of the access road between the boundary wall and the school (image enclosed in submission). This gate is easily climbed, giving unsecured access by the public to the school grounds. Additionally, the order of the Sisters of St John of God, who are still the current owners of the site, retained a right of way between the school building and the boundary wall when they handed over the school to the current trustees some years ago.
- As part of the permitted development a new wall is to be built to separate the burial grounds from the development and therefore for the bulk of the boundary any resident wishing to access the school grounds by climbing walls, rather than walking a few hundred metres, would have to climb into a graveyard and then climb a second wall to access any part of the school property. For the small section that will remain with only one wall of 1,900mm + there will be considerable passive supervision from the fronts of houses 1 and 2 and the rear of 1,2 and 3.

Re. Proposed New Access Point to the existing graveyard

- The gate shown in the existing boundary wall close to the burial ground is a re-opening of an existing access point which is to allow access to the graveyard for relatives of the deceased sisters, members of the order and for maintenance. This was granted as part of the parent permission i.e. PA. Ref. 23/60571. The retained right-of-way through the school grounds along this boundary currently provides access to 2 vehicular gates on lands retained by the congregation to the west of the convent and a second pedestrian gate connecting to the development site which is now due to be blocked off. It is

intended that the burial grounds will be separated from the rear garden area of the new housing development with a new wall and this reopened gate will facilitate the very occasional access required for relatives and members of the congregation along the right-of-way (see legal maps indicating this 'right-of-way' over the access road and the area to the rear of the school still owned by the congregation.

6.3. Planning Authority Response

None received.

6.4. Observations

None received.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, the applicant's submission in respect of the third party appeal, and having inspected the site, I consider that the main issues for consideration are;

- Accessibility between appeal site and St. John of God NS
- Screening for Appropriate Assessment

7.2. Accessibility between appeal site and St. John of God NS

7.2.1. The crux of the appellant's case, as outlined in their submission to the Board, is that the development which has been permitted on the appeal site would facilitate access to school grounds. The appellant raises two particular concerns, the height of a previously permitted boundary wall (south of the permitted dwellings/north of the existing nun's cemetery) and the provision of a gateway within the boundary wall south of the nun's commentary.

7.2.2. In response, the applicant states that the concerns raised by the appellant are outside the scope of the current application/permission, having been permitted under the original/parent permission, PA. Ref. 23/60571.

- 7.2.3. The development proposed under the current application, and subject to this appeal, entails alterations to the internal and external fabric of the convent building, a set-down area and a bin store and amendments to 'Boundary Wall Type B'⁵. For the purpose of clarity I note that the appeal raises no issues in relation to the former elements of the proposal.
- 7.2.4. From reviewing the drawings submitted with the current planning application (see *Drawing no. 200305-03-003 'Proposed Site Layout Plan and Site Boundaries'*, dated March 2025) I note that Boundary Wall Type B is located to the rear/south of the permitted houses/north of the existing nun's cemetery and extends c. 41 metres. Based on the drawings submitted the changes which are proposed to this wall provide for the positioning of the wall to the rear of/behind the existing low stone wall which has decorative railing atop, as opposed to the construction of the wall on top of the existing stone rubble wall. The AHIA provides the rationale for the proposed changes to Boundary Wall B and states that *'the retention of the existing stone wall without intervention will have a positive impact on the protected curtilage and graveyard, preserving its original features'*. Save for this change, the current proposal does not make any changes to the arrangements in relation the access between the graveyard and school. The development permitted under PA. Ref. 23/60571 provided for 2 no. openings along the southern boundary of the appeal site, i.e. the existing pedestrian gate to the south-west and the new opening (described as *'previous opening in existing wall opened for gated access to the graveyard'*).
- 7.2.5. In the decision of the Planning Authority, which is the subject of this appeal, the Planning Authority attached a condition (i.e. Condition no. 3) requiring that in lieu of condition 2(e) of PA. Ref. 23/60571⁶, that the existing pedestrian gate located at the south-west corner shall be removed, that access to the school be blocked from the site to the school, and that details of this arrangement shall be submitted to the Planning Authority for agreement. This condition appears to stem from the concerns raised by the school and would essentially omit all access between the appeal site

⁵ My emphasis.

