



An
Bord
Pleanála

Inspector's Report PL17.247038

Development	Construction of a house to rear of existing dwelling and the construction of a new separate access serving the proposed house.
Location	Racehill, Ashbourne, County Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	AA 160546.
Applicants	Philip and Katie Simpson
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	1 st Party -v- Refusal.
Appellants	Philip and Katie Simpson.
Observers	None.
Date of Site Inspection	18 th October, 2016.
Inspector	Paul Caprani.

Contents

1.0 Introduction	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority Decision	4
5.0 Planning History.....	6
6.0 Grounds of Appeal.....	6
7.0 Appeal Responses.....	7
8.0 Development Plan Provision.....	8
9.0 Assessment.....	8
10.0 Conclusions and Recommendation.....	12
11.0 Appropriate Assessment	13
12.0 Reasons and Considerations	13
13.0 Conditions	13

1.0 Introduction

- 1.1. PL17.247038 relates to a first party appeal against the decision of Meath County Council to issue notification to refuse planning permission for the construction of a dwellinghouse to the rear of an existing dwellinghouse in a suburban residential area in the environs of Ashbourne, County Meath. Meath County Council issued notification to refuse planning permission for a single reason stating that due to its scale and design it constitutes disorderly backland development which would seriously injure the residential amenities of adjoining properties by reason of overlooking and loss of privacy and as such would set an undesirable precedent for future development in this area.

2.0 Site Location and Description

- 2.1. The appeal site is located in the northern suburban environs of Ashbourne on the eastern side of Race Hill. Race Hill is a cul-de-sac and accommodates residential development on both sides of the road. It appears that originally development along Race Hill comprised of linear type ribbon development comprising of individual dwellings on various plot sizes. However, in more recent years the lands contiguous to Race Hill have accommodated more suburban type infill development in the form of higher density small to medium sized residential estates.
- 2.2. The subject site is located mid-way along the eastern side of Race Hill Lane. The site comprises a rectangular shaped garden to the rear of an existing dwelling. It is proposed to construct a new entrance and access running along the southern side of the existing house which is owned by the current appellants.
- 2.3. The existing property to the front of the site is one of the older residential properties along Race Hill and comprises of a single storey detached dwelling with a detached garage to the immediate south-east of the dwelling. The site which comprises part of the rear garden amounts to 0.135 hectares. The site is bounded by mature conifer planting between 2 and 6 metres in height along its northern, southern and eastern boundaries. The site currently accommodates a private lawn associated with the dwelling to the front of the site. The land is surrounded on all sides by residential

development. Lands to the north of the site accommodate four detached dwellings which face northwards. It appears that these lands formerly formed part of the rear gardens of the two dwellings to the north of the site. A small residential cul-de-sac is located to the immediate east of the site. Detached and semi-detached dwellings are located adjacent to the eastern boundary of the subject site. Lands to the south of the site accommodate the rear garden of the adjoining dwelling to the south. The dwelling to the south is likewise an older dwelling on a larger plot.

3.0 Proposed Development

3.1. Planning permission is sought for the construction of a dwellinghouse within the existing rear garden. The proposed dwellinghouse is to be located approximately 25 metres to the rear of the existing dwelling on site and 26 metres from the rear boundary of the site. Separation distance from the northern boundary of the site and southern boundary of the site is 4.2 and 11.7 metres respectively. The dwellinghouse is of a simple rectangular shape and is two-storeys in height with a ridge height of just over 8 metres. The ground floor is to accommodate living accommodation while three bedrooms, two study areas together with two bathrooms to be located at first floor level. It is proposed to incorporate a white render finish to the external walls and the southern elevation is to incorporate timber cladding at ground floor level and a brise soleil between first and ground floor level on the southern elevation. The roof pitch is to be finished with black roof tiles. The proposed new vehicular entrance and driveway will lead directly from the dwelling to Race Hill along the southern site boundary. The information submitted with the application indicates that the house is to incorporate a 'Passivhaus' design incorporating building standards for energy efficiency and low energy usage.

4.0 Planning Authority Decision

- 4.1. The planning application was lodged with Meath County Council on 31st May, 2016. The planning application form indicates that the dwelling is to be served by public utilities including public water supply and public sewers.
- 4.2. A supporting planning statement was submitted with the application outlining the application site, the proposed development and the design context and planning

context. The report also notes there is a previous planning refusal for a similar development on site. It sets out how the current development addresses concerns of the Planning Authority in respect of the previous application.

