



An
Bord
Pleanála

Inspector's Report PL17.247499

Development	Construction of house, and all associated works
Location	Glebe Lane, Ratoath, Co. Meath
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	RA16/0894
Applicant(s)	John & Irene Carroll
Type of Application	Planning Permission.
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	Paul & Susan Clegg and Niall & Kate Newman
Observer(s)	None.
Date of Site Inspection	21/12/2016
Inspector	L. W. Howard

1.0 Site Location and Description

- 1.1. The stated c.0.1042ha application site is located within Ratoath Town Centre, just north of Main Street Ratoath, within a gated cul-de-sac comprising 3no. large detached dwellings, each on their own large individual properties.
- 1.2. The site is accessed via Glebe Lane, off Main Street.
- 1.3. Development in the vicinity consists of a church and graveyard to the west, Corballis Demense housing estate to the east, and commercial / retail to the south fronting onto Main Street.

2.0 Proposed Development

- 2.1. Permission is being sought for :
 - subdivision of site
 - construction of single storey 285.5m² house
 - all associated site works.
- 2.2. Accompanying documents:
 - Opinion of the Meath County Council Water Services Section regarding proposal for surface water drainage attenuation and disposal – 26/07/2016
 - Report of Department of Arts, Heritage and the Gaeltacht – 08/04/2016, recommending “pre-development testing” in mitigation of threat to archaeological potential on site
 - Site Runoff Assessment and Infiltration Design – Dr. S.Caroll, July 2016

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Planning permission granted, subject to 11no. Conditions.
- 3.1.2. In the context of the appeal, the following are considered relevant –
 - C1 Increased height of the eastern boundary fence. Strict compliance with the Site Runoff Assessment and Infiltration Design report.
 - C2 External finishes, colouring and materials
 - C3-6 Construction Management Plan

- C7 No part of development to overhang / encroach onto or over neighbouring property
- C8 Archaeology Mitigation – “Pre-Development Testing”
- C9-11 Development Contributions

3.2. Planning Authority Reports

3.2.1. Planning Reports

The key issues considered as follows :

Appropriate Assessment

- Site is not located within, or directly adjoining any Natura 2000 site. The River Boyne and River Blackwater SPA and SAC are within 15km from the application site.
- Having regard to scale and nature of the proposed development, and the lack of pathway to the Natura 2000 site, the proposed development will not impact on any Natura 2000 site.
- A Stage 2 Appropriate Assessment is not required.

Planning Policy and Principle of Development

- Having regard to the ‘A1’ zoning objective, and to the established residential use both on the site and in the vicinity, the principle of the proposed development is acceptable, subject to compliance with relevant planning policy regarding design.

Design and Layout

- the proposed 285m² dwelling, is a flat roof structure 3.5m in height, of contemporary design, with a narrow ‘L’ shaped form.
- Dwelling orientation directly south around a courtyard and open space area, achieves optimum solar gain. .
- 3.5m high wall along the northern site boundary will obscure the new dwellings true front elevation except for the entrance door and terraced car port.
- The dwellings southern elevation comprises large vertical emphasis glazing, with glazed terrace projections along the roofline along the dwellings length.

- Having regard to dwelling height, orientation and significant screening on all boundaries, overlooking and overshadowing considered not to be issues.
- 344m² of courtyard and landscaped gardens provided, in compliance with open space standards.

Access

- Access proposed via Glebe Lane, through a gated private access laneway, to the cul-de-sac.
- A separate vehicular entrance to be provided through the sites western boundary.
- No sightline visibility issues exist.
- 2no. car parking spaces easily accommodated on site.

Water Services

- Existing connections to public services to be utilised.
- The previous refusal reason regarding 'surface water drainage' has been adequately addressed and accepted by the County Water Services Section.

Part V

- Note Part V Exemption Certificate submitted.

Flood Risk

- The application site is not within or adjacent to a flood risk zone, as determined in the OPW / PFRA Mapping / Strategic Flood Risk Assessment for County Meath.

Conclusion and Recommendation

- proposed development accords with relevant policy provisions of the Meath County Development Plan 2013-2019 and the Ratoath Local Area Plan 2009-2015 .
- Subject to compliance with Conditions, the proposed development accords with the proper planning and sustainable development of the area.

3.2.2. **Other Technical Reports**

Roads Report outstanding.

