



KILKENNY COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACTS 2000 (AS AMENDED)

NOTIFICATION OF DECISION TO GRANT

TO: Hansa Properties Ltd
C/- Brian Dunlop Architects
15 Patrick Street
Kilkenny

Planning Register Number: 21/609

Valid Application Received: 16/07/2021

Further Information Received Date: 19/11/2021

In pursuance of the powers conferred upon them by the above-mentioned Acts, Kilkenny County Council has by Order dated 15/12/2021 decided for the reason(s) set out in the First Schedule hereto to **GRANT PERMISSION for development as follows:-**to demolish number 66 Upper Patrick Street, a two-storey end of terrace house, along with a vacant external workshop building & site sheds and to construct 3 No. terraced dwelling houses and 12 No. apartments on the site. The apartment accommodation will include 6 No. one-bedroom units, 5 No. two-bedroom units, and 1 No. three-bedroom unit in two buildings in addition to site access from Corcoran Terrace / Kells Road, on-site car parking and all associated site, ancillary & landscaping works AT 66 Upper Patrick Street Junction of Upper Patrick Street and Corcoran Terrace/Kells Road IN ACCORDANCE WITH THE PLANS, PARTICULARS AND DOCUMENTATION SUBMITTED SUBJECT TO THE 20 NO. CONDITIONS SPECIFIED IN THE SECOND SCHEDULE HERETO, THE REASONS FOR THE IMPOSITION FOR THE SAID CONDITIONS BEING SET OUT IN THE SAID SECOND SCHEDULE.

In deciding the Planning Application the Planning Authority have regard to submissions or observations received in accordance with the Regulations.

Signed on behalf of Kilkenny County Council


for DIRECTOR OF SERVICES

Date: **15/12/2021**

See final page for details of appeal procedures.

Tel no. Planning Section: 056-7794010
Website: www.kilkennycoco.ie

Note: An applicant for permission and any person who made submissions or observations in writing in relation to the planning application to the planning authority in accordance with the permission regulations and on payment of the appropriate fee, may, at any time before the expiration of the appropriate period – “the appropriate period” means the period of four weeks beginning on the day of the decision of the planning authority – appeal to An Bord Pleanala against a decision of a planning authority under Section 34.

AN APPEAL SHALL BE MADE

(a) by sending the appeal by prepaid post to An Bord Pleanala, 64 Marlborough Street, Dublin 1, Tel 01.8588100 or LoCall 1890 275175

(a) by leaving the appeal with an employee of An Bord Pleanala at the offices of the Board during office hours (as determined by the Board) or

(b) by such other means as may be prescribed.

APPEALING A DEVELOPMENT CONTRIBUTION.

(a) Subject to paragraph (b), no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.

(b) An appeal may be brought to the Board where an applicant for permission under Section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.

AN APPEAL SHALL

(a) be made in writing

(a) state the name and address of the appellant and of the person, if any, acting on his or her behalf

(b) state the subject matter of the appeal

(c) state in full the grounds of appeal and the reasons, considerations and arguments on which they are based

(d) in the case of an appeal under Section 37 by a person who made submissions or observations in accordance with the permission regulations, be accompanied by the acknowledgement by the planning authority of receipt of the submissions or observations

(e) be accompanied by such fee (if any) as may be payable in respect of such appeal in accordance with Section 144 and

(f) be made within the period specified for making the appeal.