- 4.3. A report from Irish Water recommends that the application should be refused on the grounds that the proposed development cannot be provided with an adequate water supply without comprising the supply to existing customers in the immediate location of the proposed development.
- 4.4. A report from the Road Design Office states that there is no objection subject to the setting back of the front boundary wall and the construction of a 3 metre-wide footpath along the full frontage of the site.
- 4.5. The planner's report notes zoning as it relates to the site and the internal reports received. The report also notes that the application was subject to pre-application consultations. The planning assessment states that notwithstanding the documentation submitted with the application concerns are still expressed in relation to overlooking and haphazard backland development.
- 4.6. In relation to access, the Planning Authority consider that the applicant has overcome the previous reason for refusal which related to access (see 'Planning History' below). In conclusion therefore it is recommended that planning permission be refused for two reasons the first of which related to impact on haphazard backland development and its impact on adjoining amenity, the second related to the concerns expressed by Irish Water in relation to water supply. A handwritten note on the planner's report stated that if the design solution presented was suitable, the applicant could be given an opportunity to address the concerns of Irish Water.
- 4.7. In its decision Meath County Council issued notification to refuse planning permission for the sole reason set out below.

The proposed development, by reason of its location to the rear of existing dwellings and its scale and design would, if permitted, constitute disorderly backland development, would seriously injure the residential amenities of adjoining properties, and in particular property to the south by reason of overlooking and loss of privacy, would set an undesirable precedent for future development of this kind, would depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

5.0 Planning History

- 5.1. Partial details of one file is attached - Reg. Ref. AA 15/0959. Under this application planning permission was sought for a similar type two-storey residential dwelling in the rear of the subject site. Meath County Council refused planning permission for two reasons. The first reason was similar to that cited in the current decision and the second reason stated that the proposed development by virtue of obstructed sightlines at the proposed entrance point, would result in the creation of a traffic hazard at this location and would therefore endanger public safety and be contrary to the proper planning and sustainable development of the area.

6.0 Grounds of Appeal

- 6.1. The decision was appealed on behalf of the applicant by Environmental Heritage Planning Services. The grounds of appeal set out the context to the current application. It is suggested that a site visit by the planning officer may have resulted in more informed decision in respect of the application. It is also stated that the Planning Authority have not properly articulated it's concerns in respect of the scale and design of the dwelling. The new dwelling is of a similar scale to other two-storey dwellings in the vicinity. The current proposal represents the highest architectural design standards.
- 6.2. Concerns are expressed that the Planning Authority have not explained as to how the proposal results in disorderly backland development. The appeal site is completely surrounded by existing development and represents the fullest possible extent of the development potential for the site. The proposal also encourages new development to contribute towards compact towns and villages as required in Departmental Guidelines on housing.
- 6.3. In terms of impact on surrounding residential amenities, it is stated that the proposed new dwelling would be separated from dwellings in the vicinity by over 30 metres, well in excess of the minimum 22 metres distances required in the Plan. The extensive screening and landscape around the site will also militate against overlooking. The installation of a brise soleil or louvres at first floor level will force

views downwards. The proposal therefore will result in no loss of privacy. The proposal therefore will not result in an undesirable precedent. The planning statement submitted to the Planning Authority with the original application, detailed numerous cases of other backland residential schemes which Meath County Council has approved.

- 6.4. The Planning Authority have also failed to articulate how the proposed development will give rise to property devaluation and is contrary to the proper planning and sustainable development of the area. It is concluded that the proposal represents an acceptable and appropriate form of sustainable development which will have no adverse impact on the character of the area.

7.0 Appeal Responses

- 7.1. Meath County Council submitted the following response to the grounds of appeal. The Planning Authority is satisfied that all matters outlined in the submission were considered during the course of the assessment of the planning application. The site is located to the rear of an existing single-storey dwelling. The development of this backland site will result in haphazard non-integrated development and would lead to an undesirable precedent for backland developments in Ashbourne.
- 7.2. While the applicant has submitted details of a list of precedent planning decisions for backland development, it is noted that the majority of these decisions involve the existing dwelling being demolished and the site being redeveloped and as such it would not be considered backland development.
- 7.3. Despite the addition of a brise soleil, it is considered that the proposed first floor windows on the south facing elevation would result in overlooking of the property to the south. The brise soleil only covers part of the windows and its purpose is to act as a sun breaker not to prevent overlooking. The Planning Authority respectfully request that An Bord Pleanála uphold the decision and refuse planning permission for the proposal.

