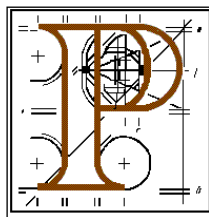


An Bord Pleanála Ref.: PL17.245696

An Bord Pleanála



Inspector's Report

Development: Change of house type of 20 no. 2 storey four bedroom detached dwellings at Unicorn Lodge, Milltown, Dublin Road, Ashbourne, Co. Meath.

Planning Application

Planning Authority: Meath County Council

Planning Authority Reg. Ref.: AA/150717

Applicant: BCKS Limited

Type of Application: Permission

Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s): 1. BCKS Limited.

Type of Appeal: 1st Party

Observers: None

Date of Site Inspection: 28.01.2016

Inspector: Fiona Fair

Appendices: Photographs, Site location Map
Excerpt from County Development Plan

1.0 SITE DESCRIPTION (see photographs and location map)

The appeal site (1.08ha / 2.66ac) is located on the eastern side of the R135, within the southern environs of Ashbourne town, County Meath.

The site is irregular in shape. It is bounded to the west by the R135 Dublin Road where there is a 33m road frontage. From this access point the site widens and encompasses a fairly extensive backland area off the R135.

The Deerpark residential area is located to the north east and east. This is characterised by mature two storey detached and semidetached houses arranged in a linear fashion along a tree lined access road, located a short distance to the south of the appeal site off the R135. To the north-west and south of the appeal site lie single storey dwellings surrounded by private gardens that are both accessed off the R135. The area west of the appeal site, on the opposite side of the regional road, comprises the Alderbrook residential development which comprises detached and 2 storey dwellings, also accessed off the R135.

The site previously accommodated a dwelling which had been fire damaged but this dwelling has been demolished. At present the site contains a large metal storage container and oil tank which is located to the southern end of the site. Wooden pallets are stacked high in the south eastern corner, bricks, builders rubble and pieces of timber are scattered throughout the site. The site is substantially flat but dips adjacent to the north and east boundaries, where there is a difference in ground level between the appeal site and the rear gardens of properties in Deerpark.

The boundaries of the site comprise mature shrubbery and hedging to the north, east and south with boundary walls and timber panel fencing in parts. The western boundary along the R135 comprises a mix of solid block wall and security fencing. A footpath and separate raised cycle path runs along the western site frontage of the site along the R135 Dublin Road.

2.0 PROPOSAL:

Permission is sought for:

- Change of house type to 20 no. two storey, four bedroom, detached dwelling houses approved under Reg. Ref: DA/801247 and PL.17.230636 and extended under DA/130772
- Ancillary and associated site works.
- Revised house types consist of:
 - 8 no. house type A, 2 storey, 4 bed detached, 160sqm;
 - 2 no. house type A1, 2 storey, 4 bed detached, 163.6sqm;
 - 4 no. house type B, 2 storey, 4 bed detached, 153.3sqm;
 - 6 no. house type C, 2 storey, 4 bed detached, 180.7sqm

Application accompanied with:

- An Engineering Report
- Planning Statement

3.0 PLANNING AUTHORITY'S DECISION

Subsequent to further information being sought and received with respect to (1) public open space quantum (2) site area, site boundaries and land registry folio map demonstrating landownership folio and (4) Infrastructural services, Meath County Council Granted Planning Permission subject to 21 no. conditions. Conditions of note include:

Condition 2 states:

This permission shall expire on the 16/12/2018

Condition 3 states:

'Unit No. 1 shall not be permitted. Prior to commencement of development, a revised site layout plan shall be submitted for the written agreement of the planning authority in which the site area for unit no. 1 is utilised for public open space and details provided of appropriate landscaping for this area'.

4.0 TECHNICAL REPORTS

The reports are summarized as follows.

4.1 Planners Report:

The planners report reflects the decision to grant permission subject to conditions.

4.2 Public Lighting

Report recommends relevant conditions.

4.3 Irish Water

Issue raised with regard to required permissions and consents to route sewers through the area between houses 58 and 59 in Deerpark.

