



An
Bord
Pleanála

Inspector's Report

ABP-305351-19

Development	Outline permission to construct private dwelling house and associated site works.
Location	Cooltederry Td., Station Road, Portarlinton, Co. Laois.
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	19354
Applicant(s)	Martin and Bernadette Turley.
Type of Application	Outline Planning Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party
Appellant(s)	Martin and Bernadette Turley.
Observer(s)	None.
Date of Site Inspection	6 th March 2020.
Inspector	Susan McHugh

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1.0 Site Location and Description

- 1.1. The appeal site is located to the rear of an existing single storey residential property, along Station Road, L3170, on the southern side of Portarlington, County Laois.
- 1.2. Houses along Station Road are characterised by detached bungalows on large plots.
- 1.3. To the west the site adjoins a cul de sac and front side boundary of a two storey house no. 63, within the Whitefields estate. A row of six single storey bungalows run perpendicular to the north of the cul de sac.
- 1.4. The appeal site forms part of a larger landholding including the existing house known as Bermar, and a section of an overgrown access laneway to the north from which there is also a gated entrance. The L shaped access laneway continues north to the rear of the single storey bungalows along Station Road to the east and within the Whitefields estate to the west
- 1.5. Boundaries to the sides and rear of the existing rear garden are defined by mature hedging. To the east the site is undefined but bounds the rear garden of the existing house.
- 1.6. The appeal site has a stated area of 582sqm.

2.0 Proposed Development

- 2.1. Outline permission is sought for the construction of a single private dwelling house in the rear garden of the existing house.
- 2.2. Access is proposed from Station Road via the laneway and new entrance from the laneway to the north.
- 2.3. In terms of services it is proposed to connect to the main water supply, and public sewer.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to **refuse** outline planning permission 07/08/2019 for two reasons as follows;

1. The proposed development is located in an area where the zoning of the site in the Portarlinton Local Area Plan 2018-2024 is Residential 1 – Existing Residential with the stated objective ‘*to protect and improve the amenity of developed residential communities*’. The proposed development, by reason of its location to the rear of an existing dwelling, constitutes haphazard backland development which would set an undesirable precedent for similar piecemeal development in the area and would seriously injure the amenities of property in the vicinity. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.
2. Policy DM20 of the Laois County Development Plan 2017-2023 requires infill development in urban areas to be located ‘*where it does not adversely affect residential amenity, the general character of the area and the functioning of the transport network*’. Having regard to the character of the immediate area, which consists of 6 no. of detached bungalow dwellings on large elongated sites where backland development does not exist, the proposed subdivision of the site to accommodate an additional dwelling would create a piecemeal, haphazard type development which would be out of character with the established pattern of development in the area. The proposed development is therefore contrary to policy DM 20 of the Laois County Development Plan 2017-2023 and with the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 2/08/2019)

The planners report is the basis for the planning authority decision. It includes:

- The overgrown strip of land along the northern boundary provides a right of way for services into the adjoining Whitefields housing estate.
- Proposed development is acceptable in principle subject to compliance with other planning considerations.

- Dimensions of the proposed dwelling have not been indicated however, it is noted the existing dwelling would have a rear garden area of 220sqm approx. Proposed dwelling has been centrally located within the garden of the site and would allow a rear garden area in excess of 100sqm. Car parking spaces have not been indicated but could be accommodated.
- Proposed development can be considered backland development, the CDP is silent on backland development, however, notes policy DM20 which refers to infill development.
- Proposed development would not pose an adverse effect on residential amenity, if of an appropriate scale.
- The proposed subdivision of the site to accommodate an additional dwelling would create a piecemeal, haphazard type development, which would be out of character with the established pattern of development in the area and would create a negative precedent for similar types of development.
- Considers the provision of a family unit which is attached to the existing dwelling, a more appropriate form of development given the applicants wish to downsize.
- Proposed to replace existing agricultural access gate to the site and create a vehicular access onto Station Road.
- Applicants submitted a Section 97 Certificate; proposed development is precluded from Part V provision.

3.2.2. Other Technical Reports

Roads Section: Recommend further information in relation to sight lines, the existing right of way and surface water.

Area Engineer: No objection.

Water Services: Planners Report refers to verbal report.

3.3. Prescribed Bodies

Irish Water: No report received.

3.4. Third Party Observations

None received.

4.0 Planning History

4.1. *Site to the North along northern access route from Station Road*

P.A.Reg.Ref.05/747 ABP PL.11.213694: Permission **refused** 21/12/2005 to construct bungalow recessed entrance and all associated works for Pat Moore.

