

An
Bord
Pleanála

Board Order ABP-313893-22

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

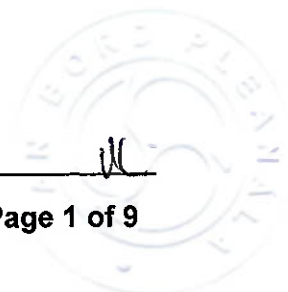
Planning Register Reference Number: 21/1428

Appeal by AMC Properties Limited care of Downey Chartered Town Planners of 29 Merrion Square, Dublin against the decision made on the 27th day of May, 2022 by Kildare County Council to refuse permission.

Proposed Development: Retention and preservation of the existing Villa House (a protected structure) as a private dwelling, construction of 12 number two-storey three-bed dwellings in three terrace blocks, with own parking spaces, boundary treatment, a new vehicular access and sewer connection to the north from Anne Street, a cycle/pedestrian link to the existing Brookes Mill housing estate, landscaping, street lighting and all other ancillary works, all at Villa, Curryhills, Prosperous, County Kildare, as revised by the further public notices received by the planning authority on the 3rd day of May, 2022.

Decision

GRANT permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.



Reasons and Considerations

Having regard to the site's zoning objectives, its location within an existing urban area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable design response to the development of the site, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of built and cultural heritage and traffic and pedestrian safety, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 received by the planning authority on the 13th day of April, 2022, and by the further plans and particulars received by An Bord Pleanála on the 23rd day of June, 2022, 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 proposed 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:
- (a) Block C comprising of the four number units numbered 9, 10, 11 and 12 and the associated road and related works shall be omitted from the proposed development.
 - (b) The Walled Garden shall remain as a private open space to serve the protected structure only.
 - (c) The charred timber cladding proposed on Blocks A and B shall be omitted and replaced with an appropriately coloured brick finish.

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 order to protect the character of the protected structure.

3. Prior to commencement of development, a schedule of all materials to be used in the external treatment of the proposed houses shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

4. The boundary planting and the area of public open space shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with the planning appeal, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter.

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

5. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

6. Proposals for a naming/numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(s) 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 place names for new residential areas.

7. 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 interest of visual and residential amenity.

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

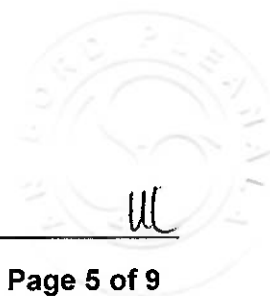
Reason: In the interest of public health.

9. (a) Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services. These arrangements, given the nature and use of the proposed development, shall include appropriate safety measures.
- (b) A Stage 2 Detailed Design Stage Storm Water Audit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate that sustainable urban drainage system measures have been installed and are working, as designed, and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

10. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

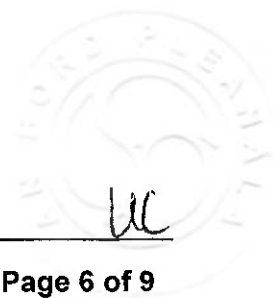


11. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

12. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company or by the planning 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 provide for the satisfactory completion and maintenance of the development.



13. (a) Prior to 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, as amended, 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 whereafter 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 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, and the common good.

14. Prior to commencement of development, the developer 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.

15. 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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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.

16. 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.

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.




Una Crosse

Member of An Bord Pleanála

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

Dated this *19th* day of *February* 2024.