I note email on file, dated 25th August 2015, from Paul O'Brien IW to Deirdre Fallon Planner Meath County Council, which states: *'I am not satisfied with the content of the response to the FI. The agent for the applicant refers to a previous application which was approved and I believe extended in 2013. Basically, IW would not be in a position to take in charge any services which go through private property as shown in the proposals for this development.'*

In their assessment subsequent to further information and cognisance being had to unsolicited FI the planning authority notes that permission was granted for this layout under Reg. ref. DA/801247, is subject to an extant permission and on this basis is acceptable.

4.4 Objections/Submissions

A number of objections were received, concerns raised are summarised as follows:

- Concern regarding flooding
- There have been recent flooding events in Deerpark

- Proposed design does not appear to include calculations demonstrating that the attenuation system can cater for a 30 year or 100 year storm event
- Surface water containment should be sufficiently sized and excess water should be pumped down the R135 route (as per Ref. DA/801247)
- Concern that there is sufficient capacity in the existing 100mm diameter outfall pipe to cater for the additional surface water during extreme storm events
- Use of open detention basin soakway is queried on health and safety grounds.
- Location of site boundary has changed comparative to previous application
- Application site encroaches on third party property.

5.0 APPEAL GROUNDS

5.1 A first party appeal has been lodged by JFOC Design and Planning on behalf of the applicant BCKS Limited. The grounds of appeal are summarised as follows:

- Appeal against Condition 3 only.
- The subject application is for a change of house type on a site layout plan that has already been approved under Reg. Ref. DA/801247 and PL17.230636 and extended under DA/130772
- There was confusion with respect to the approved site layout plan and the permitted open space provision as per DA/801247.
- The site layout plan has been reviewed and the public open space proposed increase to 15% as required by the CDP without the necessity to eliminate house no. 1.
- A revised site layout plan dwg. No. 13.164.BP202 has been submitted for consideration by An Bord Pleanala.
- No change has been made to the position of any of the houses in the proposed development

- The car parking spaces within the curtilage of each of the proposed dwellings has been adjusted so as to bring them closer to each of the houses
- The 1.8m footpath and the 1.2m grass margin has been adjusted to a 2m footpath only, the grass margin being removed.
- Following the minor adjustments at (ii) and (iii) above, the central open space area has been increased to 1132 sq. m
- Minor adjustments have been made to the incidental open space areas adjacent to house no. 1 and house no. 20 to bring the area of these two spaces to 498 sq. m
- Without adjusting the position of any of the proposed houses and by incorporating changes as set out above the open space area has been increased to 1630 sq. m or 15.1% of the total site area.
- Proposal is sustainable in terms of density.

6.0 RESPONSES

6.1 A response has been received from the Planning Authority. The response is summarised as follows:

- Condition 3 was applied in order that public open space was provided at the rate specified in the Meath County Development Plan 2013 – 2019 and which would equate to the quantum of open space provided in the parent permission DA/801247
- The revised plans submitted by the first party which indicates the open space increase by 15% is similar to that approved under Reg. Ref. DA/801247
- The CDP generally advises against including incidental open space areas
- Concern with regard to the reduced depth of space in front of dwellings and the length of car parking spaces could lead to cars encroaching onto the footpath.
- Continuous unimpeded pedestrian access should be provided throughout the development site onto the public road.

- The p.a. also responded to the third party appeal concerns which have now been withdrawn.

6.2 Three separate responses have been received from JFOC Design and Planning on behalf of the applicant BCKS Limited.

6.2.1 The response to the p.a. response is summarised as follows:

- It is noted that the p.a. accepts that the public open space proposed is similar to that which was approved under Reg. Ref. DA801247
- The p.a. have accepted this provision previously on the same site.
- The difference between the two schemes is minimal
- The minimum depth of car parking bays is 5 m
- In all but two cases the depth of car parking proposed is 6m or more.
- Do not accept that cars would encroach onto the footpath.
- Understand that the 3rd party appeals have been withdrawn

6.2.2 The response to appeal by Ms Valerie Tannam on behalf of Residents in the Deerpark Estate is no longer relevant given the withdrawal of the 3rd party appeal.

