



An
Bord
Pleanála

Inspector's Report PL25.246995

Development	Single storey dwelling, associated site development works and services
Location	18 Highfield, Ballinderry Heights, Mullingar, Co. Westmeath
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	15/6227
Applicant(s)	Eamonn Rhattigan
Type of Appeal	Third Party
Planning Authority Decision	GRANT
Appellant(s)	David Nohilly & Aoife Moynihan
Observer(s)	None
Date of Site Inspection	26 th October 2016
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.081 ha, is located on the west side of Ballinderry Road, c. 1.6km south of Mullingar Town Centre in Co. Westmeath. The appeal site is on the northern side of the access road into a mature residential development known as Highfield, which comprises a mix of house types and designs, including single storey, dormer and two storey houses.
- 1.2. The appeal site currently comprises a grassland area, bounded to the east by Ballinderry Road, to the south by the entrance road to Highfield, to the west by a two storey detached dwelling, and to the north by the appellants' property, Balnaclune House. Balnaclune House is a two storey structure, with the entrance on the south elevation facing the boundary with the appeal site. The boundaries are generally defined by a timber post and rail fence, with the exception of the western boundary which is defined by a blockwork wall. A recently planted hedge is located on the appellants' side of the fence to the north.
- 1.3. The ground level across the appeal site rises gradually from south east to north west and there is a small embankment along the northern boundary. Access to the appeal site is from the Highfield estate road, via a gate at the south west corner of the site.

2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a single storey house with a gross floor area of 158.2 sq m and a height of 5.748m.
- 2.2. The wall finishes of the proposed house will comprise marble chippings on white plaster, with stone-faced elements to the front elevations and raised quoins. The roof is pitched, with fibre cement slates and solar panels to the front elevation.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Westmeath County Council decided to grant planning permission and the following Conditions are of relevance:

- C8: Dining room/kitchen element to be pushed back 300mm such that the wall and roof plane step back from the main structure on the front elevation.
- C9: No further extension beyond the eastern flank or first floor windows without further grant of planning permission.
- C14: Special development contribution of €15,650 towards completion of estate.

3.2. Planning Authority Reports

3.2.1. The report of the area planner can be summarised as follows:

- Step in horizontal plane on rear elevation would be better located on front, such that roof and wall is stepped back from the main section of the building.
- Development will not materially adversely impact the neighbours by way of loss of privacy, daylight or sunlight.
- Revised design on foot of Further Information request lessens the visual obtrusiveness of the development to a degree that overcomes the previous refusal.
- Boundary treatments can be conditioned.
- Amenities of proposed residence meet standards.

3.3. Other Technical Reports

- **Area Engineer:** No objection subject to Conditions.

3.4. Third Party Observations

One third party observation was made. The issues raised were generally the same as set out in the appeal.

4.0 Planning History

4.1. Subject Site

- 4.1.1. **ABP Ref. PL25M.243569; Reg. Ref. 13/6126:** Permission refused for a two storey house on the appeal site (subsequently reduced to one and a half storey following a request for further information). The Board considered that by reason of its orientation, mass, height and design, the proposed development would be visually intrusive, particularly with regard to the house to the north.
- 4.1.2. Two previous applications on the subject site were deemed withdrawn (Reg. Refs. 97/1133 and 01/77, respectively).

5.0 Policy Context

5.1. Mullingar Local Area Plan 2014-2020

- 5.1.1. The appeal site is zoned as 'existing residential' in the Mullingar Local Area Plan 2014-2020. Section 9.9.3 of the LAP notes the need to balance residential infill development with protection of existing residential amenities and the character of the area.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal was lodged by David Nohilly and Aoife Moynihan, the residents of the house to the north of the appeal site. The grounds of appeal can be summarised as follows:

- No objection to principle of developing a house on the appeal site.
- Highfield Estate was developed by applicant, has not been completed and has yet to be taken in charge due to outstanding issues with site development works.
- History of refusal and withdrawn planning applications on the appeal site.
- Proposal does not adequately address previous reasons for refusal.
- District Engineer recommended further information be sought on sightlines, however this did not happen.
- Queries and uncertainties over site levels and sloping nature of site.
- Proposed house should face onto Ballinderry Road, which would provide higher level of amenity and west facing private open spaces, rather than north facing.
- Condition 14 of Planning Authority decision, which relates to a special contribution towards completion of the Highfield estate, erroneously refers to applicant's father.
- Queries regarding ownership of appeal site.
- Proposed development is out of scale and bears no relationship to surrounding houses.

