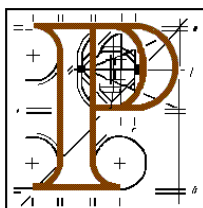


## An Bord Pleanála



## Inspector's Report

**Development:** Demolition of outbuildings and construction of 3 new buildings at Rathpeacon, Killeens, Co. Cork.

### Planning Application

Planning Authority: Cork County Council

Planning Authority Reg. Ref.: 15/5331

Applicant: Michael Leahy

Type of Application: Permission

Planning Authority Decision: Grant Permission

### Planning Appeal

Appellant(s): The Residents of the Old Lane

Type of Appeal: Third Party V Grant

Observers: None

Date of Site Inspection: 5<sup>th</sup> April 2016

**Inspector: Kenneth Moloney**

## **1.0 SITE DESCRIPTION**

The appeal site is located within the village of Killeens which is situated on the urban / rural threshold north of Cork City. The appeal site is located off a laneway which is a cul-de-sac.

The appeal site itself is bounded by housing on all three sides and within the site there is a small stable building and a separate enclosure for keeping hounds. There is a small open temporary parade ring situated to the rear of the site. There were horses grazing on the site at the time of my site inspection. The gradient of the site is generally even however the levels on the site are higher than the adjacent site to the north.

The appeal site is situated immediately behind a single storey house which has its access from a laneway which is a cul-de-sac. The condition of the laneway is currently in poor condition with some sizable potholes. The houses located along the cul-de-sac are generally single storey in height although there is one two-storey house and some houses with roof dormers.

There are three single storey bungalows situated immediately to the east of the appeal site. The boundary between the appeal site and these bungalows is mature evergreen vegetation. There are two-storey semi-detached houses situated to the immediate north of the appeal site and these houses are part of an adjoining housing estate. The boundary separating the semi-detached houses and the appeal site is a 1.6m high wall. The neighbouring property situated to the west of the appeal site, which is two-storey in height, is screened from the appeal site due to the presence of high-level mature vegetation.

## **2.0 PROPOSED DEVELOPMENT**

The proposed development is for the demolition of existing out-buildings and for the construction of a residential development. The proposed residential development shall comprise for 3 no. dormer bungalows and 1 no. detached single storey bungalow. The layout of the proposed residential scheme is a cul-de-sac development.

The proposed single storey bungalow is a 4-bedroom unit and the maximum height of this property is 7.5 metres above ground level. The maximum height of the proposed dormer bungalow is 8.5 metres above the ground level. The floor plan of the proposed dormer bungalows comprises of living space and a guest bedroom at ground floor level and 4-bedrooms at first floor level. The windows serving the rear first floor bedrooms are gable windows.

Additional information sought for the following (a) entrance details required, (b) cross and longitudinal sections through the site required, (b) a revised scheme of three dwellings is considered more preferable having

regard to private open space provision and proximity to established properties, and (d) consent from owner of the wayleave permitting use.

### **3.0 PLANNING AUTHORITY'S DECISION**

The Planning Authority decided to grant planning permission subject to 20 conditions. The conditions are standard for the nature of the development proposed.

Internal Reports: There are three internal reports on the file:

- Cork National Road Office: - No objections
- Public Lighting Report; - No objections subject to conditions
- Area Engineer: - No objections subject to conditions

Objections: There are four third party objections on the planning file and the issues raised have been noted and considered.

Submissions: There is a submission from Irish Water who have no objections.

### **4.0 PLANNING HISTORY**

- L.A. Ref. 01/2152 – Permission **granted** for the demolition of stables and construction of 2 no. houses.
- L.A. Ref. 94/2986 – Permission refused to Michael Leahy for the retention and completion of stables. Following an appeal (appeal ref. 098525) permission was **granted** by An Bord Pleanala.

### **5.0 DEVELOPMENT PLAN**

The operational development plan is the Cork County Development Plan, 2014 – 2020.

Policy HOU 3-1 'Sustainable Residential Communities' is relevant. This policy objective encourages residential developments that promote developments which priorities and facilitates walking, cycling and public transport use and developments that are consistent with the provisions of the Sustainable Residential Development in Urban Areas, 2009.

### **6.0 LOCAL AREA PLAN**

The operational Local Area Plan is the Blarney Electoral Area Local Area Plan, 2011. In accordance with the settlement map for Killeens the subject site is located within the settlement boundary.