Water Services Report outstanding. However, note e-mail from P.O'Brien stating the revised Surface Water Drainage report is acceptable.

3.3. Prescribed Bodies

Dept. of Arts, Heritage and the Gaeltacht

No objection, subject to a Condition requiring pre-development archaeological testing.

3.4. Third Party Observations

3.4.1. Two 3rd party objections lodged by Nial and Kate Newman * (Beechwood House, Glebe Lane) and Paul and Susdan Clegg * (Elm House, Glebe Lane)

* current 3rd party appellants.

3.4.2. Issues argued summarised as follows :

- injury to visual amenity
- negative residential amenity impact
- conflict with the Development Plan housing development standards / housing strategy
- no consent given by the 'Owners Management Company' to the lodging of the application
- applicants have not transferred common areas to the Management Company

4.0 Planning History

4.1. Application site

DA/40104 Planning permission granted to John Carroll (18/06/2004) for development comprising –

1. extensions to the existing dormer bungalow,
2. conversion of the existing garage at ground floor level to bedroom accommodation,
3. construction of a new first floor level extension providing bedroom accommodation over the existing garage,
4. construction of a ground floor level and basement level extension to the front, or south elevation,
5. the demolition of a glass house to the south of the house, and its relocation and reconstruction to the south of the house,

6. car parking and new access road, and
 7. the retention of all protected trees on the western boundary of the site,
- subject to 6no. Conditions (copies of limited case history documentation attached).

DA/30492 Planning permission granted to John Carroll (09/03/2004) for two detached dormer bungalows, access road, car parking, and connection to public sewerage & the retention of all protected trees on the western boundary of the site,
subject to 22no. Conditions (copies of limited case history documentation)

RA/160086 Planning permission refused to John and Irene Carroll for –

1. Subdivision of existing site
2. Construction of a new fully serviced single story dwelling house, new connection to public mains sewer and all associated site works,

for 1no. Refusal Reason as follows –
“applicant has not demonstrated ... the proposed development does not present a considerable risk of flooding”, with consequent “threat to adjoining properties and public serveuces”

5.0 Policy Context

5.1. National

- Sustainable Residential Developments in Urban Areas – Guidelines for Planning Authorities, 2009
- Best Practice Urban Design Manual

5.2. Development Plan

5.2.1. Meath County Development Plan 2013-2019

Relevant provisions include –

S.3.4 County Meath Settlement Strategy

The application site is located within Ratoath, designated within the Co. Meath settlement hierarchy as a ‘Small Town’ (see Sect.3.4.5);

C.11 Development Management Guidelines and Standards

Outlines the general development management standards and guidelines relevant for urban residential development;

5.2.2. **Ratoath Local Area Plan 2009-2015**

Zoning Objective “A1 – Existing Residential”

Objective : To protect and enhance the amenity of developed residential communities.

“Residential” permitted in principle, subject to compliance with relevant Development Standards.

S.3.5.2 Residential Development

Site partially located within the Area of Archaeological Interest

5.3. **Natural Heritage Designations**

None.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal are submitted by the owners of neighbouring properties and can be summarised as follows :

6.1.1. Existing development planning permission obligations not fully carried out.

6.1.2. Existing contractual owners management agreements dated 27/04/2006 not honoured. This is ongoing for 10 years. Major issues include land boundary and land ownership.

- 6.1.3. Existing Development Standards are of concern to residents - Fire Safety Services and Water Mains Controls stopcocks locations.
- 6.1.4. The proposed development should be refused because it infringes the rights of other existing residents in the development. No planning application should be accepted by the Planning Authority, until all issues related to existing planning Conditions have been addressed.
- 6.1.5. Site Flooding Risk needs to be properly addressed, particularly having regard to proposed excessive site coverage leaving little impervious site area for surface water.
- 6.1.6. Advanced enabling works have been undertaken on the application site.
- 6.1.7. Site History :
- Original planning permission granted under **Reg.Ref.No.DA/30492**, with 22no. Conditions.
 - All Conditions require full compliance to the satisfaction of the Local Authority, before any new planning applications may be accepted.
 - Compliance with Conditions No. 2, 3, 11 and 14 are not evident on site.
 - No evidence that Stopcocks have been fitted outside the private property boundaries, and in the area under the control of Meath County Council. Specify implications for the Irish Water Company.
 - Accordingly, request that the current application for proposed development be refused, as the relevant Conditions are not fully compliant.
- 6.1.8. Site Boundaries – Land - Legal :
- Referenced against original **Reg.Ref.No.DA/30492**, the application site boundaries as presented to the Planning Authority, suggest that the application site under **Reg.Ref.No.DA/30492** was not under the full control of the applicant, as stated.
 - “This contravenes the Planning and Development Act 2000 and puts the development in doubt under the provisions of Section 34(13) of Planning and Development Act 2000”.
 - Therefore, the current application **Reg.Ref.No.RA/160894** should have been deemed invalid on receipt, by the Planning Authority.
 - Argue that “the other owner interests in the application site”, were not declared in the planning application form. Specifically point out “consent from