6.2.3 The response to appeal by Matthew Conroy and Liam Conroy is also no longer relevant given the withdrawal of the 3rd party appeal.

7.0 PLANNING HISTORY

7.1 DA/130772 Permission **Granted** to extend the duration of application Reg. Ref. DA/801247 until 16th December 2018.

7.2 PL17.230636 / DA 801247

Permission **Granted** to demolish the existing derelict single storey building, of 185 sq. m, and construct 20 no. detached dwellings. There are 3 variations of a two storey detached dwelling proposed. They are laid out in a horseshoe format and are all facing a central useable green open space. They have

private rear gardens and have 2 no. onsite parking spaces each. Access is via one vehicular point onto the roadway to the north. It is proposed to connect the development to the public watermain and public sewer.

An Bord Pleanála, in exercise of the powers conferred on it by Section 139 of the Planning and Development Act 2000 directed the said Council to retain Conditions 6 and to amend Condition 3b as follows:

3. (b) (i) A concrete wall, capped and rendered on both sides, of minimum 1.8 metres height measured from the adjoining ground level of the site of the proposed development, shall be erected along the boundary of the site with the rear gardens of the adjoining residential properties.

(ii) A detailed design for this boundary wall, including specification and drawings, shall be submitted to the planning authority for written agreement and no development on foot of this permission shall commence before such agreement is confirmed by the planning authority. The details to be submitted shall include section drawings, clearly showing the construction of the wall and the existing and proposed ground levels on both sides of the wall. In default of agreement, the matter shall be referred to An Bord Pleanála for determination of the details.

(iii) The design and construction of the boundary wall shall be under the supervision of a suitably qualified engineer, who shall certify that the wall has been completed to the appropriate standard.

I note that Condition 6 states:

'Surface Water disposal must not be connected to the foul sewer and must incorporate SUDS. The application shall comply with the Greater Dublin Strategic Drainage Study technical Documents Volume 2 New Development Policy, and surface water management should include proper suds methods which include natural filtration, detention basins and swales. Proposed

surface water run off rate from the development shall not exceed the equivalent predevelopment “Greenfield” runoff rate’.

7.3 Pre – Planning The Planners report indicates that pre – planning discussions took place.

8.0 NATIONAL & REGIONAL PLANNING POLICY

- National Spatial Strategy
- Regional Planning Guidelines
- Residential Density Guidelines
- Sustainable Residential Development in Urban Areas
- Urban Design Manual A Best Practice Guide
- Quality Housing for Sustainable Communities DoEHLG Best Practice Guidelines 2007

8.1 LOCAL PLANNING POLICY

The Meath County Development Plan 2013 – 2019 (CDP) shows the appeal site as being subject to the zoning objective ‘A1’ - Existing residential, i.e. *“to protect and enhance the amenity of developed residential communities”*. The Ashbourne Local Area Plan 2009 – 2015 provides for a similar A1 zoning.

Relevant sections of the Meath CDP 2013 – 2019 include:

Chapter 11 ‘Development Management Guidelines and Standards’

Section 11.2 ‘Residential Development’

Section 11.2.2.2 ‘Houses’ the Development Plan requires: that 75 sq. m of private open space shall be provided for houses with 4 no. or more bedrooms and that 15% of the total site area of a residential development shall be given over for Public Open Space. In this section it is also stated that a minimum of 22m shall be provided between directly opposing windows and that 3.2 m shall be provided between the flanks of houses.

Ashbourne Local Area Plan 2009 – 2015

Section 3.4 Land Use Zoning Objectives & Land Use Zoning Objectives Map

Section 3.5.2 Residential Development Key Principles

Section 6.6.1 Open Space Standards in Residential Areas.

It is noted in section 6.6.1 'Development Management Standards and Guidelines' of the LAP that the standards applicable to development in the Ashbourne area are those laid out in the Meath County Development Plan.

