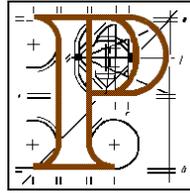


An Bord Pleanála



Inspector's Report

An Bord Pleanála Ref. No.: PL 02.213784

Reg. Ref.: 05/440

Planning Authority: Cavan County Council

Proposed Development: 2 in no. dwellinghouses at Rahardrum, Virginia, County Cavan.

Type of Application: Permission

Planning Authority Decision: Refusal of Permission

Type of Appeal: First Party against Decision

Appellant: Aiden Preston

Site Inspection: 15.11.2005

Inspector: M. Cunneen

1. PROPOSED DEVELOPMENT

30.3.05. Plans, drawings and documentation submitted to the planning authority provide for

- the demolition of existing single-storey dwelling on site and
- its replacement by 2 in no. semi-detached two-storey dwellings each with a stated floor area of 126 square metres, to be constructed on an overall site stated to be 0.056 hectares in area. The ridge height of the dwellings above adjoining ground levels to be 7 metres approximately; rear gardens of 123 and 114 square metres.
- The finished floor level of each dwelling is stated to be 98.79 O.D – approximately 0.5 metres below adjoining ground levels at the north-eastern and north-western boundaries of the site.

It is proposed to service the site by means of public mains water supply and sewerage arrangements.

23.5.05. Additional Information requested by the planning authority; the planning authority requested a revised site layout showing the adjoining dwelling to the north-east of the site, a cross-section through the site showing the proposed dwelling in relation to that existing dwelling to the north-east and finally details of all boundary treatments.

12.7.05. Additional Information response received by the planning authority in the form of a site layout plan and a cross-sectional drawing. The layout plan showed

- a separation distance of 15 metres obtaining between the more northerly semi-detached dwelling and the adjoining bungalow to the north; the retaining wall defining the boundary between the appeal site and the adjoining dwelling to the north is to be retained but to be extended westwards along the entire boundary;
- cross-sectional drawings through the site show that the ridge height of the proposed dwellings exceeds that of the adjoining bungalow to the north by approximately 0.4 metres; however the proposed ridge height will be maintained at the same level as that of the adjoining dormer bungalow to the south.

2. SITE LOCATION

The appeal site lies within approximately 250 metres walking distance of the edge of the town centre of Virginia in a small cul-de-sac which forms a northerly spur off the N3; the N3 runs through Virginia and forms the Main Street in Virginia.

The cul-de-sac is wholly residential in nature and contains a mix of some 18 dwellings ranging from older single storey semi-detached cottages there through to more modern single storey bungalows, detached dormer bungalows and pairs of semi-detached 1½ storey dormer dwellings.

The cul-de-sac rises steeply upwards in a northern direction and is less than 4 metres in width across its hard surface; however it is not difficult to negotiate access along the cul-de-sac as the entrances to the various dwellings act as lay-by facilities.

The appeal site is adjoined to the north-east by the curtilage of a single-storey bungalow, to the north-west by school playing fields, to the south by two detached dormer bungalows sharing a single site and to the south-east by the cul-de-sac.

3. SITE DESCRIPTION

The appeal site comprises the curtilage of a single-storey prefabricated style of structure; given the differential in ground levels between the appeal site and the adjoining bungalow to the north; (between 1.5 and 2 metres) a retaining wall surmounted by railing has been constructed along the common boundary; a Cypress hedge which also defines part of that boundary lies within the appeal site curtilage; the north-western and south-western site boundaries are defined by trees and shrubs. There is vehicular access to the site.

4. PLANNING AUTHORITY DECISION

An objection to the proposed development was received from residents of the adjoining bungalow to the north-east. Grounds of objection refer to overdevelopment of the site resulting in a sub-standard private amenity area and injury to adjoining residential amenities, traffic hazard, potential structural damage to retaining wall between the two properties, obstruction of views and overshadowing.

23.5.05. Additional Information was sought from the applicant by the planning authority requesting details of the relationship between the proposed dwellings and the existing dwelling to the north-east including a cross-section showing existing and proposed ground levels on site and details of boundary treatment.