the Management Compant contractual agreements by the parties signed in 27/04/2006”.

- Argue under **Reg.Ref.No.RA/160894**, the applicant is not the full owner of the application site. This is demonstrated by way of ‘Roundtree Tarpey Solicitors’ letter dated 18/10/2016 and the 3rd party appellants’ Drawing No.1611/01, Map No.4 particularly.

6.1.9. Traffic Safety :

- A dangerous junction exists onto Main Street, Ratoath, without a Stop Sign.
- Access to the application site is “deficient safety sight lines for traffic / pedestrians”.
- The proposed development would add to a existing traffic hazard and is unacceptable.

6.1.10. Fire Safety :

- Whereas existing required distance of ‘fire hydrant’ to the application site entrance is c.46m, this is exceeded to c.70m. This is an unacceptable Fire Safety Standard. This was not addressed during the planning process.
- This was not addressed during the planning process.
- No clarity is evident regarding capacity in the mains to satisfy fire safety requirements of both existing residents and the proposed development.
- Having regard to cul-de-sac design and vehicle access routes standards and specifications, the proposed development is deficient in respect of use by emergency services and public safety.

6.1.11. Common Services, Utilities and Infrastructure :

- Arising out of the permission granted under **Reg.Ref.No.DA/30492**, emphasise the ‘contractual agreement’ dated 27/04/2006 establishing the “Owners Management Company” and charged with control of the common development services / areas.
- At present, the common access road lighting is deficient to cover all common areas. This deficiency requires the attention of the applicant, to the satisfaction of the Local Authority.

6.1.12. Site Boundary Treatment / Screening :

- Site boundaries require “1.8m high screen walls, and not as specified evergreen trees / unspecified species which may prove difficult to control in time”. This is relevant to the site western boundary shared with the Newman family – 3rd party appellant’s.
- Proposed proximity of the northern elevation of the proposed house to the site’s northern boundary, considered a poor planning :
 - Future maintenance of the north facing elevation will be a problem, as it will require consent from the adjoining owner.
 - Threat of overshadowing of the private garden to the north.

6.1.13. Application Site - Reg.Ref.No.RA/160894 :

- Neither the applicants ‘red-lined’ application site, nor their ‘blue-lined’ remaining lands abut the public road.
- The applicant does not hold full control of the remaining lands and common services including the accessway from the public road to both of the applicant’s land parcels (ie. c.73m separation).
- The application site is c.73m away from the public road, via lands not in the control of Meath County Council or the applicant. This issue was not identified or addressed through the planning process, nor was the consent from others requested.

6.1.14. Site Notice :

- The public notices were located obscurely for all using this cul-de-sac.

6.2. Planning Authority Response

- Planning Authority state they have nothing further to add.
- Refer the Boards attention to the reports on file.

6.3. Applicants Response

Consistent with the format established at 6.1 above for the 3rd Party Appellants grounds of appeal, I summarise the applicants response as follows :

