



Planning and Development Acts 2000 to 2018

Planning Authority: Cavan County Council

Planning Register Reference Number: 18/191

Appeal by Deirdre O'Reilly of 3 Amberwood Court, Ballyconnell, County Cavan and by Shane Heery of Mullaghduff, Ballyconnell, County Cavan against the decision made on the 9th day of November, 2018 by Cavan County Council to grant subject to conditions a permission to Ballyconnell Properties Limited care of Wynne Gormley Gilson Architects and Surveyors Limited of 21 Church View, Cavan in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolish existing derelict dwelling and to develop residential scheme comprising of 46 number fully serviced houses, form new entrance, service road, connection to foul sewer, surface water and watermain and all ancillary siteworks. Development consists of 26 number semi-detached bungalows with provision for attic accommodation, 16 number two-storey semi-detached dwellings and a two-storey terraced block of four units at Mullaghduff, Ballyconnell, County Cavan, as amended by the further public notice received by the planning authority on the 15th day of October, 2018.

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

- (1) the zoning of the subject site for existing residential uses and for proposed residential uses in the Cavan County Development Plan 2014-2020,
- (2) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (3) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013, and

- (4) the pattern of development in the vicinity, including existing housing development, and the road network in the area, which is within the 50 kph speed limit zone and within the built-up area,

it is considered that the proposed development, subject to compliance with the conditions set out below, would represent a sustainable residential density at this location, in line with national policy guidance, would provide an appropriate mix and form of residential development commensurate with its surroundings, would not seriously injure the residential amenities of neighbouring property, would not be prejudicial to public health, and would be generally acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the scale of the development, and its location within the built-up area and in the 50 kph speed limit zone of the town, would not generate additional traffic onto the N87 National Secondary Route to such extent as to endanger public safety to pedestrians and road users, particularly having regard to the standards set out in the Design Manual for Urban Roads and Streets. Furthermore, the Board considered that, having regard to the existing pattern of development in the vicinity, there was little potential for alternative accesses to this residentially-zoned site. In addition, the Board considered that, in the light of its location, the proposed design, mix and layout of the proposed development would be compatible with its location and surroundings, and would not conflict with the provisions of the Cavan County Development Plan or national policy guidance. Finally, the Board noted that there was no evidence of any shortfall in public water supply serving this area and noted that the Ballyconnell Water Supply Scheme Contract Number 1 had been completed in 2014.

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 15th day of October, 2018, 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:-
 - (a) The existing site boundaries along the eastern and southern edges of the site shall be provided with a concrete block wall, which shall be 2.4 metres in height above ground level, and where there are differing ground levels as between the finished site levels of the subject site and the adjoining site levels, shall not exceed 2.4 metres above the lower of the respective levels. This wall shall be provided before the commencement of construction of the houses in the relevant phase of the development.
 - (b) The existing site boundaries along the north-western boundary of the site, which consist of hedging, shall be retained, and shall be protected from damage during construction.

- (c) With the exception of the existing site boundaries, as set out in (a) and (b) above, all rear gardens of houses shall be bounded with brick or concrete block walls, which shall be a minimum of 1.8 metres high, except where bounding public open spaces or roads, when the walls shall be 2 metres in height, or by concrete post and concrete panel fences, 1.8 metres high. The proposed boundary treatment, using concrete post and timber panel fences, or any other form of timber fencing, shall not be used for any rear garden boundaries.
- (d) The houses on plots 1 and 4 shall be finished in brick on the gables facing the estate entrance.

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 interests of protecting the amenities of adjoining property, of visual amenity, and to ensure the provision of durable boundary treatment in the interest of the residential amenity of future occupiers of the development.

- 3. The development shall be phased in accordance with the phasing plan submitted on the 15th day of October, 2018. Construction access to the development, as outlined in the construction management plan dated 2nd October 2018, submitted as further information, shall be from the N87 for phase 1, but shall be from Bothar Bui Road for the remaining phases.

Reason: In the interests of clarity and pedestrian and traffic safety.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The roof colour shall be blue-black or slate grey, including ridge tiles.

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

5. The site shall be landscaped in accordance with the landscaping drawings submitted with the application. The developer shall retain the services of a suitably qualified Landscape Architect throughout the duration of the site development works. The developer's Landscape Architect shall certify to the planning authority by letter his/her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development hereby permitted.

Reason: In the interest of residential and visual amenity.

6. Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house 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.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames 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 interests of visual and residential amenity.

8. Each proposed house shall be used and occupied as a single dwelling unit for residential purposes and shall not be sub-divided or used for any commercial purpose (including short-term letting) without a separate planning permission.

Reason: In the interest of clarity and to ensure the maintenance of a residential community.

9. 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 interests of public health and to prevent flooding.

10. (a) The development, including all roads, footpaths, verges, public lighting, open spaces, surface water drains, attenuation infrastructure and all other services, as permitted under this order, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority.

- (b) The areas of open space shown on submitted drawings shall be reserved for such use and shall be levelled, contoured, soiled seeded and landscaped in accordance with the detailed requirements of the planning authority. The open space areas indicated as areas number 1 and 2 shall be laid out and landscaped prior to the making available by the developer for occupation of any of the houses in phase 2, and the open space area number 3 shall be laid out and landscaped prior to the making available by the developer for occupation of any of the houses in phase 3 of the development.
- (c) All of the areas of public open space, as shown on the submitted drawings, shall be maintained by the developer until such time as the development is taken in charge by the local authority. When the estate is taken in charge, the open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

Reason: In the interest of proper development, the timely provision of open spaces and in order to comply with national policy in relation to the maintenance and management of residential estates.

11. Prior to the commencement of development, the developer shall submit and agree in writing to the planning authority, detailed proposals regarding the completion works to the existing surface water and foul sewerage system serving the existing housing estate and how it can accommodate the proposed development.

Reason: In the interest of public health.

12. Site development and building works shall be carried out only between the hours of 0800 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 residential amenities of property in the vicinity.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006.

Reason: In the interest of sustainable waste management

14. 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.

- 15. (a) The roads and traffic arrangements serving the site (including road signage), shall be in accordance with the detailed requirements of the planning authority for such works, and shall be carried out at the developer's expense.
- (b) The internal road network serving the proposed development including turning bays, footpaths and kerbs, shall comply with the requirements of the Design Manual for Urban Roads and Streets.
- (c) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works, which shall be submitted to the planning authority for its written agreement. The developer shall carry out all agreed recommendations contained in the audit, at his expense.

Reason: In the interests of pedestrian and traffic safety.

16. 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 spaces 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.

17. 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

18. 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

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

Dated this day of 2019.