8.0 Development Plan Provision

- 8.1. The site is zoned A1 “to protect and enhance the amenity of developed residential communities” in the Ashbourne Local Area Plan 2009. The primary purpose of this zoning is to protect the amenity of existing residential properties.
- 8.2. Section 11.2 of the Development Plan sets out Development Management Guidelines in relation to residential development. The Development Plan also seeks to raise the standard of design to ensure that in pursuance of qualitative based housing yield, qualitative aspects of design are not weakened. The plan will also consider the pursuance of radical new forms of development rather than the traditional housing form. The minimum open standard for a three-bedroom house is 60 square metres and for a four bedroomed house is 75 square metres.
- 8.3. A minimum of 22 metres between directly opposing windows shall be observed. Where sufficient private open space is provided and privacy is maintained, this depth may be reduced for single-storey dwellings. Appropriate design solutions may be acceptable in other circumstances where windows of non-habitable rooms are within 22 metres of each other.
- 8.4. All houses should have an area of private open space exclusive of car parking to the rear of the building line.

9.0 Assessment

9.1. Introduction

I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the Planning Authority’s stated reason for refusal and the grounds of appeal in response to the reason for refusal. I consider the critical issues in determining the current application and appeal are as follows:

- Impact on Residential Amenity.
- Disorderly Backland Development.
- Undesirable Precedent

- Traffic Considerations.
- Water Supply.

9.2. Impact on Residential Amenity

In general I would not share the Planning Authority's concerns in relation to the potential impact of the proposed development on residential amenity. It is clear from the site layout plan that the proposed dwellinghouse meets the minimum separation distances as set out in the Development Plan. The proposed residential dwelling is 26 metres from the existing dwellinghouse to the front of the site. It is also noted that the room to the rear of the existing dwellinghouse directly facing the proposed dwelling is a bathroom incorporating obscure glazing. This further reduces the potential for overlooking. The separation distance between the rear of the proposed dwelling and the rear boundary of the site is 27 metres. The Board will also note that dense mature hedging runs along the rear boundary of the site which is proposed to be retained as part of the current application. This screening together with the separation distances involved, will ensure that there is no overlooking or amenity issues between the proposed dwellinghouse and the existing dwellings backing onto the rear of the subject site at Race Hill Close. With regard to dwellings to the north of the site, the separation distance between House Nos. 1 to 4 Race Hill Hall to the immediate north of the subject site and the northern elevation of the proposed dwelling is estimated to be just above 22 metres. Furthermore, there are no habitable rooms at first floor level which directly face northwards in the proposed development. The windows serving the northern elevation at first floor level serve two bathrooms and it is proposed to incorporate opaque glazing in these rooms.

The only potential for overlooking arises from the southern elevation of the proposed dwellings onto adjoining lands to the south. The separation distance between the proposed dwellinghouse and the southern boundary of the site is just under 12 metres. Again a 3 metre-high hedge runs along the southern boundary of the site and perhaps more importantly, the southern elevation does not directly look over the adjoining dwellinghouse but overlooks the southern portion of the rear garden of the adjoining house to the south. I note that no objection or observation objecting to the proposed development was received from the adjoining neighbour to the south. The

incorporation of a brise soleil on the southern elevation will also reduce and restrict the potential for overlooking.

In terms of open space requirements, the development plan requires a minimum of 75 square metres for a four bedroomed house. While the plans submitted with the application indicate that three bedrooms are to be located at first floor level it is apparent that the room which is earmarked for a second study could change into a bedroom. Therefore, for the purposes of calculating open space provision a minimum private open space of 75 square metres should be used for the purposes of calculating the required provision. It is estimated in this instance that almost 600 square metres of private open space is provided to the rear building line of the dwelling which is well in excess of the minimum requirements set out in the development plan.

In terms of the overall design and layout of the proposed dwelling, I consider the overall size, scale and layout of the building to be acceptable in this instance. The two-storey nature of the dwelling is characteristic of the more recent residential development in the surrounding area all of which comprise of two-storey suburban type dwellings to the north and east of the subject site.

9.3. Disorderly Backland Development

Having regard to my arguments above I do not consider that the proposed development will give rise to undue adverse impacts on residential amenity and in this respect it cannot be argued in my opinion that the proposal constitutes 'disorderly backland development'. Furthermore, the proposal complies with standards set out in the development plan in terms of separation distances and open space provision. Therefore, in this regard the proposed development cannot in my opinion be considered disorderly. Furthermore, the site is well screened and landscaped and it appears that no third party objections were received from residents in the vicinity particularly from the neighbours to the south of the site.