- Overshadowing due to location of proposed house to south of appellants' house.
- Overlooking, loss of privacy and loss of outlook.
- Overbearing impact due to proximity, scale and orientation of proposed house.
- Reduction in value of appellants' property.

6.2. Planning Authority Response

6.2.1. No response to grounds of appeal received.

6.3. First Party Response

6.3.1. The first party response can be summarised as follows:

- Principle of development was established under Reg. Ref. 73/259.
- Design has been revised and reduced in scale and height to address previous refusal.
- Development will not result in loss of daylight or overshadowing.
- Development will not result in overlooking or loss of privacy.
- Ridge height of proposed house is 5.748m compared to 8.0m for house to west and 8.05m for house to north.
- Orientation of proposed house is consistent with other houses in Highfield, including site opposite appeal site. Design of house presents a dual elevation onto both Ballinderry Road and Highfield Estate Road.
- No impact on residential amenity due to revised design, separation distance, reduced floor level and landscaped boundary. Appeal site is adjacent to

driveway of appellants' property. Appellants' primary private open space is located to the north of their house.

- Sight distances are adequate and have been accepted as such by the District Engineer. Requirement for 90m sightlines are not relevant in this instance.
- Special development contribution under Condition 14 will provide for completion of Highfield Estate. Applicant understands that €15,650 relates to the total sum for the three remaining sites in Highfield (i.e. €5,186.66 per site).
- Applicant has sufficient legal interest to make the application.
- There is no definitive evidence that proposed development will devalue property in the vicinity. The Board did not agree with the Inspector on this point in the previous appeal.
- Applicant fails to see relevance of case law regarding unauthorised development.

6.4. **Observations**

6.4.1. None received.

7.0 **Assessment**

7.1. I consider the key issues in determining this appeal are as follows:

- Principle of proposed development.
- Residential amenity.
- Design and layout.
- Other issues.
- Appropriate Assessment.

7.2. Principle of Proposed Development

- 7.2.1. The applicant contends that the principle of development has been established under the parent permission for the Highfield Estate (Reg. Ref. 73/259). However, since that permission is more than 40 years old, I do not consider it to be of particular relevance at this remove.
- 7.2.2. The appeal site is zoned for residential development under the Mullingar Local Area Plan 2014-2020, and I concur with the applicant and the Planning Authority that the site is suitable for the development of a single residential unit due to its zoning and location in a serviced area close to Mullingar Town Centre.
- 7.2.3. While I deem residential development on the appeal site to be acceptable in principle, I believe that the site context, and in particular the orientation of the existing houses, requires a carefully considered design solution to ensure that existing residential amenities and the character of the area are not unduly affected.

7.3. Residential Amenity

- 7.3.1. The appellants have raised concerns in relation to the potential impact of the proposed development on their residential amenity, particular with regard to overshadowing, overlooking and loss of privacy.
- 7.3.2. While the majority of houses on Ballinderry Road face east/west to address the road, the front elevation of the appellants' house is south facing, meaning that it faces into the appeal site. The existing houses within Highfield, meanwhile, face the estate roads. The applicant is proposing a house that faces south to address Highfield Estate road and as a result the front of the appellants' property will face into the rear garden of the proposed house which will be at a lower level.

