

An
Bord
Pleanála

Board Order
ABP-309495-21

Planning and Development Acts 2000 to 2020

Planning Authority: Kildare County Council

Planning Register Reference Number: 20/1026

Appeal by Kerpow Limited care of OMS Architects of 63 Mount Street Lower, Dublin against the decision made on the 25th day of January, 2021 by Kildare County Council to refuse permission for the proposed development.

Proposed Development: Change of use from office use (former offices of the Health Service Executive) of Marsville House (a protected structure B19-28) to medical centre. Works to include, construction of a single storey extension of 45 square metres. Conservation repairs to Marsville House consisting of refurbishment and repair and installation of insulation and services and removal of redundant services to the existing buildings to include provision of a new painted timber sash windows to replace PVC, modification of existing door openings, modification of existing external render, removal of existing entrance gates, reinstatement of brick chimney capping and pots to rendered stacks to two-storey section, repair of external out house shed. Repair and internal modifications to existing detached stable/garage building and existing single storey annexe structure including breathable linings and new insulated concrete floors. Repair of existing water pump to rear courtyard. Existing rear courtyard boundary wall to be rebuilt in rendered and capped blockwork along

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with the installation of stone paving in courtyard to the rear and 14 number car parking spaces. The development also includes the construction of 12 number new two-storey three bedroom terraced houses, three number single storey three bedroom houses, and apartment block comprising three number one bedroom apartments and five number two bedroom apartments with rooflights, PV panels and 14 number car parking spaces. The proposed development will be accessed via the location of the existing gateway to Marsville House which is to be widened to 5.8 metres and the existing entrance piers reinstated along with the provision for a new adjacent pedestrian access. The development includes new internal access road, new ESB plinth unit sub-station, open space, landscaping, boundary treatments, part alterations to boundary wall with Eurospar and all associated site and development works, all at Marsville House, (a protected structure) and adjoining lands, bounded to the west by the N7 roadway, to the south by Whitethorn Grove, to the north by adjacent residential dwellings, and to the east by Eurospar and carpark, Main Street, Kill, County Kildare.

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 central location of the subject site and the town centre zoning objective which applies, to the nature, scale and design of the development including the provision of a berm and fence along the site boundary with the N7 national road, to the positioning of the proposed residential units on site and the internal layout of the proposed residential units which seeks to minimise the potential impact of road traffic noise on future residents, and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would ensure a satisfactory standard of amenity for future occupants of the development, would not be prejudicial to public health, and would not have an adverse effect on the character or setting of any protected structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 on the 22nd day of December 2020, 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 proposed development shall be amended as follows; the layout of houses numbers 1, 2 and 3 shall include the replacement of bedroom number 2 in each of these houses by a home office/study and the undertaking of associated revisions to the internal layout and to the fenestration of the houses, as shown on Figure No. 2 and No.3, as set out in the appeal documentation received by An Bord Pleanála on the 19th day of February 2021. Revised drawings showing compliance 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 residential amenity.

3. Details 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 visual amenity.

4. 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.

5. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

6. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall be in accordance with the detailed standards of the planning authority for such works.

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

7. All service cables associated with the proposed development 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.

8. Proposals for an estate/street name, house/apartment 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/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

9. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

10. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

11. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute other than a

matter to which section 96(7) applies may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

12. Site development and building works shall be carried out only between the hours of 0700 to 1800 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 residential amenities of property in the vicinity.

13. 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.



14. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation, and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

15. 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.

16. Prior to the commencement of any house or duplex unit in 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 house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex 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.

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.

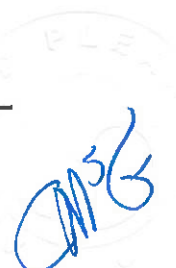
17. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision 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.

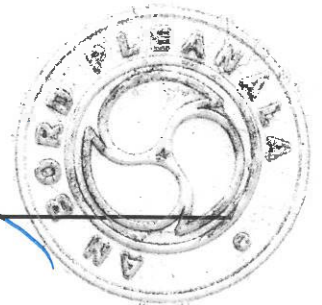
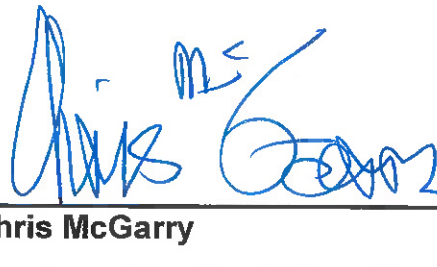
18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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 of the development.

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

A handwritten signature in blue ink is written over a faint circular stamp. The stamp contains the text 'AN BORD PLEANÁLA' around the perimeter. The signature appears to be 'AMG'.

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  2021.