FEES FOR APPEAL

(a)	Appeals against decisions of Planning Authorities	
	Appeal	
	(i) 1st party appeal relating to commercial development where the application included the retention of development	€4,500 or €9,000 if an EIS or NIS involved
	(ii) 1st party appeal relating to commercial development (no retention element in application)	€1,500 or €3,000 if EIS or NIS involved
	(iii) 1st party appeal non-commercial development where the application included the retention of development	€660
	(iv) 1st party appeal solely against contribution conditions (s) – (2000 Act section 48 or 49)	€220
	(v) Appeal following grant of leave to appeal	€110
	(vi) An appeal other than referred to in (i) to (v) above	€220
(b)	Referral	€220
(c)	Reduced fee for appeal or referral (applies to certain specified bodies)	€110
(d)	Application for leave to appeal (section 37(6)(a) of 2000 Act)	€110
(e)	Making submission or observation (specified bodies exempt)	€50
(f)	Request for oral hearing under section 134 of 2000 Act	€50
Note: The above fee levels for planning appeals and referrals remain unchanged from those already in force since 2007 (but note the addition of NIS in (i) and (ii) above)		

ORAL HEARINGS

The Board may, in its absolute discretion, hold an oral hearing of an appeal. A party to an appeal may request an oral hearing of the appeal. A request for an oral hearing of an appeal shall be made in writing to the Board and shall be accompanied by such fee (if any) as may be payable in respect of the request in accordance with Section 144. A request for an oral hearing of an appeal which is not accompanied by such fee (if any) as may be payable in respect of the request shall not be considered by the Board.

A request by an appellant for an oral hearing of an appeal under Section 37 shall be made within the appropriate period referred to in that section (the period of four weeks beginning on the day of the decision of the Planning Authority) and any request received by the Board after the expiration of that period shall not be considered by the Board. A request by a party to an appeal other than the appellant for an oral hearing of an appeal shall be made within the period referred to in Section 129(2)(a) (within a period of 4 weeks beginning on the day on which a copy of the appeal is sent to that party by the Board) within which the party may make submissions or observations to the Board in relation to the appeal, and any such request received by the Board after the expiration of that period shall not be considered by the Board.

Further details are available on the Board’s website – www.pleanala.ie

FIRST SCHEDULE
REASONS & CONSIDERATIONS FOR DECISION ON PLANNING REF. P21/609

Having regard to the provisions of the Kilkenny City and County Development Plan 2021-2027, to the 'Existing Residential' zoning objective pertaining to the site and to the location and design of the development, it is considered that the proposed development, subject to compliance with attached planning conditions, would not seriously injure the residential or visual amenities of this area, would not adversely affect the character of the area and would therefore be in accordance with the proper planning and sustainable development of the area.

SECOND SCHEDULE
20 NO. CONDITIONS ATTACHED TO PLANNING REF. P21/609

1. The development shall be carried out and completed strictly in accordance with:
 - a) the conditions of this permission.
 - b) the documents lodged with this application on 16th July, 2021 and the further information lodged on 19th November, 2021, except as otherwise required by the conditions of this permission.
 - c) this permission is for 3 no. houses and 12 no. apartments.

Reason: To ensure that the development strictly accords with the permission and to ensure that effective control is maintained.

2. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in Kilkenny County Council's administrative area that is provided or intended to be provided by or on behalf of the Local Authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Acts 2000-2021.

The amount of the financial contribution shall be paid upon commencement of development, with the amount of the contribution being the rate of contribution in existence on commencement of development. In accordance with the current scheme the amount of the contribution is calculated at €29,300.00 (Twenty nine thousand, three hundred Euro), however this amount may be recalculated in accordance with any newly adopted Development Contribution Scheme that may supercede the current scheme prior to commencement of development. Any applicable amount is subject to revision with reference to the Wholesale Price Index and to penalty interest in accordance with the terms of Kilkenny County Council's Development Contribution Scheme.

Reason: It is a requirement of the Planning and Development Acts 2000-2021 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.

3.
 - a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the Planning Authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
 - b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the Planning Authority that it has it

has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

c) The determination of the Planning Authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the Planning Authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

4. Prior to commencement of development, the applicant/developer shall enter into an agreement with the Planning Authority in accordance with the provisions of Part V of the Planning & Development Acts 2000-2021 and the Kilkenny City & County Housing Strategy.

Reason: To ensure the applicant/developer complies with the requirements of Part V of the Planning and Development Acts 2000-2021 and in the interest of proper planning and development.