Objective DB-01 is relevant for the proposed development. The objective outlines the criteria that must be met by a development proposal.

## **7.0 NATIONAL GUIDANCE**

### **Sustainable Residential Development in Urban Areas, 2009**

The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. In general, increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout. These guidelines sets out guidance for the role of urban design in residential development, the development of sustainable residential schemes and advise on integrating residential development within small towns and villages.

## **8.0 GROUNDS OF APPEAL**

A third party appeal was submitted by The Residents of the Lane. The main grounds of appeal are summarised as relating to the following; -

- The proposed density and height is inappropriate.
- The established bungalows in the area are situated on approx. 0.25 acre sites.
- The proposed development invades established privacy in the local area.
- The density has increased from four dwellings to five dwellings compared with the previous application, L.A. 15/04025.
- An Bord Pleanala has already determined (appeal ref. 131076) that two-storey structures are inappropriate in this local area.
- The Old Lane is a private road and is not suitable for the traffic generation associated with the proposed development.
- The proposal will also result in heavy construction traffic.
- There is no allowance for emergency vehicles.
- It is submitted that should the Local Authority permit any further housing off this laneway then they should take ownership of the laneway and maintenance of the same.
- It is submitted that the laneway is privately owned and that the Local Authority should put in place a bond for the maintenance of the laneway.
- It is submitted that an additional site notice is required facing onto a public road.

- It is submitted that the current levels on the appeal site are artificial due to recent infill of the site. The levels recorded on the submitted drawings are inaccurate.
- It is contended that a boundary wall, 2.5m high, needs to be constructed between the new and existing dwellings, by the developer.
- Details of storm water drains having regards to flood risk are required.
- The Local Authority is requested to guarantee that the proposal will have no impacts on water supply.

## **9.0 RESPONSES**

### **First Party Response**

The applicant's agent submitted a response and the following is a summary of the relevant issues;

- Planning permission has been granted for three dwellings and not four.
- The status of the existing roadway (lane) has nothing to do with the applicant.
- The applicant has no objection to the Local Authority 'taking in charge' the lane.
- The location of both site notices was agreed with the Area Planner prior to the submission of the planning application.
- The issue of site levels was addressed in the planning application and the further information response.
- Boundary treatment is fully covered by condition no. 5.
- In relation to foul and storm drains it is noted that Irish Water have no objections.
- The applicant now wishes to relocate his horses and stables to a more rural location. It is therefore unclear why the local residents are objecting to a housing development.
- Both the Local Authority and Irish Water have no objections or concerns to the water supply.
- The submission also includes photographs of the site.

### **Third Party Response**

The following is a summary of a response submitted by the appellant;

- It is contended that the proposed development is for four dwellings.
- It is submitted that the laneway which is privately owned is significant in relation to the proposed residential development.
- It is submitted that the site notice must be placed on a public road
- It is submitted that the details of infill to the site has been inadequately addressed in the further information response and the clarification of information response during the planning process.
- The planning application fails to state that the appeal site is 1m above the neighbouring property.
- The site level for the boundary wall is questioned and whether the site level of the wall will be situated on the appeal site or the neighbouring property which is 1m lower.

- It is submitted that as none of the public notices were displayed on public roads none of the residents at Seanabothair Estate were aware that it is proposed to link up and use their foul drains. It is submitted that this drain and the pumping has been a problem since day one.
- No comments in relation to water supply as this has been adjudicated by others.

## **10.0 ASSESSMENT**

The main issues to be considered in this case are: -

- 10.1 Principle of Development
- 10.2 Residential Amenities
- 10.3 Impact on Residential Amenities
- 10.4 Design / Character
- 10.5 Access
- 10.6 Drainage Issues

### **10.1 Principle of Development**

The appeal site is located within an urban area and the appeal site is essentially an infill site. However I would acknowledge that some of the site may be classified as a backland site owing to the configuration of the site.

The appeal site is also located within the settlement boundary of Killeens in accordance with the Blarney Electoral Area Local Area Plan, 2011. The proposed development is consistent with policy objective DB-01 of the Local Area Plan. This policy objective promotes residential development within the settlement boundary of Killeens.