- 7.3.3. The floor level of the proposed house is 100.8m, compared with 102.245m for the appellants' house to the north, and 100.29m for the house to the west. The rear garden depth of the proposed house is 8.111m, which is less than the 11m requirement of the LAP, although a sizable area is also provided to the side of the house. The separation distance between the two houses is 15.81m, while the ridge height of the proposed house is 5.748m, which is a reduction of c. 2.1m from the previously refused proposal on the site.
- 7.3.4. Based on the information on file, it appears that mature hedgerows and trees along the boundary between the two sites, which previously provided a significant amount of screening, were removed by the appellants and replaced with a post and rail fence and hedging. This has resulted in the appellants' property enjoying a more open outlook and a more visually dominant position when viewed from Ballinderry Road. The applicant contends that the removal of the boundary planting was undertaken without his agreement.
- 7.3.5. Having regard to the scale and height of the proposed development relative to the existing houses to the north and west, and the separation distances proposed, I do not believe that any significant loss of sunlight and daylight or overshadowing will occur. Also, having regard to the single storey design of the proposed house, I do not consider that significant overlooking of the appellants' property will arise. However, in the absence of a suitable boundary treatment, overlooking of the private open space to the rear (north) of the proposed house from the front of the appellants' property is likely to be an issue due to the difference in site levels and the insufficient screening that currently exists.
- 7.3.6. The applicant's proposal for the boundary treatment with the appellants' property to the north are unclear. Initially a retaining wall with fence over was proposed, and this was revised at Further Information stage to show a sloping bank on the appellant's side of the boundary with new planting by the applicant. However, the

accompanying cover letter indicated that a retaining wall was not required and that a “low block wall/timber post and rail fence will be erected”.

7.3.7. Having inspected the site, I am not satisfied that the site section indicating the transition in level between the appeal site and the appellants’ property is accurately represented. Also, while planting is indicated along the boundary, no information on the type of planting is provided.

7.3.8. While the Planning Authority considered that the boundary treatment could be addressed by way of Condition, I do not consider it appropriate for such an important issue in this case to be dealt with in this manner. The orientation of the appellants’ property makes this a sensitive site that requires a carefully considered design. The boundary treatment with the appellants’ property is the key feature that will govern the extent to which the residential amenity of both the existing and proposed houses will be affected, and any such boundary treatment should therefore form part of the development proposal, in order to allow third parties an opportunity to review and express their views on it. I am not satisfied that sufficient information has been provided with the application and appeal in relation to this matter, and in the absence of such information, I consider that the proposed development fails to protect the amenities of adjacent properties and the general character of the area.

7.4. Design and Layout

7.4.1. In addition to the residential amenity issues addressed above, I consider that the orientation of the proposed house is problematic as it fails to have sufficient regard to the constraints of this highly visible corner site, and in particular the position and orientation of the appellants’ property, Balnaclune House. As a result, the proposed development is visually obtrusive when seen from both Ballinderry Road and the appellants’ site, and is injurious to the amenities of the area.

7.4.2. The orientation that the applicant has chosen for the proposed house also results in a shallow north-facing area of private open space to the rear of the house, which is seriously overlooked by the appellants' property.

7.4.3. I therefore consider that the orientation of the proposed house, and its visually intrusive impact is incompatible with preserving the residential amenity of the appellants' property and will result in poor level of residential amenity for future residents of the proposed house.

7.5. Other Issues

7.5.1. **Sightlines:** The District Engineer initially sought further information on sightlines, but subsequently considered that any issues could be addressed by way of Condition, although no traffic-related Conditions were ultimately attached. Having inspected the site, I am satisfied that the sightlines from the proposed entrance point are adequate in this instance. Highfield Estate is a small lightly trafficked residential development and clear visibility is available of the junction with Ballinderry Road.

7.5.2. **Planning History of Highfield Estate:** The appellants have raised concerns in relation to the history of the Highfield Estate, outstanding matters for completion, and the history of the appeal site itself. These matters are primarily outside the scope of this assessment, however I note that Condition 14 requires payment of a special contribution of €15,650 towards completion of the Estate. As the appellants have pointed out, the Condition incorrectly refers to the applicant's father rather than the applicant. The applicant, in his response to the appeal claims that the sum of €15,650 relates to a payment that should be spread across the three remaining sites within Highfield. The Planning Authority has not commented on this interpretation, and if the Board is minded to grant permission, I recommend that a similar Condition be imposed, albeit with an unspecified amount for agreement with the Planning Authority.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development, which relates to the construction of an infill house in an established and serviced residential area, the nature of the receiving environment and the proximity to the nearest European sites, I am satisfied that 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. I recommend that planning permission should be refused for the reasons set out below.

9.0 REASONS

Having regard to the prominent location of this corner site and the established pattern of development in the surrounding neighbourhood, it is considered that the proposed development, by reason of its orientation, scale and design, fails to have sufficient regard to the constraints of the site and would result in a visually obtrusive development with a poor level of residential amenity for future occupants. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Niall Haverty

Planning Inspector

7th November 2016