The LAP states: *'Public open space shall be provided for in residential development at a minimum rate of 15% of total site area. A variety of types and sizes of open spaces should be provided to cater for the active and passive recreational needs of children and adults of all ages. A minimum of 400 sq. m. of children's play area is required for a development of 40 dwellings or more (based on average occupancy of 2.9 persons per house). No account will be taken of incidental open space such as grass margins, left over areas, nor any area due to its nature (e.g. marshy) or topography (slope) which is deemed unsuitable'*.

9.0 ASSESSMENT

I have read through the file documentation, the relevant provisions of the County Development Plan and have carried out a site inspection. I highlight that two third party appeals were withdrawn and therefore what remains for determination before the Board is, solely, the first party appeal which relates to a condition, only.

The first party have appealed specifically against Condition no. 3, set out in full in section 3.0 of this report above. Albeit the first party have submitted a revised site layout plan, dwg. No. 13.164.BP202, for consideration by An Bord Pleanala, it is my opinion that the amendments to the layout plan are minor in nature and not so material that the Board are empowered to consider this application *de novo*.

It is therefore recommended that the Board restrict its considerations to the conditions attached in accordance with section 139 (1) of the Planning and development Act 2000, as amended. Specific regard being had to section 139 (1) (c) which states:

‘the Board is satisfied, having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted’.

Section 139 (1) further goes on to state:

‘then subject to compliance by the Board with subsection (2), the Board may, in its absolute discretion, give to the relevant planning authority such directions as it considers appropriate relating to the attachment, amendment or removal by that authority either of the condition or conditions to which the appeal relates or of other conditions.’

I note this in particular given the revised site layout plan, dwg. No. 13.164.BP202, for consideration by An Bord Pleanala, and its possible bearing upon condition 1 attached to the p.a. notification of grant of planning permission Reg. Ref. AA/150717.

9.1 1st Party Appeal against Condition 3

There is an extant planning permission on this site for 20 number dwellings as per PL17.230636 / DA 801247 which has been extended under Reg. Ref. DA/801247 until 16th December 2018.

Albeit the statutory Meath CDP in place at the time permission was granted on foot of PL17.230636 / DA 801247 was the 2007 – 2013 CDP the policy with respect to requirement of a minimum of 15% public open space for residential developments has not changed. I note that in the case of DA/801247 the applicant was required to submit revised proposals to address

the shortfall in open space. The planning authority report, in that case, following the further information request states:

'The applicants have submitted a revised plan, indicating an increase in public open space provision, to meet the 15% requirement. Though the additional space is marginalized, it is located around the site entrance and may provide a soft approach to the development. The main open space area remains central to the development. Overall I would be satisfied...'

From a review of the permitted site plan, submitted by way of FI on the 02nd July 2008, Reg. Ref. DA801247, it is clear that the house footprints on sites 1 – 4 and the plot widths were reduced, from that originally proposed, in order to accommodate an enlarged area of public open space to the south of house 1.

Under the subject appeal proposal the applicant seeks to increase the width of the plots and the footprint of the dwellings on sites 1 – 4 once again and therefore has reduced the public open space area to the south of House 1.

The site area is stated as 1.08 ha. It is noted in section 6.6.1 'Development Management Standards and Guidelines' of the LAP that the standards applicable to development in the Ashbourne area are the same as those laid out in the Meath County Development Plan 2013 - 2019. The LAP states: *'Public open space shall be provided for in residential development at a minimum rate of 15% of total site area'*. Given the foregoing there is a requirement for 1620 sq. m (0.162 ha) of public open space within the appeal site.

In the site layout plan submitted to the planning authority on the 08.07.2015 with Reg. Ref. PD/150717 the following three public open spaces were proposed (i) 838 sq. m (ii) 226 sq. m and (iii) 80 sq. m – Total 1144 sq. m. The planning authority considered this inadequate and contrary to the CDP requirement for public open space provision and hence they omitted House No. 1 by way of condition 3, attached to the notification of decision to grant permission Reg. Ref. DA/150717.

