



An
Bord
Pleanála

Inspector's Report PL20.248155

Development	Revisions to housing development involving the erection of 14 no. dwellings in lieu of 20 no. dwellings previously approved under Reg. Ref: 11/259.
Location	Oldwood, Ardsallagh Beg, Co. Roscommon
Planning Authority	Roscommon County Council
Planning Authority Reg. Ref.	PD/16/489
Applicant(s)	John Reilly
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	David and Tommy Doran
Observer(s)	None
Date of Site Inspection	12 th May 2017
Inspector	Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Ardsallagh Beg on the south-eastern edge of Roscommon town. Access to the site is off the N61 (Athlone Road) at a point where a 50kph speed limit applies. A local road continues south-west providing access to the hospital car park, Ardsallagh Woods and Oldwood housing estates. The Oldwood estate is a more recent development comprising a mix of 2-storey semi-detached units, detached bungalows and detached dormer dwellings.
- 1.2. The appeal site is located within a developing area to the south-east of Oldwood and south-west of Ardsallagh Woods. Lands slope gently from north-west to south-east and the stated site area is 0.668 hectare. The site is roughly rectangular shaped and is surrounded on all sides by the remainder of the applicant's landholding comprising a construction site. There is a completed row of dwellings adjoining the landholding to the south-east and agricultural lands to the south-west.
- 1.3. At the time of my site visit, 2-storey dwellings within the applicant's landholding outside the site boundary to the north-east were under construction. Single storey dwellings to the north-west have recently been occupied. The site itself was mostly stripped of vegetation and contained a number of soil heaps. No other construction activity appeared to be taking place within the site boundaries. Access to the construction site was from Oldwood to the north-west and from the cul de sac to the north.

2.0 Proposed Development

- 2.1. Planning permission is sought for revisions to the housing development to comprise the erection of 14 no. single storey dwellings in lieu of 20 no. 2-storey semi-detached dwellings as approved under Reg. Ref: 11/259. The proposed dwellings will have floor areas of 112 sq.m.
- 2.2. The proposed alterations do not involve any alteration to the internal road network and service provisions as previously approved.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Roscommon County Council issued notification of decision to grant permission for the proposed development subject to conditions.
- 3.1.2. Condition 2 requires the submission of a revised site layout to show a mix of house designs to include House Type A & B interspersed along runs within the submitted site boundary.

3.2. Planning Authority Reports

- 3.2.1. The recommendation to grant permission, as outlined in the Planner's Report, reflects the decision of the Planning Authority.
- 3.2.2. Under the assessment of the application, it is stated that the proposed dwellings are in two styles which are similar to existing residences in the estate. The proposed dwellings are considered to be rather deep plan but this is similar to the permitted dwellings, and the detached nature and design will ensure that there will be adequate sunlight. It is considered that the visual impact will be less due to the single storey nature and form, which will also help the dwellings to assimilate into the site. The reduced number and the variety in style and form will also provide visual interest and a mix of house types.
- 3.2.3. The Case Planner considers that the proposal would benefit from a mix of both house types in runs along the street in the interests of visual amenity and appropriate design mix.
- 3.2.4. With respect to third party submissions, it is noted that the application relates solely to the design and layout of permitted dwellings only.

3.3. Third Party Observations

- 3.3.1. Two third party observations were received by the appellant and the Oldwood Residents Association.

4.0 Planning History

Roscommon County Council Reg. Ref: 04/124 (PL20.208540)

- 4.1. David and Thomas Doran sought permission for a housing development comprising of 43 two storey detached dwelling houses, 50 two storey semi-detached dwelling houses, 15 dormer bungalows, 8 bungalows and 16 two bedroom apartments, in two blocks, together with full planning permission for site development works, including roadways, services and all ancillary works and pumping station.
- 4.2. The Board upheld the Council's decision and granted permission for the development subject to conditions.
- 4.3. An extension of duration of permission was granted for 3 years until 4th January 2013.

Roscommon County Council Reg. Ref: 11/259 (LV3149)

- 4.4. David and Tommy Doran were granted permission for amendments to a portion (4.2 hectares) of the site relating to Reg. Ref: 04/124 (PL.20.208540) to consist of the construction of:
 - 60 no. dwelling units as follows; 2 no. 2-storey, 4-bed detached Type A, 203sqm, 10 no. 2.5 - Storey, 4-bed Type B, 163sqm, 40 no. 2.5 - Storey, 4 bed semi-detached Type C, 163sqm, 2 no. 2.5-storey, 4 bed detached Type D, 181sqm & 6 no. single storey, 3-bed detached Type E, 138sqm,
 - Relocation of previously granted creche,
 - 11,350sqm public open space & all ancillary site works including roadways, connection to services and attenuation ponds on the wider landholding to the south of Oldwood and Ardsallagh Woods.
- 4.5. An application for leave to appeal sought by the resident of no. 31 Oldwood was refused by the Board.

