



## COMHAIRLE CHONTAE CHILL CHAINNIGH

### KILKENNY COUNTY COUNCIL

#### CHIEF EXECUTIVE'S REPORT

**Ref:** P.19/465

**DATE:** 14<sup>th</sup> October, 2019

**Re:** Material Contravention  
of Kilkenny City and Environs Development Plan 2014-2020  
Planning Reference No. in Planning Register : P.19/465

**Applicant:** Fr. Dermot Ryan – St. Kieran's College Trustees  
c/o Bluett & O'Donoghue Architects, 2 John Street, Kilkenny.

A Chara,

Planning Application P.19/465 relates to development which would comprise a temporary change of use of part of the front range of St Kieran's College to office use; Fitting of fire rated partition and door on second floor corridor; All associated works. The property is included in the Record of Protected Structures, Ref. B24

This proposal involves a material change of use and if granted, would MATERIALLY CONTRAVENE the Kilkenny City and Environs Development Plan 2014-2020.

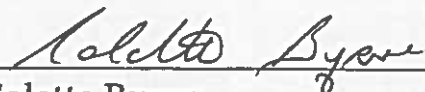
The development, as set out on plans and particulars, is considered acceptable (as recommended in the attached Planner's Report of 14<sup>th</sup> October, 2019 and is consistent with the principles of the proper planning and sustainable development of the area.

It is therefore recommended that the proposed development should be granted as a MATERIAL CONTRAVENTION of the Kilkenny City and Environs Development Plan 2014-2020.

This report is for the consideration of the Elected Members of Kilkenny County Council at its meeting to be held on 21<sup>st</sup> October, 2019. Section 34(6) of the Planning

and Development Act (as amended) provides for a Resolution requiring that a decision to grant permission be made. Such Resolution is achievable whereby at least 18 Members of the 24 Member Council vote in favour of the Resolution.

SIGNED:

  
\_\_\_\_\_

Colette Byrne  
Chief Executive



**Ref:** P.19/465

14<sup>th</sup> October, 2019

**To:** The Cathaoirleach, and  
Each Member of Kilkenny County Council

**Re:** Material Contravention  
of Kilkenny City and Environs Development Plan 2014-2020  
Planning Reference No. in Planning Register : P.19/465

**Applicant:** Fr. Dermot Ryan - St. Kieran's College Trustees  
c/o Bluett & O'Donoghue Architects, 2 John Street, Kilkenny.

A Chara,

I enclose copy of Chief Executive's report in relation to proposed Material Contravention of Kilkenny City and Environs Development Plan 2014-2020 for consideration by the Members of Kilkenny County Council. The matter will be listed for consideration at the March meeting of the Council to be held on Monday 21<sup>st</sup> October, 2019.

**Should the Council decide to pass a Resolution it shall be necessary that the number of the members of the Planning Authority voting in favour of the Resolution is not less than three quarters of the total number of the Members of the Planning Authority or where the number so obtained is not a whole number, the whole number next below the number so obtained shall be sufficient.**

Mise, le meas

Sean McKeown,  
Director of Services  
Planning

**Comhairle Chontae Chill Chainnigh**  
**Kilkenny County Council**  
**Planning Report**



**Planning & Development Act, 2000 - 2018**  
**Planning & Development Regulations, 2001 - 2019**

**Applicant:** Fr. Dermot Ryan, St. Kieran's College Trustees

**Planning Ref:** P19/465

**Development:** Permission for temporary change of use of part of the front range of St Kieran's College to office use and all associated works. Kilkenny.

**Description of Proposed Development**

This application is by the trustees of this college, seeking a 5 year temporary permission to change the use of part of the front section of the college to office use including associated site works. The property is included in the Record of Protected Structures Ref B24 and due to such an Architectural Heritage Impact Assessment is submitted with this application.

The purpose of this space is for use by Lighthouse Studios Limited to allow them grow in this building, which they are already temporarily housed under P.17/863.

The building is served by a connection to both public water and public sewer.

**Zoning**

The site is within a 'Community Facilities' zoning, which has an objective to protect, provide and improve community facilities. Offices are not a permitted use within this building.

**Site History**

**P.17/863** – Permission granted for a temporary change of use of part of the front range of St Kieran's College to office use and all associated works.