- 6.3.1. The applicants are not aware of any existing planning permission obligations not fully carried out. If any non-compliance exists, this should be a matter for building control.
- 6.3.2. The applicants have contractual obligations under the Management Company Agreement dated 27/04/2006, and have complied with these.
Confirm the registration of the transfer of the common areas is to be affected, but this is not a breach of the Management Company Agreement.
No “major conflicts” exist with respect to land boundary.
Rather, the applicants became aware that their site boundary was different on the ground to that registered in the Land Registry. This discrepancy has been rectified by virtue of a Deed of Rectification, lodged for registration in the Land Registry under Dealing Number D2016LR129873P.
- 6.3.3. Glebe Lane is a series of separately owned sites with single houses, down a cul-de-sac. These houses were constructed at different stages. It is not a housing development
- 6.3.4. Regarding infringement of the rights of other existing residents in the development, it is unclear what the appellants are referring to.
Argue matters arising from existing planning Conditions, are a matter for building control.
No previous application exists on the current application site.
Rather, previous **Reg.Ref.No.DA/30492** refers to subdivision of sites now in the ownership of the 3rd party appellants, and not part of the application site.
- 6.3.5. Confirm a Site Runoff Assessment and Infiltration Design was approved by the Meath County Council – Water Services Engineer.
The County planning report confirms the application site has not been identified as within or adjacent to a flood risk zone in the OPW PFRA Mapping / Strategic Flood Risk Assessment for County Meath.
- 6.3.6. No advanced enabling works have been undertaken on the application site, other than digging test-holes as required for carrying out soil infiltration testing.
- 6.3.7. Site History :
- Applicants affirm they are not aware of any existing existing planning obligations that are not fully carried out.

- Distinguish that the only previous application was for the construction of the appellants own dwellings. If non-compliance with this planning permission is the issue, this is a matter for building control.
- With respect to Conditions No. 2, 3, 11 and 14 attached to previous **Reg.Ref.No.DA/30492**, it is not clear what the appellants are referring to.
- Distinguish that :
 - the current application is for the subdivision of a site and the construction of a single new dwellinghouse.
 - There has been no previous application on the application site.
 - Previous **Reg.Ref.No.DA/30492**, refers to subdivision of land into sites now in the ownership of the appellants, and are not part of the application site.

6.3.8. Site Boundaries – Land - Legal :

- The Land Registry operates a non-conclusive boundary system. In the event of a discrepancy on boundary lines, a Deed of Rectification is necessary to rectify same. .
- A Deed of Rectification was necessary in this instance. A Deed of Rectification dated 08/08/2016, made between K. J. & B. Heslin of the one part and the applicants of the other part was executed and lodged for registration in the Land Registry.
- Clarity and accuracy of the applicants ownership of the application site is a ‘title’ matter, not a ‘planning’ matter. Correction in this regard by way of Deed of Rectification has been executed and lodged for registration in the Land Registry.

6.3.9. Traffic Safety :

- The Planning Authority planning report clarifies the proposed new entrance onto the application site is from an existing cul-de-sac, which is accessed via Glebe Lane and through a gated private access lane.
- There are no issues with respect to sightlines.

6.3.10. Fire Safety :

- The Appellants arguments regarding fire safety, are not relevant to the planning application for an individual dwelling house.

6.3.11. Common Services, Utilities and Infrastructure :

- The existing connections to public services are to be utilised by the proposed development.
- The applicants own a right of access to all shared services including access road, utilities etc. within the cul-de-sac to their site.
- The applicants do not need permission from the Management Company, which they formed, in order to access these services or use the roadway.
- This development is a cul-de-sac, comprising separate sites under separate ownership. It is not a housing development / housing estate.
- If the access road street lighting is deficient, then should't the Management Company, whom the appellants argue controls the cul-de-sac, install the lighting.
- Therefore query the appellants belief that it is the applicants duty to install street lighting within an existing private cul-de-sac .

6.3.12. Site Boundary Treatment / Screening :

- Distinguish that the site's western boundary is an existing mature boundary.
- Condition No.1b requires the applicant increase the height of the eastern boundary fence to 1.8m in height.
- The proposed wall forming the northern boundary will be finished with stone cladding and therefore not require maintenance.

6.3.13. Application Site - **Reg.Ref.No.RA/160894** :

- re. Access to the application site c.73m away from the public road, via lands not in the control of Meath County Council or the applicant :
 - clarify the applicants have a right of way over the common lands, and are members of the Management Company that maintains these lands.
 - clarify it would be a condition of sale of any property in this development, that the new owner become a member of the existing Management Company, with the attendant rights and obligations in respect of such membership.

- emphasise that the applicants own a right of access to all shared services including access road, utilities etc. within the cul-de-sac to the applicatiuon site.

The applicants do not need permission from the Management Company which they formed in order to access these services, or use the roadway.