12.7.05. Additional Information response received by way of plans and drawings.

Permission was ultimately refused however by the planning authority for two reasons –

- traffic hazard – having regard to the additional traffic flows likely to be generated by the proposed development along an inadequate laneway

- serious injury to the residential amenities of the area by reason of undue proximity of the proposed dwellings to existing dwellings.

5. APPELLANT'S SUBMISSION

- 5.1** The site lies within the development area of Virginia Town and is governed by a residential zoning objective; the access road which services the site also services a number of other residential properties including a number of recently constructed dwelling units. There is thus an established pattern of development within the immediate vicinity of the site.
- 5.2** Two previous applications for permission for residential development at the site were refused by the planning authority on the grounds of overdevelopment, failure to meet residential density guidelines in respect of open space and amenity areas, as well as traffic hazard. The proposed development has been amended to counteract those reasons for refusal.
- 5.3** The planning authority in the current case has now refused permission for the proposed development for reasons which were not cited in previous cases despite the fact that the current application and those which were previously submitted differ only marginally and are likely to give rise to the same environmental impacts.
- 5.4** Refusal of permission in the current case is inconsistent with recent applications for development within the immediate vicinity of the site along the cul-de-sac; those developments comprise multiple housing schemes all on restricted plots of similar depth to the appeal site; the appellant refers in particular to a site which lies opposite the appeal site fronting the eastern margin of the cul-de-sac; under Reg. Ref. 04/1916 permission was granted for 2 in no. dwellings at that site.
- 5.5** Re overdevelopment, the density of the proposed development is approximately 35 units per hectare – within guideline standards and is similar to densities for development within the immediate area; while the proposed development lies within 2 metres of the adjoining dwelling to the south there are not any overlooking windows and there is no any diminution of amenity to that adjoining dwelling.
- 5.6** Re traffic hazard, the junction of the cul-de-sac and the public road lies within the restricted urban speed zone for Virginia; the junction is characterised by a footpath and overhead lighting, road signage and virtually unobstructed sight lines; furthermore the proposed development in conjunction with surrounding developments will result in the width of the cul-de-sac being increased by approximately 2 metres thus improving safety levels there; given the low traffic speeds and character of the cul-de-sac two-way traffic circulation is not however a serious problem.

- 5.7 Re injury to the residential amenities of the area, this was not an issue in previous applications for development at the site; however it should be noted that
- the proposed dwelling is gable on to the adjoining property to the north;
 - will be separated from it by a distance of approximately 20 metres;
 - that there will be no overlooking windows;
 - the finished floor level of the proposed development lies 2 metres below the level of the adjoining garden to the north; thus the gable of the proposed dwelling will be effectively single-storey in height only from the front garden of the adjoining dwelling. In regard to the adjoining dwelling to the south, there are not any windows in the northern elevation of that dwelling.
- 5.8 The proposed development is a replacement for an existing dwelling; its impact therefore must be assessed in the context of any additional or aggravated impacts likely to occur over and above those generated by the existing development.
- 5.9 Re trespass on adjoining property as stated by objectors the cul-de-sac is a public road taken in charge by the County Council.
- 5.10 Re potentially adverse impacts on structural and integrity of retaining wall, this is not an issue on which to refuse permission.
- 5.11 Re obstruction of views, again this is not an issue on which to refuse permission.

6. PLANNING AUTHORITY'S OBSERVATIONS ON APPEAL SUBMISSION

- 6.1 Re traffic hazard, the existing cul-de-sac can only accommodate one car at a time and the additional traffic movements generated by the proposed development onto a national primary route could result in a traffic hazard there; additional traffic turning movements at this junction with the National Primary Route are not desirable.
- 6.2 Having regard to the separation distances of the gables of the proposed development from adjoining properties to the north and south – 20 and 3 metres respectively, such separation distances are inadequate having regard to the 22 metre distance recommended by the Residential Density Guidelines; the inadequate separation distances will give rise to obstruction of light and overlooking.

7. DEVELOPMENT PLAN

A town plan for Virginia has been prepared within the framework of the Cavan County Development Plan 2003-2009. The town plan shows the appeal site positioned centrally within the development envelope of Virginia in an area zoned with a residential land use objective. The plan also shows a proposed by-pass for Virginia running well to the north of the cul-de-sac.