9.4. Compliance with Guidelines

In terms of compliance with guidelines, I would refer the Board to Section 6.3 of the Guidelines for Planning Authorities on Sustainable Residential Development in

Urban Areas issued by the Department of Environment, Heritage and Local Government (May 2009). With regard to development in small towns and villages it states that new development should contribute to compact towns and villages. Specifically, the Guidelines state *“it is appropriate that the investment in such services is utilised properly through the prioritisation of development that either reuses brownfield development land such as central area sites and backlands or through the development of acceptable greenfield sites at suitable locations in the immediate environs of the small town or village concerned”*. The proposal would in my view comply with this objective. Based on the above I do not consider that the proposal could be reasonably described as disorderly backland development.

9.5. Undesirable Precedent

The reason for refusal cited by Meath County Council also argues that the proposed development would lead to an undesirable precedent. I have visited the site and its surroundings and I consider that there is significant variation in terms of density. The older more mature development such as the site in question, incorporates a significantly lower density than the more recent suburban type development which is particularly apparent in the new residential estates to the south of the site (Tudor Grove) and the north-west of the site Race Hill Hall, and surrounding cul-de-sacs. With regard to precedent I would specifically refer the Board to the lands to the immediate north of the site. It would appear rear gardens of the two dwellingshouses to the immediate north of the subject site were subdivided in order to provide four detached dwellings facing northwards onto Race Hill Hall. It is apparent therefore that a precedent has already been set in terms of providing backland development within rear gardens of the more established dwellings along Race Hill. I don't think it can be reasonably argued therefore that the proposed development in this instance would set an undesirable precedent as similar type development is already being carried out within the immediate vicinity of the site.

9.6. Traffic Considerations

The previous planning application on site Reg. Ref. AA 15/0959 was refused planning permission for two reasons the second of which related to restricted sightlines at the proposed entrance. It appears from the traffic report contained on the current file that this issue has been successfully addressed. The report from the

Road Section states that the applicant proposes to remove the front boundary wall and set it back from the road edge which “is of major benefit to the general public”. A grant of planning permission in this instance could result in a material planning gain in terms of road safety.

9.7. Water Supply Issues

A new issue which may be a material consideration in terms of determining the application and appeal relates to the submission from Irish Water contained on file. This submission recommends a refusal on the grounds that Irish Water considers that the proposed development cannot be provided with adequate water supply without compromising this supply to existing customers in the immediate location of the proposed development. I further note that this reason was cited as a second reason for refusal in the planner’s report contained on file. However, a hand written report from the Senior Planner suggests that if a design solution presented was suitable, the applicant would be given an opportunity to address the concerns of Irish Water. This infers that the issue of water supply may be possible to overcome. If the Board are satisfied that the proposed development is acceptable in terms of design and amenity, it could in my opinion, condition that issues in relation to water supply be agreed with Irish Water prior to commencement of any development on site. Alternatively, the Board could seek further information in this regard prior to determining the application.

10.0 Conclusions and Recommendation

10.1. Arising from my assessment above I consider that the Board should overturn the decision of the Planning Authority and grant planning permission for the proposed development on the grounds that the proposed dwellinghouse complies with qualitative standards set out in the development plan and does not give rise to any adverse impact on residential amenity in terms of overlooking etc. and that the proposed development is otherwise in accordance with the proper planning and sustainable development of the area.

11.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the proximity to the nearest European site which is located c.14 kilometres away (Rogerstown Estuary SAC) (Site Code: 00208) and Rogerstown Estuary SPA (Site Code: 004015), 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 and projects on a European site.

12.0 Reasons and Considerations

Having regard to the residential zoning objective relating to the site, it is considered that subject to conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 the 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. Prior to the commencement of development, the applicant shall liaise and obtain written consent from Irish Water that sufficient water supply is available to cater for the proposed development. Details of any agreement shall be submitted to the planning authority prior to the commencement of any works on site.

Reason: To ensure that there is sufficient water supply to enable the development to proceed.

3. Details and materials, colours and textures of all external finishes to the proposed dwellings shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Roof tiles/slates and ridge tiles shall be blue/black in colour.

Reason: In the interest of visual amenity.

5. 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 interest of public health.

6. Details of all boundary treatment including boundary treatment along the new internal access driveway shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of residential and visual amenity.

7. The applicant shall be responsible for the full costs of repair in respect of any damaged caused to the adjoining public road arising from construction works and shall make good any such damage to the satisfaction of the planning authority or pay the planning authority the cost of making good

such damage.

Reason: In the interest of orderly development.

8. . 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.

Paul Caprani
Senior Planning Inspector

10th November, 2016.