6.3.14. Site Notice :

- the Site Notices were clearly visible, and inspected by the Meath County Council.

6.3.15. Conclusion :

- The appellants cannot find any valid reason for refusal of the proposed development.
- Rather, the appellants argued points regarding historic issues, discrepancies with Land Registry Boundaries, and other issues irrelevant to the planning procedure for a single domestic dwelling.
- Request the Board support the Planning Authorities decision to grant planning permission.

6.4. **Observations**

None

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. I have examined the file and available planning history, considered the prevailing local and national policies, inspected the site and assessed the proposal and all of the submissions. The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The relevant planning issues relate to :

- Principle and Location of the proposed development

- Visual Amenity Impact
- Residential Amenity Impact
- Road Access and Traffic Safety
- Services Infrastructure
- Site History – 22no. Conditions under **Reg.Ref.No.DA/30492**
- Site Boundaries : Land – Legal Issues
- Application “invalid”, as no consent given by the ‘Owners Management Company’ to the lodging of the application
- Site Notice
- Archaeological Heritage
- Appropriate Assessment.

7.2. Principle and Location of the proposed development

- 7.2.1. The site is zoned “A1 – Existing Residential”, with the objective to protect and enhance the amenity of developed residential communities. The applicable zoning matrix designates residential land use as being permitted in principle within the zone. Specifically, the A1 zone general objective seeks to enable residential development, subject to compliance with relevant development standards.
- 7.2.2. The challenge to the applicants, having regard to architectural and planning design principle, and the relevant requirements of the Meath County Development Plan 2013-2019 and the Ratoath Local Area Plan 2009-2015, is to ensure their proposed new dwellinghouse development, has no disproportionate adverse impact on the scale & character of existing residential development at Glebe Lane itself (ie. 3no. other houses, including one owned and currently occupied by the applicants), and no unacceptable impact on the amenities enjoyed by the surrounding neighbours.

7.3. Visual Amenity Impact

- 7.3.1. Having regard to the potential for negative visual amenity impact on the urban character of the area, I note that no designated Scenic Views or Viewing Points exist in the vicinity of the application site at Glebe Lane.
- 7.3.2. The application site itself is well screened from view from the local urban road network, and from within the Glebe Lane cul-de-sac itself by mature, dense and full

hedgerows and trees, together with single house and multi-unit estate development with associated property boundary demarcation and landscaping. This is particularly so along the R125 Main Street, Ratoath, where any opportunity for intervisibility is obscured by commercial / retail development along its frontage.

- 7.3.3. Set back both from the R125 and Glebe Lane respectively, I believe the proposed new dwellinghouse would be satisfactorily screened in the local Ratoath townscape, when viewed from the surrounding urban road network.
- 7.3.4. Accordingly, having regard to insitu mitigation of visual impact, I believe that the scale, form and design of the proposed new dwellinghouse would not appear incongruous in the context of other development and land use in the vicinity. If deemed necessary, further mitigation of visual impact could be achieved by supplementary landscaping and planting around and within the application site, although I am inclined to the view that such supplementary mitigation would be unnecessary.
- 7.3.5. Accordingly, I believe no disproportional negative visual impact will result locally, consequent of the proposed development.

7.4. Residential Amenity Impact

- 7.4.1. Having regard to all of the information available, and prioritising the applicant's site layout plan, architectural drawings and associated documentation submitted, I am of the view that the proposed new detached single storey dwellinghouse located at Glebe Lane, will have no serious, or disproportionate negative impact on this prevailing residential amenity. In this regard, I have given consideration to potential threats to residential amenity consequent of : visual obtrusion, loss of natural light or overshadowing, overlooking or freedom from observation, noise, onsite private amenity / leisure space, in situ views and outlooks, on-site car parking, and access and traffic safety.
- 7.4.2. Specifically, I note the appellants argument having regard to the site's western boundary shared with the Newman family, that site boundaries require 1.8m high screen walls, and not as evergreen trees / unspecified species specified in the application, which may prove difficult to control in time.

In response, I distinguish that the application site's western boundary is an existing mature boundary and which in my view, is consistent with Condition No.5 attached to

previous **Reg.Ref.No.DA/30492** which required that existing hedgerows and trees be retained.