Reasons for refusal can be summarised as follows;

1. Having regard to the restricted dimensions of this elongated site and the proximity of adjoining houses, the proposed development would create an undesirable density of development and present an overcrowded and disorderly appearance. The proposed development would, therefore, seriously injure the amenities of the area and of adjoining properties.

2. The proposed development by its location in relation to adjoining properties, including breaking a building line, would seriously injure the amenities of adjoining residential property by reason of overlooking, noise and disturbance and would, therefore, be contrary to the proper planning and sustainable development of the area.

4.2. *Adjoining Residential Site to the North - Station Road.*

P.A.Reg.Ref.18/275: Permission **granted** 31/08/2018 to construct a storey and a half extension to dwelling, garage, workshop/fuel store and new altered and relocated vehicular entrance, to Joe Shehan. This permission has been implemented on site.

4.3. *Site to the South – Station Road*

P.A.Reg.Ref.17/240: Permission **granted** 29/08/2017 for retention of domestic shed and all associated works.

5.0 Policy Context

5.1. Laois County Development Plan 2017-2023

The Laois County Development Plan 2017-2023 is the operative plan.

Section 8.5 refers to Development Management Standards

Policy DM01 -DM14 refer to policies on qualitative and quantitative standards for new dwellings in urban areas.

Policy DM20 Infill Development in Urban Areas

'Infill development is encouraged in principal where it does not adversely affect neighbouring residential amenity (for example privacy, sunlight and daylight), the general character of the area and the functioning of transport networks.'

Policy DM21 Ancillary self-contained residential unit (granny flat)

The Council will consider the provision of accommodation for older people and dependant relatives attached to the existing family home subject to compliance with the following criteria:

The unit shall be attached to the existing dwelling;

2) The unit shall be linked internally to the existing dwelling;

3) It shall not have a separate access at the front elevation of the dwelling;

4) It shall be of an appropriate size and design;

5) Should be capable of being served by adequate wastewater treatment.

5.2. Portarlinton Local Area Plan 2018-2024

Under the Portarlinton Local Area Plan, the site is zoned '**Residential 1** : *To protect and enhance the amenity of developed residential communities*'. (See map attached).

Table 30: Zoning Objectives and Purposes refers as follows;

'This zone is intended primarily for established housing development but may include a range of other uses particularly those that have the potential to improve residential communities such as schools, creches, small shops, doctor's surgeries, playing fields etc.

It is an objective on land zoned for Residential 1 to protect the established residential amenity and enhance with associated open space, community uses and where an acceptable standard of amenity can be maintained, a limited range of other uses that support the overall residential function of the area. Within this zoning category the improved quality of existing residential areas will be the Council's priority'.

5.3. Natural Heritage Designations

None of relevance.

5.4. EIA Screening

- 5.4.1. Having regard to the nature of the proposed infill development, the nature of the receiving urban environment, and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The First -Party appeal against the planning authority's decision to refuse outline planning permission is lodged by Martin Turley the applicant and agent. The main grounds of can be summarised as follows;

- Proposed development will improve residential amenity, as it will be serviced by an existing overgrown cul de sac/laneway which will be enhanced. The laneway is completely enclosed by mature trees 4 metres in height. It is to the rear of a 50 metre long garden where a wall will divide the properties.
- Two storey development granted to the north under Planning Ref. 18/275 which results in overlooking with a further property in the rear garden of same.

- Development in the second garden to the south appears to be in commercial use.
- The proposed development would not be out of place, and notes development to the west which is within 20 metres of the garden.
- Notes significant changes in terms of development on Station Road over the last 40 years. These include new residential, educational, retail, employment, railway station, medical and professional services. Notes the extension of the town to Station Road with further housing extending to the south and the west, and no longer just 6 no. detached bungalows.
- Wish to downsize to a three bedroom bungalow thereby releasing the six bedroom home to an immediate family member.