**P.17/580** – Permission granted for alterations to existing lift including; enlarging of lift shaft to facilitate a new lift car assembly, adjustment to existing lift shaft at roof line; adjustment to corridors and room layouts adjacent to the lift shaft to facilitate the works and all associated works at St. Kieran's College.

**P.08/044** – Permission granted for the construction of pitched roof to 1979 classroom block and ancillary related works at St. Kieran's College.

**P.07/120** - Permission granted for upgrading of existing playing field, associated fencing, paths, upgrading of flood-lighting and ancillary related works at St. Kieran's College.

**P.05/144** - Permission granted for development to consist of alterations to existing 33 bedroom two storey residential unit to form 3 no. one bedroom and 1 no. two bedroom sheltered residential apartment units at ground floor level, provision of lift, upgrading/adjustment of first floor bedroom accommodation to provide 8 no. bedrooms with en suites and 9 no. bedrooms without en suites, upgrading shared toilet/shower facilities, layout and elevational alterations and ancillary related works.

**P.05/65** – Permission granted for three no. pole mounted sports netting units and flood lighting to be located in playing fields at St. Kieran's College.

**P.04/11** – Permission granted for alterations to layout and upgrading of existing single storey toilet block, replacement of windows, forming two access doors and ancillary related works.

**P.02/144** - Planning permission ref P.47/01 refers to 2 no. temporary toilet units and ancillary related works at St Kieran's College. Take note that planning permission is now sought to extend the period of permission for the 2 no. temporary toilet units and ancillary related works for two years up to and including the 31st December 2004.

**P.01/47** - Permission granted for 2 no. temporary toilet units and ancillary related works at St. Kieran's College.

**P.99/100** - New entrance lobby, elevational alterations and ancillary related works to existing.

### **Departmental Reports**

**Roads** - No objections to this proposal.

**Irish Water** - No objections subject to conditions.

**Conservation officer** - No objections subject to conditions

**Area Engineer** - No report received to date.

**Department of Arts, Heritage, Regional, Rural and Gaeltacht affairs** - No received report to date.

### **Third Party Submissions**

None received within the 5 week statutory period.

### **Heritage**

**Protected Structure** - St. Kieran's College is a protected structure, reference B24 in the Kilkenny City and Environs Development Plan 2014 - 2020. It is also listed on the NIAH, National Inventory of Architectural Heritage.

**Architectural Conservation Area** - The site falls within the Patrick Street Architectural Conservation Area.

**Recorded Monument** - None on site.

**Archaeological Impact Area** - The site falls within the zone of archaeological impact within Kilkenny city.

**S.A.C.** - The site is a significant distance from any watercourse, thus there are no anticipated impacts from this proposed temporary of use on any SAC in the vicinity, as per the Appropriate Assessment Screening Report carried out in relation to this application.

### **EIA Conclusion**

A preliminary examination of the nature, size and location of the proposed development has been carried out which determines that there is no real likelihood of significant effects on the environment arising from the proposed development. It is therefore concluded that an EIAR is not required.

### **Development Contributions**

Class 4 - Non-residential development - Change of use from education use to temporary office use.

However, it is considered that the change of use does not lead to the need for new or upgraded infrastructure / services, therefore no development contributions should be applied in this case.

### **Assessment**

This application is on behalf St Kieran's College seeking temporary change of use of educational facilities to offices on a 0.07 hectare site with a cumulative area of 2,235m<sup>2</sup>. This area is made of sections of the existing building from the basement and on each floor, up to the second floor level.

In relation to the change of use, no material changes are proposed to the existing room sizes and no structural alterations are proposed to rooms within the building. This application is specifically for a change of use application for a temporary period. Once the temporary office use ceases, the rooms will revert back to educational use.

Existing fire alarm system, electrical cabling and data are being upgraded, but the conservation officer requests that all such works do not impact on the fabric of the building and are overseen by a Conservation Architect.

One existing rooflight will be upgraded to facilitate the provision of an automated smoke ventilation to the stairs and again this should be overseen by a qualified conservation person. There are also adjustments of the second floor doorway and associated fire rated partition to ensure compliance with Fire Safety regulations, again these have all been addressed in the AIHA submitted with this application and works will be required to be supervised by a conservation person.

The Conservation Officer has no objection in principle, subject to conditions.

In relation to car parking the proposed use is replacing the college use which is already on site, with a proposed use which is temporary in nature and of a limited duration.