5. **Prior to commencement of development**, the developer shall lodge with Kilkenny County Council a cash deposit, a bond of an insurance company, or other security in relation to the housing development, to secure the provision and satisfactory completion and maintenance until taken in charge by the Council of roads, footpaths, water-mains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the Council to apply such security or part thereof for the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be subject to the agreement of the Planning Authority.

The amount of the bond shall be reviewed at not greater than 3 year intervals and increased /decreased in accordance with the Wholesale Price Index – Building and Construction, Capital Goods Price Indices, the base period being the base applicable at the time of this permission.

Reason: To ensure the satisfactory completion of the development.

6. The developer shall set up a Management Company to provide for the long term operation, maintenance, administration and management of the apartment blocks and associated waste storage areas within this scheme. Full details of this arrangement shall be submitted to the Planning Authority for approval prior to any apartment unit being sold or occupied. Any changes in ownership of the overall site or of any individual unit which is part of the Management Company shall be notified to the Planning Authority.

Reason: To ensure adequate maintenance and administration of the overall development.

7. (a) **Prior to the commencement of any works on site**, the developer shall prepare a Waste Management Plan which shall provide for the segregation of all construction and demolition wastes into recyclable, biodegradable and residual wastes. The plan shall be prepared in accordance with the Department of the Environment, Heritage and Local Government's *Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects*. All operations at the site shall be managed and programmed in such a manner so as to minimise waste production and maximise recycling. The plan shall also deal with any litter arising during the construction phase of the development. Wastes sent off site for recovery or disposal shall only be conveyed by an authorised waste contractor and

transported from the proposed development site to an authorised site of recovery/disposal in a manner which will not adversely affect the environment. All employees shall be made aware of the obligations under the plan. The plan shall be available for inspection at the site of the proposed development at all reasonable times for examination by any officer of the local authority.

(b) The developer shall ensure sufficient space is set aside both internally and externally within the proposed development to allow occupants to segregate wastes into recyclable, biodegradable and residual wastes – i.e. 3 bin system.

Reason: To provide for the recovery/disposal of waste and the protection of the environment.

8. During the demolition and construction phase all tank and drum areas shall be rendered impervious to the materials stored therein. In addition, tank and drum storage areas shall be bunded either locally or remotely to a volume not less than 110% of the capacity of the largest tank or drum within the bunded area. Drainage from the bunded area shall be diverted for collection and safe disposal.

Reason: In the interests of protection of the environment.

9. During the demolition and construction phase the developer shall ensure that all operations on site are carried out in a manner such that noise, air emissions and/or odours do not result in significant impairment of, or significant interference with, amenities or the environment beyond the site.

Reason: In the interest of public health and for the protection of the environment.

10. Prior to the commencement of development an Environmental Construction Management Plan shall be submitted and agreed with the planning authority. The plan shall at a minimum address working hours, fuel storage arrangements, surplus material/waste management including disposal of construction/demolition waste, mitigation measures for noise emissions, air emissions and odour emissions, litter, road cleaning of access/egress routes to/from site, foul and surface water discharges and any other matters particular to the proposed development such as to minimise potential nuisance or significant interference with amenities or the environment beyond the site boundary.

Reason: In the interests of protection of the amenity and the environment.

11. Where the applicant proposes to connect directly or indirectly to a public water / wastewater network operated by Irish Water, the applicant must sign a connection agreement with Irish Water **prior to the commencement of the development** and adhere to the standards and conditions set out in that agreement.

Reason: In the interest of public health and orderly and sustainable development.

12. (a) **Prior** to the occupation of the development, the developer shall submit a copy of *as built* surface and foul sewers in the development. In addition, the developer shall submit results of foul and surface sewer surveys demonstrating no mis-connections between the two systems.
(b) Clean surface water only shall be discharged to the surface water drainage system.

(c) Domestic type effluent shall only be discharged to the foul drainage system. There shall be no discharge of any effluent which is chemically or biologically dissimilar to that of normal domestic effluent.