5.0 Policy Context

5.1. Roscommon Local Area Plan, 2014-2020

- 5.1.1. The site is zoned “Transitional Agriculture” where residential development is open for consideration in accordance with the Sustainable Rural Housing Guidelines (2005).
- 5.1.2. The Housing Strategy and Residential Development are set out in Section 5.2 and the land use zoning figures and matrix are contained in Section 6.
- 5.1.3. Policies for residential development are outlined in Section 7.13.
- 5.1.4. Sections 8.2.6 – 8.2.8 includes Urban Design and Residential Density; Traffic Management in Urban Areas; and Design Guidelines for Residential Estates.
- 5.1.5. Section 5.6.2 of the County Development Plan, Reversing Negative Trends and Pressures states that *“Roscommon County Council has taken the first step with regard to over-zoning of lands by reducing the amount of land zoned for residential development in our most recently adopted local area plans and the phasing of residential lands. This plan proposes the introduction of a ‘Residential Reserve’ of lands in addition to the ‘New Residential’ land use zoning objective (See Section 5.8.2), to replace the system of phasing the release of residential land used in the years immediately preceding this Plan period.”*
- 5.1.6. It is stated under Section 5.8.1 that a density of 20 dwellings per hectare is considered suitable for all Tier 1 and Tier 2 towns.
- 5.1.7. A sequential approach is considered preferable under Section 5.8.2 for inclusion within a Residential Reserve over lands which are more remote from the town centre.

5.2. Natural Heritage Designations

- 5.2.1. Lough Ree SAC is approximately 2.5km east of the appeal site and Ballinturly Turlough SAC is 4.6km to the south-west.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third party appeal was lodged by the owners of the immediately adjoining lands (PL20.208540). The appellants also live and farm on this land.

6.1.2. The grounds of appeal and main points raised in the appeal submission can be summarised as follows:

- There are serious surface water problems with this site due to the low lying nature of the land and poor local drainage, with no permanent legal surface water outfall.
- During heavy rainfall, flooding occurs on site and adjoining properties are being flooded. A number of sinkholes are also starting to appear.
- Appellants had to lodge bonds following previous permissions – Council has been asked for a clear divide between bonds and who is responsible for what, as services are running between development.
- Developers have refused to take over the pumping station and to cooperate and contribute to the running costs of the plant, even though the bulk of effluent being pumped is from their part of the site.
- During heavy rainfall, surface water and sewage mix and overflow out onto the amenity areas and roadways – all cost have been put onto the appellants, their company and the management company. Council allowed this development to proceed knowing of this and not having any future maintenance agreement in place.
- There is an uncompleted transfer of land to appellant's family which part of the planning application relates to, and this is currently subject to dispute and legal proceedings.
- Appellant has dealt with all Part V conditions and has not been reimbursed by the Council.
- Condition 17 of Reg. Ref: 11/259 relating to the relocation of a boundary wall along no's. 1-11 was struck out by the Council and appellants have been

given no reason for this. Council also proposed de-zoning the site when under appellant's ownership.

6.2. Applicant Response

6.2.1. The applicant, John Reilly, of Reimas Developments Ltd. responded to the third party appeal with the following comments:

- Grounds of appeal relating to surface water drainage are exclusively attributable to the omissions and failures of previous developers (appellants). Reimas Developments have been in continual discussions with the Council with the view to addressing historical problems with the surface water drainage system for the entire site.
- There are no sinkholes on site, only one minor failure at the site entrance on Doran's land that was there before the purchase of the site by the applicants.
- Applicant asked the Council if the existing bond would cover in part the new development and the Council refused, as it wanted a clear and defined line between the two development because of all ensuing issues. Applicants have since negotiated a bond with the Council.
- Bulk of effluent does not come from applicant's site as only eight units are occupied to date. Leaking, damaged and improperly laid sewer pipes running through applicant's land will be re-laid, repaired or replaced and a full CCTV survey and as-built survey will be provided to the Council.
- Sump and pumping plant were not maintained by the previous developer, and the breakdown in the pumping plant due to blockages and electrical supply cut off resulted in sump surcharging and discharging raw sewerage onto the ground in front of existing houses. Council was forced to take control of the plant.
- There is no uncompleted transfer of land and there is no legal dispute. Reimas Developments are the legal registered owner of the site.
- Compliance with the requirements of Part V conditions relating to the overall development formed an explicit condition of the contract for purchase of the lands.