8. PLANNING HISTORY

Reg. Ref. 04/1013: Permission refused by the planning authority for a pair of semi-detached dormer style dwellings at the appeal site; the floor area of each dwelling was stated to be 157.38 square metres per dwelling. A single reason for refusal stated that the proposed development “would constitute overdevelopment of a restricted site and would be substandard in terms of residential amenity and private open space.”

Reg. Ref. 04/1947: Permission refused by the planning authority for the demolition of the existing dwelling on-site and its replacement by a pair of semi-detached dormer style dwellings each with a stated floor area of 101 square metres; reasons for refusal were based on:

- Overdevelopment of a restricted site resulting in sub-standard residential amenity, private open space and serious injury to the residential amenities of the area.
- Traffic Hazard, having regard to the additional traffic which the proposed development will be likely to generate on an inadequate access laneway.

9. ASSESSMENT

9.1 I consider that there are two issues here for assessment namely

- whether the proposed development is acceptable in principle and if so
- whether the proposed development is likely to impact adversely on the amenities of the area and of adjoining properties to such an extent as to justify a refusal of permission in the current case.

9.2 In regard to the principle of the proposed development, the appeal site

- lies within an area which is identified in the land use structure map for Virginia as a “residential” area;

- the site inspection indicates that the cul-de-sac which fronts the appeal site is an established residential area containing some 18 dwellings; those include new dwellings in the process of construction (north of the appeal site) and several other dwellings along the cul-de-sac which have only recently been constructed.
- That already residential use at the site has been established by the existing dwelling there.

On that basis therefore I consider that the principle of residential development at the appeal site has been established and is acceptable.

9.3 The objections to the proposed development received by the planning authority and the planning authority's reasons for refusal are essentially based on injury to residential amenity and traffic hazard.

9.4 In regard to residential amenity the separation distances of the gables of the proposed dwellings from adjoining properties would appear to be of concern to both the planning authority and the objectors; I do not share that concern; it is quite clear that in regard to the adjoining dwelling to the north a separation distance of some 14 metres will be provided; I consider that distance to be quite adequate having regard to

- the gable orientation of the proposed dwellings to the adjoining dwelling to the north,
- the absence of any windows in that gable which could give rise to overlooking;
- that if any overlooking were to occur it would be of the public front garden of the adjoining dwelling to the north.

I therefore consider that the proposed development would not result in any diminution of the privacy of the adjoining dwelling to the north.

9.5 In regard to the adjoining dwellings to the south the only window in the gable of the appeal site dwelling is a landing window which although it can be finished in opaque glass will not in itself create any serious overlooking problems for the adjoining property.

9.6 In regard to overshadowing of the adjoining dwelling to the north, I consider that this is unlikely having regard

- to the fact that the ridge height of the proposed dwelling will rise to a height of less than 5 metres above ground levels in the front garden of the adjoining dwelling to the north-east;
- that a reasonable separation distance of 15 metres obtains between the proposed dwelling and the front wall of the dwelling to the north-east and that

- any overshadowing which may occur will be slight, of limited duration and will impact on the front garden of the adjoining dwelling to the north which is not a private amenity area.

9.7 In regard to obstruction of views, this in itself does not form grounds for refusal of permission; without prejudice to that argument however I note that southerly views from the front garden of the adjoining bungalow to the north are obstructed by the roof profiles of other dwellings.

I therefore consider that the grounds of objection received by the planning authority and the consequent refusal by the planning authority in relation to injury to residential amenities cannot be sustained.

9.8 In regard to traffic hazard I do not concur with the planning authority that the proposed development is likely to generate a traffic hazard; I note that

- there are already some 18 dwellings accessed from the cul-de-sac,
- that the net increase of one additional dwelling at the appeal site is unlikely to increase the volume of traffic along the cul-de-sac to such a significant extent as to create a traffic hazard there,
- that although the cul-de-sac is less than 5 metres in width across its hard surface, the vehicular entrances along the cul-de-sac act as lay-by facilities enabling vehicles to meet and pass each other without difficulty,
- that the junction of the cul-de-sac with the main road (N3) lies well within the restricted speed zone for the village and is characterised by adequate sight lines.

9.9 I am therefore unable to concur with the planning authority's reasons for refusal in the current instance and would recommend rather that permission be granted for the proposed development.