(d) All soakaways to be designed and installed in accordance with BRE Digest 365.

Reason: In the interests of public health and for the protection of the environment.

13. All E.S.B., telecommunications and other public services to the proposed development shall be located underground throughout the site and associated cabling/wiring shall not be laid across the facades of the building.

Reason: In the interests of visual amenity.

14. Site construction working hours shall be confined to between 0800 hours and 1800 hours on Monday to Friday and 0800 hours to 1500 hours on Saturdays. No on-site works are permitted on Sundays or Public Holidays without the prior written agreement of the Planning Authority. Internal work may proceed between 1900 hours and 2100 hours on Monday to Friday inclusive.

Reason: In the interest of protecting residential amenity

15. No traffic or materials associated with this proposed development shall be permitted to be stored beyond the site curtilage for this development at any stage during construction.

Reason: In the interests of pedestrian and traffic safety and to protect adjoining properties.

16. In the event of an application by the developer that this development is taken in charge by the Local Authority, the "Taking in Charge Protocol" as operated by Kilkenny County Council shall apply.

Reason: To ensure the development is satisfactorily completed.

17. (a) The applicant shall provide the visibility splay indicated on the drawings submitted on 19th November, 2021, at the junction of the Kells Road and Upper Patrick Street and ensure that the visibility splay is maintained free of obstructions. The visibility splay at the entrance to the development, entrance layout works and on-street parking modification shall be agreed with the Municipal District Office prior to commencement of any development works on this site.
(b) The applicant shall agree the entrance detail and layout with the Municipal District Office to ensure priority is provided to pedestrian and cyclists, prior to any works commencing on this site. The presence of the access shall be clearly defined and the construction material types and roadmarkings/signage, kerbing and buildouts shall be identified and agreed also. Existing drainage shall not be adversely impacted by the proposed works.
(c) The applicant shall agree on site with the Municipal District Office the reinstatement and finishing works to the footpath and public space along the development boundary frontage.
(d) Lighting shall have energy efficient LED technology and capable to be adapted for use with a central management system (CMS –with 7pin NEMA sockets) or equivalent. The lantern specification shall be agreed with Kilkenny County Council with the agreed lantern type to be registered on the SEAI Triple E register. The lighting design shall be in accordance with the guidance provided in the draft Kilkenny County Council Public Lighting Manual and Product Specification 2021.
(e) A Stage 3 Road Safety Audit shall be carried out of the completed development, including the entrance and works to the Kells Road and Upper Patrick Street and recommendations or additional works arising from the Audit shall be incorporated in the proposed development and funded by the developer.
(f) The applicant shall provide EV charging facilities within the proposed development.

Reason: In the interests of public and traffic safety and orderly and sustainable development.

18. Prior to commencement of development on this site, detailed proposals for the naming and numbering and associated signage location within the estate shall be submitted to the Planning

Authority for written agreement. Complete details (including design, size, configuration, specification, location, etc.) of the signage shall be submitted to and agreed with the Planning Authority prior to being erected.

Reason: In the interests of visual amenity and orderly development.

19. (a) Landscaping details for this site shall be submitted for the written agreement of the Planning Authority, prior to any development commencing on this site.

Reason: In the interests of ensuring that the landscaping plan and boundary treatment is satisfactorily executed.

20. Details of all external finishes, including that of screening on balconies and wall / roof finishes throughout this development shall be as per details submitted to the Planning Authority on 16th July, 2021, as amended by details submitted on 19th November, 2021.

Reason: In the interests of visual amenity and orderly development.

FOOTNOTES

Section 34 (13) of the Local Government (Planning & Development) Acts 2000 - 2021, reads

"A person shall not be entitled solely by reason of a Permission or Approval under this Section to carry out any development."

This is referred to in the context of the need to avoid infringing in any way the rights of the adjoining property owners.

If there is no appeal against the said decision, a Final Grant of PERMISSION will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanala. (See attached).