6.2. **Planning Authority Response**

No further comments.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Principle of Development/Compliance with Development Plan policy
- Residential Amenity
- Precedent
- Appropriate Assessment

7.2. Principle of Development/Compliance with Development Plan policy

- 7.2.1. Planning policy and in particular Policy DM20 of the Laois County Development Plan 2017-2023 supports infill development, subject to appropriate safeguards and standards.
- 7.2.2. Reason for refusal no. 2 refers to non-compliance with Policy DM20 of the County Development Plan which requires infill development in urban areas to be located 'where it does not adversely affect residential amenity, the general character of the area and the functioning of the transport network'.
- 7.2.3. The reason for refusal notes the 6 no. of detached bungalow dwellings on large elongated sites where backland development does not exist and that the proposed subdivision of the subject site to accommodate an additional dwelling would create a piecemeal, haphazard type development which would be out of character with the established pattern of development in the area. Reason for refusal no. 1 also refers to the proposed development which constitutes haphazard backland development which would set an undesirable precedent for similar piecemeal development in the area.
- 7.2.4. In this regard, I would note that the area is characterised by well-established low density detached houses along Station Road, and semi-detached bungalows on large plots to the north within the Whitefield estate.
- 7.2.5. The proposed development subject of the proposed outline permission results in the subdivision of the existing house plot and the construction of a dwelling to the rear of Bernar.
- 7.2.6. The proposed development relies on a vehicular access from a laneway which runs along the northern boundary of the site. This laneway is accessed from Station Road to the east via an agricultural entrance gate. The east west section of this laneway is included within the overall landholding of the applicant.
- 7.2.7. The laneway also runs north south to the rear southern boundary of the Tennis Club. It is bounded to the east by the rear boundary walls of two existing residential properties along Station Road, and to the west by the rear boundary walls of the

existing semi-detached bungalows with Whitefield estate. In theory therefore, there is the potential for access to the rear of these properties.

- 7.2.8. I concur with the planning authority that the proposed development would create a piecemeal, haphazard type development which would be out of character with the established pattern of development in the area.
- 7.2.9. I note the circumstances of the applicants and would concur with the planning authority in that it may be more appropriate to provide a family unit which is attached to the existing dwelling.
- 7.2.10. I am satisfied, therefore, that the reasons for refusal should be upheld.

7.3. Residential Amenity

- 7.3.1. Having regard to the Guidelines for Sustainable Residential Development and the provisions of the current development plan the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the need to provide additional residential development at this location. I propose to address such matters in the following sections.
- 7.3.2. Reason for refusal no. 1 refers to the impact of the proposed development on the amenities of property in the vicinity.
- 7.3.3. The layout of the proposed house which is located roughly centrally on the site backs onto the southern boundary of the site and is orientated towards the northern boundary and proposed entrance from the laneway.
- 7.3.4. An overall separation distance of 17.75m to the rear elevation of the existing house on site is indicated with a separation distance of 4.5m to the southern boundary with the adjoining house to the south. The overall site area with a stated area of 582sqm.
- 7.3.5. I would also note that the existing house on site includes a number of windows on the north facing elevation that directly adjoin the existing laneway.
- 7.3.6. I am satisfied that the proposed house would result in amenity impacts on the existing dwellings in the immediate vicinity but primarily in my opinion on the single

storey houses to the north and south along Station Road and to the west namely the two storey house no. 63 Whitefields and bungalows to the north.

7.3.7. It is submitted by the applicant that the upgrading of the laneway would enhance the area. I however consider that the use of the laneway would directly impact on the amenity of the properties that adjoin it, including the existing house on site.

7.3.8. I am satisfied, therefore, that the proposed development would seriously injure the amenities of property in the vicinity and that this reason for refusal should be upheld.

7.4. **Other Matters**

7.4.1. *Precedent* – Reason for refusal no. 1 refers to the undesirable precedent for similar piecemeal development in the area. While noting that each application is considered on its merits, I am of the view that to permit this development would not result in a constructive precedent. I am satisfied, therefore, that this reason for refusal should be upheld.

7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. It is recommended that outline permission be **refused** for the reasons and considerations below.

9.0 **Reasons and Considerations**

The site is located in an area zoned 'Residential 1' in the current Portarlington Local Area Plan 2018-2024 in which it is an objective 'To protect and enhance the amenity

of developed residential communities'. Policy DM20 of the Laois County Development Plan 2017-2023 requires infill development in urban areas to be located 'where it does not adversely affect residential amenity'. The proposed backland development by reason of its location to the rear of an existing dwelling, constitutes haphazard backland development which would set an undesirable precedent for similar piecemeal development in the area and would seriously injure the amenities of property in the vicinity. It is considered therefore, that the proposed development would materially contravene the development objective indicated in the Local Area Plan for the zoning of the land and Policy DM20 of the County Development Plan, and thus would be contrary to the proper planning and sustainable development of the area.

Susan McHugh
Senior Planning Inspector

12th March 2020