



Planning and Development Acts 2000 to 2019

Planning Authority: Kildare County Council

Planning Register Reference Number: 19/569.

Appeal by Bilberrylane Limited care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin against the decision made on the 10th day of July, 2019 by Kildare County Council in relation to the application for permission for development comprising: (a) planning permission for the construction of seven number two-storey (four number semi-detached and three number terraced) houses (to be known as numbers 33, 34, 35, 36, 37, 38 and 39 Brookes Mill, Prosperous, County Kildare) along with associated site works and landscaping in lieu of three number un-built detached dormer bungalows (proposed numbers 33, 34 and 35 Brookes Mill, Prosperous, County Kildare) previously granted planning permission (planning register reference number 06/2727), (b) retention is sought for all paths, public lighting and landscaping at the entrance to the Brookes Mill housing estate, on the site of five number shops, four number office units and associated car parking (all unbuilt) previously granted as part of permission, planning register reference number 01/1326) and (c) planning permission is sought for the inclusion of this open space in the overall provision of open space for Brookes Mill Housing estate, all at Brookes Mill Estate, Prosperous, County Kildare in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions a permission for retention of all paths, public lighting and landscaping at the entrance to the Brookes Mill

Housing Estate, on the site of five number shops, four number office units and associated car parking (all unbuilt) previously granted as part of the permission under planning register reference number 01/1326 and permission for the inclusion of this open space in the overall provision of open space for Brookes Mill Housing Estate and to refuse permission for construction of seven number two-storey (four number semi-detached and three number terraced) houses, to be known as numbers 33, 34, 35, 36, 37, 38 and 39 Brookes Mill, Prosperous, County Kildare along with associated site works and landscaping in lieu of three number un-built detached dormer bungalows, proposed numbers 33, 34 and 35 Brookes Mill, Prosperous, County Kildare, previously granted permission under planning register 06/2727).

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 location of the site on town centre zoned lands in the Kildare County Development Plan 2017-2023, to the pattern of development in the area and to the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development and the development for which retention is sought would not seriously injure the residential amenities of the area or of property in the vicinity and would constitute an acceptable form of development at this location. The proposed development and the development for which retention is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out, completed and retained in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to An Bord Pleanála on the 6th day of August, 2019 with the appeal documentation, 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, completed and retained in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission relates to the retention of permission as set out in the statutory planning notices and to the provision of four dwellings only, as shown on Drawing Number 17040 Pa04, 'Proposed Site Plan' as submitted to An Bord Pleanála on the 6th day of August, 2019. The area of open space that was originally intended to accommodate three terraced dwellings, as per the original planning application documentation submitted to the planning authority, shall be levelled and landscaped as public open space, prior to the making available by the developer for occupation, of the four dwellings hereby permitted.

Reason: In the interest of proper planning and sustainable development and residential amenity.

3. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of the physical boundary treatment along all boundaries of the site. Timber fencing shall not be used.

Reason: In the interests of visual and residential amenity.

4. The internal road network serving the proposed development, including the turning area, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works and shall comply with the Design Manual for Urban Roads and Streets in all relevant respects.

Reason: In the interests of amenity and of traffic and pedestrian safety.

5. 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 noise management measures and off-site disposal of construction/demolition waste.

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

6. Proposals for a house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

7. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. The developer shall enter into water and wastewater connection agreements with Irish Water prior to commencement of development.

Reason: In the interest of public health.

9. All of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interest of sustainable transportation.

10. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

11. 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.

Reason: In the interests of visual and residential amenity.

12. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

14. 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 the 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Chris McGarry

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2020.