It should be noted that until the Final Grant of Permission has been issued the development in question is NOT AUTHORISED.

Please note that the Site Notice shall be removed by the Applicant following the notification of the Planning Authority decision under Article 31.

All units must comply with part M of the 2010 Building Regulations in terms of universal access.

A road opening licence shall be required in respect of all works affecting the public road or footpath

Applicants are advised to consult with the Chief Fire Officer with regard to the fire safety of this development.

It should be clearly noted that Kilkenny Fire Service strongly recommends that there should be at least one smoke

2015 - 2017 DEVELOPMENT CONTRIBUTION SCHEME - CALCULATION SHEET

CLASS	Revenue Codes	Description of Development	UNIT	FILE NUMBER		P.21-609		% Of Reduction	Comments
				Area	Rate of Charge	Cost	Exemptions / Reductions		
1	PRES1	Residential Development where Rural Housing Policy applies:							
		Area of House less than 125m ²	M ²	€	15.00	€ 0.00			
		Area of House between 126m ² and 200m ²	M ²	€	18.00	€ 0.00			
		Area of House between 201m ² and 275m ²	M ²	€	20.00	€ 0.00			
		Area of House between 276m ² and 300m ²	M ²	€	22.50	€ 0.00			
		Area of House greater than 301m ²	M ²	€	25.00	€ 0.00			
2	PRESS	Urban Residential Development	M ²	€	25.00	€ 29,300.00			15 no. residential units 1,072m ² = €26,800.00
3	PRES	Domestic garage/Fuel store/Garden shed > 25m ²	M ²	€	15.00	€ 0.00			common area - 100m ² = €2,500.00 Block A (€1500) Block B (€500) & Block c (€500)
4	PCOMIND5	Non Residential Development including open storage yards	M ²	€	25.00	€ 0.00			See breakdown sheet for calculation
5	PCARPK12	Mobility Management - Shortfall in car parking spaces > 5 spaces	per space	€	1,000.00	€ 0.00			Date Stamp 16/07/2021
6	PAGRI10	Agricultural development excluding horticultural development - €6 per m ² > 500 m ² of development area	M ²	€	6.00	€ 0.00			Demolition not deducted as no dimensioned drawings with application
7	PAGRI11	Horticultural Development	M ²	€	6.00	€ 0.00			
8	PFORST13	Initial afforestation : €600/ha. of site area > 50 ha.(first 50ha.exempt) Replace.Afforestation etc. : €600/ha.of site area > 10ha.(first 10 ha.exempt)	Ha.	€	600.00	€ 0.00			
9	PQUARY14	Quarries/Extractive industry in addition to any buildings	0.1 Ha	€	2,000.00	€ 0.00			
10	PWST001	Deposit of Refuse or Waste	0.1 Ha	€	1,500.00	€ 0.00			
11	PLAND1	Landfilling/Raising of Sites (inert material) other than for Agricultural Reclamation	0.1 Ha	€	1,000.00	€ 0.00			
12	PSTORE15	The provision on, in, over or under land of plant and machinery or of tanks or other structures (other than buildings) for storage purposes	M ²	€	15.00	€ 0.00			
13	PGOLF16	Land (excluding structures) for outdoor recreational use - minimum charge of €500 will apply	Ha.	€	500.00	€ 0.00			
14	PWIND17	Renewable Energy Development > 0.1MW (less than 0.1MW is exempt)	per MW	€	10,000.00	€ 0.00			
15	PMAST18	Communication Masts	per Mast	€	10,000.00	€ 0.00			
16	PMAST19	Other Non Communication Equipment	per structure	€	1,000.00	€ 0.00			
17	POTHER19	Development not coming within any of the foregoing classes	M ²	€	25.00	€ 0.00			
						€ 29,300.00			

Technician _____ Date 20_/07_/2021

As adopted by KKC members 20.04.2015 and revision adopted by KKC members on 20.06.16