9.10 However I do have reservations in regard to the two-storey design of the proposed development which I consider will be visually dominant within the cul-de-sac and out of character with the existing single storey and dormer style dwellings there. I would therefore recommend that were permission to be granted for the proposed development that the overall height of the proposed dwellings be reduced to 1.5 storeys in height and that plans and drawings providing for same shall be submitted for the written agreement of the planning authority prior to the commencement of any development on-site; despite the reduced ridge height which is likely to result from such a revision, I would recommend that finished floor levels on the site remain unaltered from those shown on the Site Layout Plan Drg. No. 04-165-01 received by the planning authority on 12.7.05.

10. CONCLUSION

I consider that the principle of residential development is already well established at the appeal site as well as along the adjoining cul-de-sac and that therefore there can be no objection in principle to the proposed development; neither do I consider should there be any objection to two dwellings at the appeal site as the proposed layout facilitates off-street parking and adequate private amenity areas for each dwelling; given that the proposed development is also unlikely to seriously injure the amenities of surrounding residential development or generate a traffic hazard, I recommend that permission be granted for the proposed development; however I would recommend that the proposed two-storey dwellings be reduced to 1.5 storeys as two-storey dwellings are not characteristic of the cul-de-sac and would, I consider, in the current case be visually obtrusive and unduly dominant within the cul-de-sac. I therefore recommend that although permission be granted for the proposed development revised plans and drawings providing for a maximum 1.5 storey high development incorporating the finished floor levels proposed on the layout plan received by the planning authority on 12.7.05 be submitted for the written agreement of the planning authority prior to commencement of development.

I therefore recommend that permission with attached conditions be granted for the proposed development for the reasons and considerations and in accordance with the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the residential zoning objective for the site as set out in the current Virginia Town Plan, and to the established residential use on site and within the surrounding area, it is considered that the proposed development would not, subject to compliance with conditions set out below seriously injure the amenities of property in the vicinity, nor create a traffic hazard, and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The proposed development shall be carried out in accordance with the plans, drawings and documentation received by the planning authority on the 30th day of March, 2005 and 27th day of April 2005, as amended by additional plans and drawings received by the planning authority on 12th day of July 2005, save as may be required in order to comply with the following conditions.

Reason: In the interest of orderly development and the proper planning and sustainable development of the area.

2. The proposed development shall be reduced to a maximum height of 1.5 storeys; revised plans and drawings providing for same shall be submitted for the written agreement of the planning authority prior to the commencement of development; the finished floor levels for the proposed dwellings shall remain

unaltered from those shown on the layout plan received by the planning authority on the 12th day of July 2005.

Reason: In the interest of visual amenity and to ensure that the proposed development shall respect the character and scale of surrounding development in the cul-de-sac.

3. All on-site water and drainage arrangements including the 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 and to provide a satisfactory standard of development.

4. The existing retaining wall which defines the north-eastern boundary of the site shall be extended along the full length of that boundary; details of any extension, alterations or works to the existing retaining wall shall be submitted for the written agreement of the planning authority prior to the commencement of development.

Reason: In the interest of residential amenity.

5. Prior to the commencement of development the developer shall submit for the written agreement of the planning authority details of proposed boundary treatment including planting for the perimeter of the site; existing planting shall be retained and supplemented where necessary; any supplemental planting shall be of indigenous species.

Reason: In the interest of visual and residential amenities of the area.

6. Prior to commencement of development the applicant shall submit for the written agreement of the planning authority details of all external finishes for the proposed dwellinghouses.

Reason: In the interest of visual amenity.

7. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

8. Screen walls shall be provided along the common boundary which separates the rear gardens of the proposed dwellings; the walls shall be of maximum height 1.8 metres and shall be suitably capped and rendered on both sides.

Reason: In the interest of visual and residential amenities.

9. Prior to the commencement of development the developer shall submit for the written agreement of the planning authority details of proposed entrance arrangements for each site; should front boundary walls be proposed they shall be of minimum height 600 millimetres and shall be suitably capped and rendered on both sides.

Reason: In the interest of visual amenity.

10. 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. 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 the Board to determine the proper application of the terms of the Scheme.

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

Mary Cunneen
Inspectorate

18th January, 2006.

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