Further, whereas the existing site western boundary more accurately may be described as a 1.3m timber post and rail fence with mature evergreen hedge screening, which was proposed for repair and replacement, I note that Condition 1(b) attached by the Planning Authority to its decision to grant planning permission, rather requires that the 1.3m timber post and rail fence be increased in height to 1.8m, with screening provided by supplementary planting of the mature evergreen hedge, as necessary. In my view, this proposed boundary treatment is both functionally and aesthetically preferential within the exclusive Glebe Lane residential precinct, as opposed to a 1.8m screen wall more characteristic of multi-unit urban residential estates.

- 7.4.3. The 3rd party appellants also consider the proposed proximity of the northern elevation of the proposed house to the application site's northern boundary, as poor planning, with consequent threat of overshadowing of the private garden to the north. Further, that inconvenience and disruption to the amenity of residents of the adjacent property to the north will result, as any maintenance works of this elevation will require regular consent from the adjoining owner.

In response, I note the applicants' clarity that the wall will be finished with stone cladding and therefore that no maintenance will be required. Further, having regard to the height of the proposed new dwelling, its orientation in site context, and to the significant screening along all site boundaries, I do not believe overshadowing, nor overlooking for that matter, to be the serious threat to residential amenity argued by the appellants.

- 7.4.4. I do acknowledge the potential for negative impact of construction activity on contextual residential amenity at Glebe Lane, whilst site works and construction activity are on the go. However, I consider that these impacts are only temporary, are to facilitate the completion of the proposed development, and certainly cannot be regarded as unique to this single house development. Further, I consider that given these impacts are predictable and to be expected, they can be properly and appropriately minimised and mitigated by the attachment of appropriate conditions to

a grant of permission, should the Board be mindful to grant permission, and deem such mitigation of negative impact necessary.

- 7.4.5. I am satisfied therefore that the proposed development will not seriously injure the residential amenity of neighbouring residents, or the area generally.

7.5. Road Access and Traffic Safety

- 7.5.1. To facilitate the proposed development, a new vehicular access onto the application site is proposed off the Glebe Lane cul-de-sac, currently serving 3no. detached domestic dwellinghouses, inclusive of the applicants (1no.) and the 3rd party appellants (2no.), and which opens onto the R125 Main Street, Ratoath to the south.
- 7.5.2. The Glebe Lane cul-de-sac is generally straight, with good intervisibility in the vicinity of the application site frontage. Having regard to the low speeds possible, the condition of the cul-de-sac and that only three other houses are served, I believe the proposed new single domestic entrance to be satisfactory from a traffic safety perspective. I note also that the proposed development would be provided with adequate on-site car parking.
- 7.5.3. Further, whilst an increase to traffic loading of the Glebe Lane junction onto the R125 Main Street, Ratoath must be expected, I believe this increase to be marginal, normally and reasonably associated with one more domestic property development, and without any clear obvious threat to traffic safety.
- 7.5.4. Accordingly, I share the Planning Authority view that no serious, or disproportionate threat to traffic safety will result from the proposed development, and accordingly with the proper planning and sustainable development of the area.

7.6. Services Infrastructure

- 7.6.1. Located within Ratoath, the applicants propose connection to existing public water supply mains and public sewer for wastewater management.
- 7.6.2. Notably, under previous **Reg.Ref.No.RA/160086**, the applicants were refused planning permission for similar development on the application site for one refusal reason only, regarding the absence of clear demonstration that the proposed development does not present a considerable risk of flooding, with consequent threat to adjoining properties and public services.

- 7.6.3. In response, as part of the documentation included with the current application, the applicants completed and submitted a report – “Site Runoff Assessment and Infiltration Design – Revision 2.0”, July 2016, by Dr. Sean Carroll – CEng, MIEI, demonstrating that all runoff can be dissipated via infiltration, as designed within the site. This included sufficient storage both for a 1 in 30-year rainfall event with a 12-hour duration, as well as for a 1 in 100-year rainfall event.
- 7.6.4. I note that the County Water Services Section (26/07/2016) conclude the revised drainage design proposals for the application site, as acceptable for surface water drainage attenuation and disposal. I share this view.
- 7.6.5. I am satisfied that the proposed development will be adequately serviced with water supply, wastewater and surface / storm water infrastructure, in accordance with the proper planning and sustainable development of the area.

