



An
Bord
Pleanála

Board Order

ABP-321594-25

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 23/60501

Appeal by Connor and Jacinta O'Carroll care of Brian Watchorn Architect and Surveyor of 25 Tonlegee Lawns, Athy, County Kildare against the decision made on the 3rd day of December, 2024 by Kildare County Council to grant permission, subject to conditions, to Baidera Properties Limited care of Martin Gittens of 5 William Street, Kilkenny, County Kilkenny for the proposed development.

Proposed Development: Permission for (1) the refurbishment and conversion by subdivision of the existing 'Athy Lodge' main building into four number apartments; (2) the refurbishment and material change of use of existing medical doctors surgery and outbuildings into five number self-contained residential units consisting of (a) two number two-bed townhouses; (b) two number one-bed townhouses; (c) one number studio apartment; (3) the construction of seven number new mews style two-bed houses; (4) the repair and upgrade of the existing vehicular entrance and exit access points to Church Road; (5) the construction of four number two-bed single-storey housing accommodation units which may accommodate elderly/assisted living residents to be accessed from the R417 by way of a new separate vehicular entrance and (6) to carry out all associated site development works and landscaping. 'Athy Lodge' is a protected structure (NIAH reference number - 11505150, Record of Protected Structures reference number - AY110) all at Athy Lodge, Church Road, Athy, 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.

Reasons and Considerations

Having regard to the provisions of the Athy Local Area Plan 2021-2027, the zoning of the site for 'Existing Residential and Infill' development, and the Kildare County Development Plan 2023-2029, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable use for the existing buildings and the proposed design would not detract from the existing Protected Structure or the Athy Architectural Conservation Area. The proposed development would constitute an acceptable quantum and quality of residential development at this location, would not adversely impact on the amenities of surrounding properties or detract from the character, heritage value or visual amenities of the area, and would be acceptable in terms of traffic safety to pedestrians and road users. The proposed development 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 11th day of November 2024, 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 glazing to the south facing (adjacent the boundary wall) upper-level stairwell and secondary bedroom windows in blocks D and E shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

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. Prior to the commencement of development on the Protected Structures and the boundary wall, the developer shall submit for the written agreement of the planning authority confirmation that:

- (a) the development will be monitored by a suitably qualified architect with conservation expertise and accreditation;
- (b) competent site supervision, project management and crafts personnel will be engaged, suitably qualified and experienced in conservation works; and
- (c) a summary report of all the works shall be prepared and submitted by the qualified architect to the planning authority prior to first occupation of any of the units.

Reason: In the interest of the protection of architectural heritage.

4. 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.

5. The mitigation measures contained within the Bat Survey report prepared in August 2024 and submitted on the 11th day of November 2024 shall be implemented.

Reason: In the interest of the protection of bats.

6. 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:

- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) location of areas for construction site offices and staff facilities;
- (c) details of site security fencing and hoardings;
- (d) details of on-site car parking facilities for site workers during the course of construction;
- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) measures to obviate queuing of construction traffic on the adjoining road network;
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains; and
- (n) a record of daily checks that the works are being undertaken in accordance with the Construction Management Plan and shall be available for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety and environmental protection.

7. 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 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.

8. Proposals for a development name and numbering scheme and associated signage and its location shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

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

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

10. Prior to the commencement of development, the developer shall enter into a connection agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

11. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall have regard to the Bat Survey and its recommended measures and shall include lighting along pedestrian routes through open spaces and shall take account of existing trees to be retained. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity, public safety, and nature conservation.

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) located outside buildings or not attached to buildings shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Details of the ducting shall be submitted to and agreed in writing by the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

13. All communal parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with the requirements of the Kildare County Development Plan 2023-2029 in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

14. The internal roads serving the proposed development, including turning bays, junctions, car parking and bicycle parking areas, footpaths, kerbs and finishes/materials shall comply with the detailed standards of the planning authority for such road works, and shall comply, in all respects, with the standards set out in Design Manual for Urban Roads and Streets (DMURS). Details of same shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

15. Details of all upgrade works to the public road network and public footpaths shall be submitted and agreed in writing with the planning authority and the relevant Roads Authority prior to the commencement of development.

Reason: In the interest of proper road infrastructure provision.

16. A comprehensive landscaping and boundary scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:

- (a) Details of all landscaping (hard and soft) along with proposed locations of trees and/or other landscape planting in the development, including details of proposed species and settings.
- (b) Details of boundary treatments at the perimeter of the site.
- (c) Details of a Root Management System to be used where trees are planted, or existing trees are located adjacent to roads and/or footpaths/ shared surfaces.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme. All landscaping works shall be completed, within the first planting season following commencement of development, in accordance with landscape drawings submitted to the planning authority. Any trees and hedging which die, are removed or become seriously damaged or diseased, within a period of two years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

17. (a) The developer shall retain the services of a qualified Arborist for the duration of construction activity and all methods detailed in the Arboricultural Method Statement shall be strictly adhered to.
- (b) All recommendations pertaining to tree retention, tree protection and tree works as detailed in the Arboricultural Method Statement and Tree Protection Plan in the submitted tree report shall be implemented to ensure the protection of trees and hedgerows on the site.
- (c) All tree felling, surgery and remedial works shall be completed prior to the completion of construction works on site.
- (d) All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations.
- (e) The clearance of any vegetation including trees and scrub shall be carried out outside the bird breeding season (1st day of March – 31st day of August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000.

- (f) The Arborist shall carry out a post-construction tree survey and assessment of the condition of the retained trees and hedgerows. A Completion Certificate shall be signed off by the Arborist when all permitted development works are completed and in line with the recommendations of the tree reports and plans. The certificate shall be submitted to the planning authority for written agreement upon completion of construction works on site.

Reason: To ensure satisfactory landscape treatment and in the interests of biodiversity, amenity and tree protection.

18. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot and/or for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and 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.

19. All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company. Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

20. Prior to the commencement of development, the developer or any agent acting on its behalf, 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 the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the 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.

21. 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 for the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for the area

22. 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.

23. (a) Prior to the 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 unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant 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 where after not less than two years from the date of completion of each specified 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 housing units, in which case the planning authority shall confirm in writing to the applicant 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, in the common good.

24. 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.



Declan Moore

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 8th day of MAY 2025