



**COMHAIRLE CHONTAE CHILL CHAINNIGH**

**KILKENNY COUNTY COUNCIL**

**CHIEF EXECUTIVE'S REPORT**

**Ref:** P.17/863

9<sup>th</sup> April, 2018.

**Re:** Material Contravention  
of Kilkenny City and Environs Development Plan 2014-2020  
Planning Reference No. in Planning Register : P.17/863

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

Planning Application P.17/863 relates to development which would comprise temporary change of use of part of the front range of St Kieran's College to office use and all associated works (the property is included in the Record of Protected Structures Ref B24) at St Kieran's College, College Road, Kilkenny

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 7<sup>th</sup> April, 2018) 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 16<sup>th</sup> April, 2018. 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.17/863

9<sup>th</sup> April, 2018

**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.17/863

**Applicant:** Fr Dermot Ryan St Kieran's College Trustees  
C/o Bluett and 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 April meeting of the Council to be held on Monday 16<sup>th</sup> April, 2018.

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

# ComhairleChontae Chill Chainnigh

## Kilkenny County Council

### Planning Report



**Planning & Development Act, 2000 - 2017**  
**Planning & Development Regulations, 2001 - 2018**

**Planning Ref: P17/863**

**Applicant: Fr. Dermot Ryan, St. Kieran's College Trustees**  
**Subject: Permission for temporary change of use of part of the front range of St Kieran's College to office use and all associated works at St. Kieran's College Road, College Road, Kilkenny.**

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#### **Description of Proposed Development**

The proposed development is for a temporary change of use of part of the front range of St Kieran's College to office use and all associated works.

The property is included in the Record of Protected Structures Ref B24.

#### **Referrals**

- Conservation officer- No objections subject to conditions

#### **Site History**

**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.

### **Third Party Submissions**

None received within the 5 week statutory period.

### **Development Contributions**

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

### **Services proposed**

Water	Public water supply
Wastewater	Public waste water

### **Impact on Natura 2000 site (SAC or SPA):**

A Screening exercise was completed, which showed that no significant impact is likely having regard to the distance of the subject site from any Natura 2000 site.

### **Kilkenny City & Environs Development Plan 2014-2020**

The site is located within the grounds of St Kieran's College. The site is zoned community facilities in City Development Plan.

**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.

### **Assessment**

This application is on behalf St Kieran's College seeking temporary offices of 2,179m<sup>2</sup> from the basement up to the second floor. There are no material changes proposed to the building itself, it is a change of use application for a temporary period.

The Conservation Officer has no objection subject to conditions. This has been incorporated into the planning report.

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

There is significant levels of car parking in the immediate vicinity of St Kieran's. The grounds around St Kieran's are substantial and could accommodate parking if required. The Planning Authority is not insisting on a specified number of spaces but will attached a condition requiring a limited number of parking spaces on site to be agreed in order to protect the setting of the protected structure.

**Material Contravention.**

Following initial assessment of the application it was considered that due to the significant overall economic benefits to the city & county that a material contravention could be recommended.

In accordance with Section 34(6) of the Planning and Development Act notice was published of the proposed material contravention and allowing for submissions to be made within a 4 week period up to the 22<sup>nd</sup> March, 2018.

There were no submissions were received during this period.

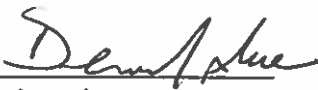
**Recommendation**

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 consider that the proposed development would accord with the proper planning and sustainable development of the area which provides the justification to recommend a grant of permission subject to conditions as attached and the requirements of the Material Contravention procedure.



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Arlene O'Connor  
Senior Executive Planner

I agree with the above recommendation



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Denis Malone,  
Senior Planner

Date 7/April 2018

**First Schedule**

**Reasons & Considerations for Decision on Planning Ref. P.17/863**

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 the 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**

**6 No. Conditions attached to Planning Ref. P.17/863**

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 21<sup>st</sup> December 2017 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. Prior to occupation of the premises for office use a site layout detailing temporary car parking associated with the proposed development with a maximum number of spaces to be agreed with the Planning Authority.

**Reason :** To allow a limited number of car parking for the temporary use while protecting the setting of the protected structure.

5. 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.

6. Full details of the smoke ventilation roof lights or other alternatives shall be agreed with the Planning Authority before occupation of the building.

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

**FOOTNOTES**

Section 34 (13) of the Planning & Development Acts, 2000-2017 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.

“With certain exceptions it is an offence, under the Forestry Act 2014, to fell trees without a felling licence having been granted by the Forest Service. Failure to obtain felling a licence when necessary may result in a criminal prosecution. Developers are advised to contact the Felling Section, Forest Service, Department of Agriculture and Food, Johnstown Castle Estate, Co. Wexford Tel:

(053)9163400 before felling any tree. See

<https://www.agriculture.gov.ie/media/migration/forestry/treefelling/NewTreeFellingRequirementsInformationNote090617.pdf>

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 2000-2017)

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