The first party have submitted a revised site layout plan dwg. No. 13.164.BP202 for consideration by An Bord Pleanala which incorporates three revised open space areas of (i) 1132 sq. m (ii) 328 sq. m and (iii) 170 sq. m – Total of 1630 sq. m

It is submitted by the first party that no change has been made to the position of any of the houses in the proposed development. That the increase in public open space has been achieved by way of the following amendments:

- The car parking spaces within the curtilage of each of the proposed dwellings has been adjusted so as to bring them closer to each of the houses
- The 1.8m footpath and the 1.2m grass margin has been adjusted to a 2m footpath only, the grass margin being removed.
- Minor amendments to the boundary of plots 1 and 20.

The planning authority response acknowledges that the revised site layout plan submitted to the Board, which indicates the proposed open space increased to 15%, is similar to that approved under Reg. Ref. DA/801247. Concern is expressed that the length of car parking spaces could lead to cars encroaching onto the footpath.

The site area of the subject appeal site is stated and accepted by the planning authority as 1.08 ha, I see no evidence to dispute this. Therefore from my calculations the density of the proposal equated to 18.5 dwellings per hectare / 7.5 per acre which is considered to be of a relatively low density for a site on the edge of Ashbourne.

The proposed development is of similar scale and density to its immediate neighbours which reflects the established suburban nature of the surrounding area. The amendments proposed to the layout are in line with that which has already been approved including the quantum and quality of open space proposed, therefore I consider same acceptable in principle.

Two number car parking spaces are proposed per dwelling. This is in accordance with section 11.9 Car Parking Standards as per the Meath CDP 2013 – 2019. All car parking spaces are located within the confines of each individual site and measure, minimum, 5m x 2.5m which is standard and I consider acceptable for private residential parking requirements.

With respect to Condition 3 which states;

'Unit No. 1 shall not be permitted. Prior to commencement of development, a revised site layout plan shall be submitted for the written agreement of the planning authority in which the site area for unit no. 1 is utilised for public open space and details provided of appropriate landscaping for this area'.

I recommend that in accordance with section 139 (1) of the planning and Development Act 2000, as amended, that the Board issue directions to the planning authority to omit Condition 3 and given that this has bearing upon condition 1, this condition, should be amended accordingly.

9.2 Appropriate Assessment (AA)

Having regard to the information on file I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development, infrastructure in place and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

10.0 RECOMMENDATION

I have read the submissions on file, visited the site, considered the provisions of the Development Plan and taken into account all other relevant matters. I recommend that the Board restrict its consideration to the disputed condition in accordance with Section 139 of the Planning and Development Act 2000, as amended, and that the Planning Authority should be directed to omit condition 3 and amend Condition 1, accordingly.

11.0 REASONS AND CONSIDERATIONS

Having regard to-

- (a) The location of the proposed development within Ashbourne Town,
- (b) The zoning of the site 'A1' in the Meath County Development Plan 2013 – 2019
- (c) The 'Open Space Standards in Residential Areas', as per section 6.6.1 of The Ashbourne Local Area Plan 2009 – 2015
- (d) The planning history of the site, in particular extant planning permission Reg. Ref. DA801247 / PL17.23063 as extended under Reg. Ref. DA/130772
- (e) The pattern of residential development established in the area

The Board consider that Condition 3 should be omitted and that Condition 1 should be amended.

12.0 SCHEDULE

Having regard to the nature of the condition the subject of the appeal, the Board are satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted therefore An Bord Pleanála, in exercise of the powers conferred on it by Section 139 of the Planning and Development Act 2000 hereby directs the said Council to omit Condition 3 and amend Condition 1 so that it shall be as follows for the reason set out:

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 08.07.2015, the 17.09.2015 and by the further plans and particulars (Site Layout Plan Dwg. No. 13.164.BP202) received by An Bord Pleanala on the 02.11.2015, except as may otherwise be required in order to comply with Condition 2 and Conditions 4 – 21 of Reg. Ref. AA150717. 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.

Fiona Fair
Planning Inspector
10.02.2016