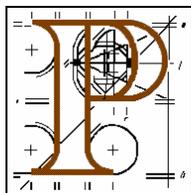


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2013

Kildare County

Planning Register Reference Number: 12/966

An Bord Pleanála Reference Number: PL 09.242489

APPEAL by Gerard Waters of 'Avoca', Maynooth Road, Celbridge, County Kildare, by Clarington Properties Limited trading as Clarington Primary Care care of Hussey Architects of Second Floor, Marine House, Clanwilliam Place, Dublin and by others against the decision made on the 27th day of August, 2013 by Kildare County Council to grant subject to conditions a permission to the said Clarington Properties Limited trading as Clarington Primary Care in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction of a two and three storey Primary Care Centre containing a café, medicines dispensary, convenience retail unit and G.P. Clinic at ground floor level; HSE accommodation at first floor level; HSE accommodation at second floor level; 100 number car parking spaces and 20 number bike parking spaces to the front and rear of the proposed building; external bin store and detached plant room to the rear; two number totem signage columns and all associated site and landscaping works, adjacent to and accessed from the Maynooth Road, Celbridge, County Kildare. The proposed development was revised by further public notice received by the planning authority on the 31st day of July, 2013.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the zoning of the site as set out in the current Kildare County Development Plan, the established character and pattern of development in the vicinity of the site and the high quality of design of the proposed structure it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of adjoining property or the amenities of the area, would not be prejudicial to public health, would be acceptable in terms of its impact on buildings and spaces of architectural and archaeological significance, would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

The Board considered that the existing junction had adequate capacity to cater for the additional traffic movements that would be generated by the proposed development and shared the Applicant/First Party Appellants view that there was no demonstrated need for signalisation of the junction as required by conditions numbers 18, 19 and 20 of the planning authority notification of decision to grant planning permission. The Board considered that the latter mentioned conditions had not been adequately justified by the planning authority and were not necessary in terms of traffic safety and convenience.

In not accepting the Planning Inspector's recommendation to refuse planning permission for the proposed development, the Board considered that the character and amenities of buildings and spaces of architectural and archaeological significance adjacent to the site, including the famine graveyard and the former workhouse, could be adequately safeguarded by the attachment of appropriate conditions relating to landscaping and boundary treatment of the site. In addition, the Board considered that the design response, as modified by additional information submitted to the planning authority, was generally appropriate to the context and setting of the site. Furthermore, the Board considered that the proposed quantum and layout of car parking provision was adequate to serve the needs of the proposed development while also noting the availability of alternative surface car parking in the general vicinity and within walking distance of the site.

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 to the planning authority on the 18th day of July, 2013, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The two number totem signage columns shall be omitted in accordance with drawing number 1221 PLN 109 submitted to the planning authority on the 18th day of July 2013.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. Prior to the occupation of the development, a maintenance agreement shall be set up between the developer and a reputable maintenance company to maintain the surface water attenuation system. Details of this maintenance agreement shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: To ensure a satisfactory standard of servicing of the proposed development and to protect the amenities of adjoining properties.

5. A rainwater harvesting system shall be constructed in accordance with the manufacturer's specification. An overflow pipe shall discharge to the surface water drainage system. This tank shall supply water for sanitary facilities and external garden taps only. Taps shall be clearly labelled 'Not Drinking Water'. All pipework containing rainwater shall be clearly colour coded and labelled to prevent accidental cross connection.

Reason: To promote conservation of water resources and, where possible, effect a reduction in the overall demand for treated water.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

7. Details, including samples, 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 the visual amenities of the area.

8. Prior to commencement of development, a revised landscaping plan, including the following details, shall be submitted to and agreed in writing with the planning authority.
 - (a) The substitution of the proposed poplar trees with a line of semi-mature yew trees along the south-western boundary of the Famine Graveyard.
 - (b) Details of enhanced protection measures around the proposed trees by way of reducing the proposed paved areas.
 - (c) Revised details of the proposed "green wall" shall be submitted, which shall satisfactorily demonstrate that a living structure can be maintained for the entire 12 months of the year.

- (d) All planting shall be carried out and completed within the first planting season. Any planting that fails in the first planting season shall be replaced in the immediately following planting season.
- (e) Other than the requirements at (a), (b), (c) and (d) above the Landscaping and boundary treatment shall be in accordance with the particulars received by the planning authority on the 18th day of July, 2013.

Reason: In order to enhance the setting of the building, to protect the established green buffer and established trees at this location and in the interest of the proper planning and sustainable development of the area.

9. 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.

10. During construction the developer shall provide adequate off carriageway parking facilities for all traffic associated with the proposed development, including delivery and service vehicles/trucks.

Reason: In the interest of traffic safety.

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

12. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

Reason: In the interest of public safety and visual amenity.

13. The proposed flat roof areas shall not be used as a terrace or amenity space area.

Reason: In the interest of visual and residential amenity.

14. (a) There shall be no display of goods or materials or advertising boards on the footpath or roadways adjoining the site and no goods or materials shall be stored or displayed outside the premises or on the windows of the individual windows without the prior written agreement of the planning authority.

(b) No advertisement or advertisement structure shall be erected or displayed on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

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

15. No canopies or roller shutters of any kind shall be erected either internally or externally on these premises without the prior written approval of the planning authority.

Reason: In the interest of the visual amenity of the area/

16. The developer shall submit details of a revised proposal for the surfacing of the proposed car parking area for the written agreement of the planning authority prior to the commencement of development.

Reason: In order to provide for an acceptable surface in the interests of vehicle safety and surface water disposal.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2014.