There are significant levels of car parking in the immediate vicinity of St Kieran's and the Roads Design office have no issues with the use proposed from a traffic or parking perspective. The Planning Authority will attach a condition requiring a limited number of parking spaces on site to be agreed for this use, in order to protect the setting of the protected structure.

### **Material Contravention**

Following assessment of this application, considering that there are no structural changes proposed to this protected building and that the change of use to office is for a temporary period, as well as the change of use being of economic benefit to the city, a material contravention could be recommended.

In accordance with Section 34(6) of the Planning and Development Act 2000 – 2018, a notice was published with regards the proposed material contravention on September 6<sup>th</sup>, 2019. A four week period was allowed for submissions or observations, to be received by the Planning Authority by Thursday 3<sup>rd</sup> October, 2019.

No submissions were received during this 4 week period.

### **Recommendation**

Having regard to the temporary nature of the proposed change of use, the facilitation of committed employment creation and to the economic benefits to the City & County, the configuration and layout of the existing St Kieran's and the historical uses on the site it is considered that the proposed development would accord with the proper planning and sustainable development of the area.

This therefore provides the justification to recommend a grant of permission subject to conditions as attached and the requirements of the Material Contravention procedure.



Arlene O'Connor  
Senior Executive Planner

Date: 14/10/2019

I agree with the above recommendation



Denis Malone,  
Senior Planner

Date: 14/10/2019

### First Schedule

#### Reasons & Considerations for Decision on Planning Ref. P.19.465

Having regard to the policies and objectives of the Kilkenny City & Environs Development Plan 2014-2020, to the location and design of the proposed development, the temporary nature of the application, the facilitation of committed employment creation and to the economic benefits to Kilkenny City & County, it is considered that the proposed development would not seriously injure the amenities of the area and if carried out in accordance with the attached conditions the proposed development would accord with the proper planning and sustainable development of the area.

### Second Schedule

#### 5 No. Conditions attached to Planning Ref. P.19.465

1. The development shall be carried out and completed strictly in accordance with:
  - i) the conditions of this permission.
  - ii) the documents lodged with this application on 5<sup>th</sup> July 2019 except as otherwise required by the conditions of this permission.

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

2. The premises the subject of this permission shall be occupied only by Lighthouse Studios Limited and/or its associated companies as identified in the application documents submitted.

**Reason :** To clarify the extent of the permission and to ensure the long term protection of the existing educational use on the site.

3. Prior to the occupation of the premises for office use full details of any signage shall be agreed in writing with the Planning Authority.

**Reason :** In the interests of visual amenity and to protect the integrity of the protected structure.

4. The change of use shall enure for a period of three (3) years only from the date of commencement of development. The office use including any ancillary signage and temporary car parking shall cease and be removed at the end of the three (3) years.

**Reason :** To define and clarify the extent of the office permitted.

5.
  - (a) All works shall be supervised and signed off upon completion by a Conservation Architect Grade 1.
  - (b) All new services shall be surface mounted and plans for such works by a mechanical and electrical contractor experienced in service upgrades in historic buildings, shall be submitted to the Planning Authority for written agreement, prior to any works commencing on site.
  - (c) The door and associated features as presented in Photograph No. 37 of the Architectural Heritage Impact Assessment submitted to the Planning Authority on 5th July 2019 shall remain in situ.
  - (d) The stage in the theatre shall be retained in-situ, and its levels or architectural finishes shall not be modified in any way, for this temporary use.

**Reason:** In the interest of protecting the architectural heritage of the building.

## **FOOTNOTES**

Section 34 (13) of the Planning & Development Acts, 2000-2018 states:

“ A person shall not be entitled solely by reason of a Permission under this section to carry out any development.”

Developers are obliged to comply with other legislation and to avoid infringement of third party rights.

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 working smoke detector in every domestic premises.

If there is no appeal against this decision, a Final Grant of Permission in accordance with the Decision will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanála. (See attached).

It should be noted that until a Final Grant of Permission has been issued, the development in question is NOT AUTHORISED and works cannot be carried out.

The Applicant is advised that unless the development described above is carried out within five (5) years from the date of Final Grant of Permission, Planning Permission will cease to have effect. (See Section 40 of the Planning and Development Acts 2000-2018

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

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 in that agreement.

In the interest of Public Health and Environmental Sustainability, Irish Water Infrastructure capacity requirements and proposed connections to the Water and Waste Water Infrastructure will be subject to the constraints of the Irish Water Capital Investment Programme.