I would consider that having regard to the location of the appeal site, the pattern of development in the area and the provisions of the Blarney Electoral Area Local Area Plan, 2011, that the principle of residential development on the appeal site is acceptable.

Overall I would consider that the proposal to provide for 3 or 4 houses in this local urban area is acceptable, provided that the established amenities of the area are protected.

### **10.2 Residential Amenities**

The original development provided for four houses however subsequent to a request for additional information by the local authority the applicant submitted a revised site layout plan comprising of 3 houses.

This revised site layout, in my view, provides for a better standard of residential amenity for the proposed development. The proposed houses have larger set-back distances from common boundary lines and also have a greater amount of private open space provision in the form of rear

and side gardens. The revised layout also allows for greater separation distances from the established houses in the area. I would note that there is a small amount of public open space proposed to the south of the proposed development. I would accept that the provision of public open space on the appeal site is restricted having regard to the nature and shape of the site. I would acknowledge the provisions of the County Development Plan in relation to the provisions of public open space. Paragraphs 5.5.2 – 5.5.12 (inclusive) of the Cork Country Development Plan, 2014 – 2020, refers to public open space provision. Paragraph 5.5.10 of the County Development Plan is relevant for the proposed scheme before the Board. This paragraph essentially outlines that in small residential infill schemes public open space may not be required.

Overall I would consider having regard to the scale of the proposed development and the pattern of development in the area that the proposed public open space provision is acceptable. Therefore having regard to the standard of private open space proposed, the nature of the infill site and the urban centre location I would consider that the proposed public open space provision would be acceptable having regard Paragraph 5.5.10 of the Cork Country Development Plan, 2014 – 2020.

I would note that house type A (dormer bungalow) has a floor area of approximately 186 sq. metres and house type B (single storey bungalow) has a floor area of approximately 133 sq. metres. As such the private open space provision and the floor areas offer a good standard of residential amenity for future occupants. Overall the residential amenities for the future occupants would be acceptable.

### **10.3 Impact on Residential Amenities**

In relation to house type B, which is the most northern house proposed I would note that the floor to ridge height is 6.5 metres which is generally considered a single storey house. Although the height of this proposed house would facilitate an attic conversion in the future, should it be required, and therefore there is the potential fenestration at first floor level. I would consider that this house type would be compatible with the established single storey bungalows in the area. This house type has no proposed first floor windows. I noted from a visual observation of the area that the gradient of the appeal site at the northern end of the appeal site is slightly higher than the ground level on the adjoining site to the north which comprises of semi-detached dwellings. This is also illustrated in the submitted site layout plans. However overall given the house type proposed and the potential for boundary planting I would not consider that the most northern house proposed would unduly impact on established residential amenities in terms of overlooking, overshadowing and visual impact. I note that the Local Authority permission includes a condition requiring that the location of the northern house is revised in the interest of protecting adjoining residential amenities. I would recommend a similar condition to the Board.

The two southern houses proposed on the appeal site are proposed as house type A and they have a floor to ridge height of 8.5m and in my view are almost two-storey in character. These proposed houses have no rear first floor windows therefore reducing any potential overlooking of adjoining residential amenities. However these houses have first floor gable windows which have the potential to overlook neighbouring properties. I would consider that the gable windows are generally satisfactory distances from the adjoining residential amenities. Although there is the issue of perceived overlooking given the layout and orientation of adjoining residential properties.

I would consider that the three established single storey bungalows situated to the immediate east of the appeal site, given their proximity to the appeal site, are likely to be impacted by the proposed development in terms of the visual impact of house type A. I would recommend, as a condition to the Board, should they favour granting permission, that the two house types A shall be replaced by house type B in the interest of protecting adjoining residential amenities in terms of visual impact.

There is established mature evergreen planting along the western boundary of the appeal site and having regard to the location of the adjoining dwelling to the west I would not consider that the proposed development would unduly impact on its established residential amenities.

#### **10.4 Design / Character**

In relation to design and character I would consider, as outlined above, that the proposed house type A would be an excessive scale in this tight urban infill site having regard to the established pattern of development in the immediate area and also to the proximity of the established houses to the immediate east to the common boundary line.

In my view the proposed house types A, with a floor to ridge height of 8.5m, would have an adverse visual impact on established residential amenities in the area. This is based on the levels on the appeal site and the established pattern of development in the immediate area.