7.7. **Site History – 22no. Conditions under Reg.Ref.No.DA/30492**

- 7.7.1. Permission was previously granted to the applicant (ie. J. Carroll) under **Reg.Ref.No.DA/30492**, subject to 22no. Conditions. I note that the 2no. detached dormer bungalows granted permission are currently occupied by the 3rd party appellants. In their grounds of appeal, the appellants argue in detail that all Conditions under **Reg.Ref.No.DA/30492** require full compliance to the satisfaction of the Local Authority, before any new planning applications may be accepted. As full compliance has not been achieved, they argue that the current application be refused planning permission.
- 7.7.2. This issue however, falls outside of the remit of the current application. Enforcement of argued outstanding compliance with previous Conditions, falls within the jurisdiction of the Planning Authority.
- 7.7.3. Further, I distinguish that the previous application **Reg.Ref.No.DA/30492** refers to subdivision of land into sites now in the ownership of the 3rd party appellants, and that these are not part of the current application site. Rather, the current application is for the subdivision of a site and the construction of a single new dwellinghouse. The applicants clarify that there has been no previous application on the application site. The 22no. Conditions attached under **Reg.Ref.No.DA/30492** therefore, are not relevant in my view to the consideration of the current proposed development.

7.8. Site Boundaries : Land – Legal Issues

- 7.8.1. I have taken careful note of the arguments made by the 3rd party appellants, in respect of land / legal matters relating to the proposed development. I have also had regard to the response by the applicant clarifying the non-conclusive boundary system operated by the Land Registry, and that in the case of boundary line discrepancy, a Deed of Rectification is necessary. I note the applicants confirmation that a Deed of Rectification was necessary in the current instance, and that such was executed and lodged for registration in the Land Registry.
- 7.8.2. However, having regard to the arguments raised against the proposed development, and whether the applicants have demonstrated satisfactory clarity in their land-legal interest, I have had regard to the application for planning permission on its planning merits alone, as set out in the above discussions. Rather, I am inclined to the view that any decision on the planning application does not purport to determine the legal interests held by the applicants, or any other interested party. Contrary to the arguments expressed by the 3rd party appellants, I tend to the view that any decision on the planning application does not purport to determine the legal interests and obligations held by the applicant, in relation to such lands. I would also draw their attention to Section 34(13) of the Planning and Development Act, 2000 as amended, which relates as follows: “A person shall not be entitled solely by reason of a permission or approval under this section to carry out a development”. In this regard, I make reference to the explanatory notes which read as follows – “This subsection ... makes it clear that the grant of permission does not relieve the grantee of the necessity of obtaining any other permits or licences which statutes or regulations or common law may necessitate”. Consequently, I understand that any legal obligations on the applicants, to ensure that the legality of landownership and user privileges enjoyed by 3rd parties are not compromised, are covered.
- 7.8.3. Having regard to the above, I believe it proper that the current application for planning permission be deemed effectively as an application to be assessed de novo and on its specific merits, and having regard to the proper planning and sustainable development of the area as provided for by the Meath County Council Development Plan 2013-2019 and the Ratoath Local Area Plan 2009-2015.

7.8.4. Accordingly, I do not believe these arguments by the 3rd party appellants against the proposed development to be reasonable and substantive grounds for refusal.

7.9. **Application “invalid”, as no consent given by the ‘Owners Management Company’ to the lodging of the application**

7.9.1. The 3rd party appellants advocate regarding the role of the ‘Owners Management Company’, which includes control of the common development areas, services, utilities and connectivity to nearest public road network.

7.9.2. However, notwithstanding these arguments, and the direct response by the applicants, themselves members of the ‘Owners Management Company’ together with the 3rd party appellants, I have had regard to the current application on its planning merits alone, as set out in the above discussions. I understand that any decision on the planning application does not purport to determine the legal interests held by the applicants, in relation to development of lands at Glebe Lane. I again reference Section 34(13) of the Planning and Development Act – 2000 (as amended), which distinguishes that – “A person shall not be entitled solely by reason of a permission or approval under this section to carry out a development”. Further clarity is provided in that the grant of permission does not relieve the grantee of the necessity of obtaining any other permits or licences which statutes or regulations or common law may necessitate. Consequently I understand that any legal obligation on the applicants, to ensure compliance with the reasonable requirements of the ‘Owners Management Company’, is not compromised, is covered.