⁶ i.e. the applicant shall, subject to agreement with the Board of Management of St John of God's primary school, provide pedestrian connectivity to the school during school hours as outlined in the further information to assist with traffic congestion at the school during drop of/collection times'

and the school. The applicant has submitted details (on OS map submitted in response to appeal submission) indicating a right-of-way at the area between the school and the graveyard within the school. I note that the 2 no. gates would facilitate access to this area, and conversely Condition no. 3 of the Planning Authority's grant of permission would limit access to the nun's cemetery, effectively meaning that the only access would be from the north, through the permitted residential development. I do not share the concerns of the school in relation to the height of the boundary wall, safety/security etc. I note that a 1.8 metre boundary wall was permitted under PA. Ref. 23/60571 along the northern boundary of the nun's cemetery. The southern boundary of the nun's cemetery is also bound by an existing c. 2 metre high stone wall, separating the nun's cemetery from the school. The proposed development seeks only the alter the construction methodology of the permitted wall and does not render the school any more accessible compared to as permitted under PA. Ref. 23/60571. In my opinion the height of the walls are adequate to provide security to both sites and as such I do not recommend that the Commission accede the appellant's request to amend the height of this wall. As discussed above, the proposed development does not alter the access gates between the two sites. Under the parent permission there exists permission for 2 no. gates along the southern site boundary (1 no. existing gate and 1 no. proposed/reopening of a gate). Additionally, there is a right-of-way at this location in favour of the applicant. In my opinion the management of access between both landholdings is a civil issue between both parties.

7.2.6. In summation, with the exception of a minor alteration to the permitted wall north of the nun's cemetery ('Boundary Wall B') the current proposal does not include any alterations affecting access between the appeal site and the school. Condition no. 3 of the Planning Authority's decision omits access in its entirety between the appeal site and the school, the principle of which has been accepted and permitted by virtue of the parent permission. Condition no. 3 of the Planning Authority's decision would effectively limit access to the nun's cemetery, resulting in it only being accessible from the north, which would entail traversing the permitted residential elements of PA. Ref. 23/60571. In my opinion this would not be satisfactory. I do not recommend that the requirements of Condition no. 3 are endorsed by the Commission for the reasons set out above, nor do I recommend that the height of 'Boundary Wall B' is increased.

7.3. Screening for Appropriate Assessment

- 7.3.1. I have considered the proposed development at College Road, Kilkenny, Co. Kilkenny in light of the requirements S177U of the Planning and Development Act, 2000, as amended. The closest European Sites are River Barrow and River Nore SAC (Site Code: 002162) and River Nore SPA (Site Code:004233), c. 460 metres north-east of the appeal site. The proposed development comprises amendments to PA. Ref. 23/60571, including minor alterations to windows and door to comply with Fire Regulations.
- 7.3.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is based on the following;
- The distance from nearest European Site(s) and absence of connectivity between the development site and European Sites.
 - The nature and scale of the proposed development, and location of the proposed development within an existing developed/urban site.
- 7.3.3. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act, 2000) is not required.

8.0. Recommendation

- 8.1. I recommend that planning permission for the proposed development should be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Kilkenny City and County Development Plan 2021-2027, the nature and scale of the proposed development, and the planning history on the site, specifically the development permitted under PA. Ref. 23/60571, it

is considered that, subject to compliance with the conditions set out below, the development as proposed would not seriously injure the amenities of the area or of property in the vicinity, and would not have a significant impact on ecology or on European sites in the vicinity. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission PA. Ref. 23/60571 unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.</p> <p>Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.</p>
3.	<p>The following requirements shall be complied with in full;</p> <p>(a) All new locations for timber floor boards that are to be relocated shall be recorded.</p> <p>(b) All fireplaces shall be left in situ, with flues used for ventilation.</p> <p>(c) Regarding the 'removal of an existing sash window and construction of a new fire escape, door at ground level on the north-west elevation and relocation of the existing door and screen in the corridor at ground level', the applicant shall forward details of the location and reuse of the timber screen on site. A more detailed methodology for same shall be submitted for the written agreement of the Planning Authority prior to commencement of works.</p>

	<p>d) Regarding the 'relocation of the existing stained-glass window in Apartment No. 03 from the north-east facing elevation to the south-east elevation', a methodology for these works shall be submitted to the Planning Authority for its written agreement prior to commencement of works. The methodology shall detail works for the careful removal, protection, transportation and installation of the windows.</p> <p>Reason: To protect the architectural heritage of the site</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Ian Campbell
Senior Planning Inspector

3rd September 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála	ACP-322831-25		
Case Reference			
Proposed Development Summary	Planning permission for amendments to PA. Ref. 23/60571. See paragraph 2.1 of report.		
Development Address	College Road, Kilkenny, Co. Kilkenny		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	X		No further action required. No Screening Required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No		Proposed development is not of a Class.	No Screening Required.

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
No		Proposed development is not of a Class.	No Screening Required.

5. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: Ian Campbell

Date: 3rd September 2025