Therefore as referred to above I recommend a condition to the Board, should they favour granting permission, that the proposed house types 'A' are omitted from the proposed development and replaced with house type 'B'. This modification, in my view, would lessen the visual impact of the proposed development on established residential amenities and in particular to the three established single storey bungalows situated to the immediate east of the appeal site.

#### **10.5 Access**

The submission on the file raised concerns in relation to the current condition of the existing laneway serving the proposed development. Having regard to a visual observation of the laneway I would concur with



the submission that the laneway is currently in poor condition with the presence of sizable potholes. I also note from the submission that this laneway is privately owned and its maintenance is therefore the responsibility of local property owners in the area and this is confirmed by the Local Authority. The local authority in granting permission has included a condition that requires a bond for the completion of roads to serve to the proposed development. I would recommend a similar condition to the Board should they favour granting permission.

### **10.6 Drainage**

In relation to services I would note that several of the adjoining bungalows are served by septic tank however it is proposed to provide a connection from the proposed 3 houses to the existing public mains to the north of the appeal site. There is a way leave from the north of the appeal site through the rear and side garden of an existing house. The applicant has demonstrated that legally it is possible to connect to the public mains via the way leave from the proposed development. I would consider that these drainage proposals are acceptable.

## **11.0 RECOMMENDATION**

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

### **REASONS AND CONSIDERATIONS**

Having regard to the location of the site with a settlement boundary as set out in the Blarney Electoral Area Local Area Plan, 2011, and the extent of the development, it is considered that subject to compliance with conditions set out below, the development proposed to be carried out would not seriously injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by plans and particulars submitted to Cork County Council on 15<sup>th</sup> October 2015 and the 12<sup>th</sup> November 2015 and, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be modified as follows:
  - (a) The proposed house Type's A, in the revised site layout drawing submitted to Cork County Council on 15<sup>th</sup> October 2015, shall be omitted from the proposed development and replaced with House Type B.
  - (b) The single storey house to the north of the site shall be relocated away from the northern site boundary and angled towards the internal roadway.

Revised drawings showing compliance with the above requirements shall be submitted to the planning authority for written agreement prior to the commencement of development.

**Reason:** In the interest of protecting established residential amenities to the immediate east and north of the proposed development.

3. Cross and longitudinal sections showing details of existing and proposed ground levels and proposed finished floor levels relative to finished floor levels of adjoining houses and spot level on road shall be submitted to and agreed with the Planning Authority before any development commences, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing.

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

4. The site shall be landscaped in accordance with a scheme of landscaping, details of which, including details of trees to be retained, shall be submitted to the planning authority for agreement before development commences.

**Reason:** In the interest of visual amenity.

5. Prior to the commencement of development, the developer shall submit details of all boundary treatment and implementation of timeframes for the agreement of the planning authority. This shall include boundaries between rear gardens and boundaries to the exterior of the site.

**Reasons:** In the interest of residential privacy.

6. Public lighting shall be in accordance with a scheme, which shall be designed to minimize glare and light pollution, and which shall be submitted for the written agreement of the planning authority prior to commencement of development.

**Reason:** In the interest of residential amenity and public safety.

7. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed

development shall be submitted to the planning authority for agreement.

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

8. 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.

9. That all necessary measures be taken by the contractor to prevent spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

**Reason:** To protect the amenities of the area.

10. Full details of the vehicular access to serve the proposed development shall be submitted for written agreement of the Planning Authority prior to the commencement of development.

**Reason:** In the interest of traffic safety.

11. Water supply and all 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 ensure a proper standard of development.

12. 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 the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of waste.

**Reason:** In the interest of amenities and public safety.

13. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(s) of the

development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interests of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

14. Prior to the commencement of development the developer shall submit, and obtain written agreement of the planning authority for the following (a) a plan containing details of the management of waste (and, in particular, recyclable materials) within the development including the provision of facilities for the separation and the collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

**Reason:** To provide for appropriate management of waste and in particular, recyclable materials, in the interest of protecting the environment and the amenities of the area.

15. 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 of roads, including laneway, footpaths, watermains, drains, 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 and 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 of the development.

16. 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. The contribution shall be paid prior to the 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 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.

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Kenneth Moloney  
Planning Inspector  
13<sup>th</sup> April 2016