7.9.3. Accordingly, I do not consider this issue to be a reasonable and substantive grounds for refusal of the current application for development.

7.10. **Site Notice**

7.10.1. I note the 3rd party appellants argument with regard to the public Site Notices.

7.10.2. In response, I have had regard to the Planning Authority’s processing of the application, and validation of site notice, as being satisfied that satisfactory compliance has been achieved. I noted what remained of the site notice at the time of my own site visit. I also point out that notwithstanding their arguments, the 3rd party appellants rights have not been compromised. Clearly, they were able to lodge

3rd party objections with the Planning Authority, and subsequently their 3rd party planning appeals with An Bord Pleanála.

7.10.3. Accordingly, I believe the 3rd party appellants arguments against the proposed development in this regard, cannot be sustained.

7.11. Archaeological Heritage

7.11.1. The Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs - confirm the application site's proximity at the edge of and partially within the Zone of Archaeological Potential established around Ratoath – Recorded Monument ME044-34, which is subject to statutory protection. Should permission be granted for the proposed development, the Department recommend that a Condition be attached requiring 'Pre-Development Testing'. I share this opinion.

7.11.2. I note that the Planning Authority did include a Condition requiring 'Pre-Development Testing', attached to their decision to grant planning permission (see Condition No.8). This Condition should be retained, should the Board be mindful to grant planning permission.

7.12. Appropriate Assessment

7.12.1. Having regard to the nature and modest scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance and absence of a clear direct pathway to any European site, 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 be Granted for the Reasons and Considerations set out below.

9.0 Reasons and Considerations

9.1. Having regard to the Zoning Objective “A1” for the area and the pattern of residential development in the area, it is considered that, subject to compliance with Conditions set out in the Second Schedule, the proposed development would be in accordance with the relevant provisions of the Meath County Development Plan 2013-2019 and the Ratoath Local Area Plan 2009-2015; would not seriously injure the amenities of the Glebe Lane neighbourhood, or of the 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.

10.0 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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The applicant shall increase the height of the proposed post and rail fence along Boundary E, as indicated on Drawing No. 15-101-S-02.4 to 1.8m in height, details of which shall be submitted to the Planning Authority prior to the commencement of development, for written approval.

Reason: In the interest of residential amenity and to ensure a proper standard of development.

3. (a) 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.

(b) Surface water drainage shall comply strictly with provisions as detailed in the Site Runoff Assessment and Infiltration Report submitted on 16/08/2016.

Reason: In the interest of public health and to ensure a proper standard of development.

4. (a) Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.
- (b) The external finish of new work shall be consistent with that of the existing dwellings in the area, and as of plans and particulars submitted to the Planning Authority on 16/08/2016.

Reason : In the interest of visual amenity.

5. 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 commencement of development. This plan shall provide details of intended construction practice for the development, including :

- hours of working,
- noise management measures,
- provision of adequate off carriageway parking facilities for all traffic associated with the proposed development.
- measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network, and
- off-site disposal of construction/demolition waste.

The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason : In the interests of public health and safety and residential amenity.

6. The applicant shall be responsible for the full cost of repair in respect of any damage caused to any adjoining public roadway arising from the construction

work, and shall make good any such damage, to the satisfaction of Meath County Council.

Reason : In the interest of the proper planning and sustainable development of the area.

7. All waste generated during construction, including surplus excavation material to be taken off-site, shall be only recovered or disposed of at an authorised site which has a current Waste Licence or Waste Permit in accordance with the Waste Management Acts, 1996 to 2008. This shall not apply to the reuse of excavated material within the applicants site boundary.

Reason : In the interest of sustainable waste management and orderly development.

8. No part of the development including fascia boards, soffits, gutters, drainpipes or other rainwater goods shall at any time overhang or encroach onto the neighbouring property.

Reason : In the interest of orderly development.

9. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

10. (a) The applicant shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall :

- (i) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (ii) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

- (b) The assessment shall address the following issues :

- (i) the nature and location of archaeological material on the site, and
 - (ii) the impact of the proposed development on such archaeological material.
- (c) A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.
- (d) In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation in-situ or by record, and protection of any archaeological remains that may exist within the site.

11. The applicant shall pay to the planning authority a financial contribution in respect of all public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason : It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

L. W. Howard
Planning Inspector

19th January 2017