- Boundary wall is retained on lands owned by the vendor (appellants). Condition 17 of Reg. Ref: 11/259 requires the removal of the wall and planning officers acknowledged that the condition was impractical.
- All grounds of appeal are attributable to difficulties and defects about the site that can be traced back to the manner in which the development was previously undertaken.
- Applicant is endeavouring to provide housing to meet an obvious housing need and there is no other housing development being undertaken in Roscommon town.

7.0 Assessment

7.1. In my opinion, the main issues to be addressed in this appeal are as follows:

- Development principle;
- Density, design and layout;
- Drainage, boundary wall and other;
- Appropriate Assessment.

7.2. Development principle

7.2.1. The appeal site is zoned “transitional agriculture” within the Roscommon Local Area Plan, 2014-2020, where residential development is open for consideration in accordance with the Sustainable Rural Housing Guidelines (2005). The following list of objectives for this land use zoning objective is set out in the Local Area Plan:

- Preserve the character of rural or ‘edge areas’ and provide for agricultural development as well as other uses not directly associated with agriculture, such as housing for family members, or those with a housing need, tourist related projects such as caravan parks or campsites, and amenity such as playing fields and parks, in order to avoid a sharp transition between the urban edge and primarily agricultural areas.
- Prohibit development that would create premature demand for infrastructural services.

- Prohibit new residential development to essential housing need.
- Agricultural diversification will be considered in these areas.
- Guard against urban sprawl and ribbon development particularly along the national road network.

7.2.2. It should be noted that the proposal is for revisions to a previously granted housing development to reduce the number of permitted dwellings from 20 no. to 14 no. The 20 no. permitted dwellings formed part of a larger development under Reg. Ref: 04/124 (PL20.208540) and amended under Reg. Ref: 11/259. The original permission included the occupied dwellings within the Oldwood estate to the north-west and south-east, and the amendments permitted under Reg. Ref: 11/259 related to the lands in between (applicant's landholding). Of the dwellings permitted under Reg. Ref: 11/259, units immediately surrounding the current appeal site to the north-west and north-east are now occupied or have been substantially constructed. The applicant's landholding, including the appeal site, is marked on mapping as being under construction. At the time of my site visit, the appeal site had been mostly stripped of vegetation and contained a number of soil heaps. It appeared that no other groundwork had commenced.

7.2.3. The appeal site and remaining lands developed/ undeveloped within the site boundary of Reg. Ref: 11/259 have been rezoned from "New Residential" within the 2008-2014 Roscommon Area Plan to "Transitional Agriculture" in the current plan. The permission granted under Reg. Ref: 11/259 would have now expired following the Board's refusal of the leave for appeal application on 30th April 2012. The applicant would have submitted the current amendments application prior to expiry of the permission; however, this does not change the fact that the permission under Reg. Ref: 11/259 has withered.

7.2.4. It is noteworthy that the alternative means for the applicant to build out the scheme as permitted would require the granting of an application for extension of duration of the planning permission under Section 42 of the Planning and Development Act, 2000 (as amended). In these circumstances, it would be difficult to prove that substantial works on site have taken place and it is clear that significant changes in the development objectives of the development plan have occurred since the original granted of permission (as amended).

- 7.2.5. The proposal now before the Board is for the residential development of a site on “transitional agricultural” lands. The applicant has not submitted any information with the planning application and appeal showing that the proposal complies with the Rural Housing Guidelines or that the dwellings are for those with an essential rural housing need. Notwithstanding the planning history, the proposed development is contrary to the land use zoning objective for the site and should therefore be refused permission.
- 7.2.6. Should the Board be minded to grant permission for the proposed development, other issues pertinent to the appeal are assessed below.

7.3. Density, Design and Layout

- 7.3.1. It is noted in the Planner’s Report that permission was granted for 18 no. 2-storey semi-detached dwellings and 2 no. 2-storey detached dwellings rather than the 20 no. semi-detached dwellings as described on site notices. However, this was not considered to be a significant issue.
- 7.3.2. The proposal will see the 20 no. permitted dwellings replaced with 14 no. bungalow type units. The density within the appeal site will therefore be reduced from 30 dwellings per hectare to 21 dwellings per hectare.
- 7.3.3. Notwithstanding the loss of dwellings resulting in a reduction in the economic use of the land, it is stated in the Development Plan that *“given the rural nature of County Roscommon, a density of 20 houses per hectare is considered suitable for all Tier 1 and Tier towns.”* The proposed density would therefore be acceptable.
- 7.3.4. In terms of the design of the proposed dwellings, it should be noted that the existing Oldwood estate has a mix of unit types, with the predominant design being a regular semi-detached 2-storey format. There are existing single storey units immediately to the north-west, and whilst the proposed units will be different in design terms, they will nonetheless contribute to the variety of types and styles of dwelling in the area.
- 7.3.5. The proposed layout will comprise of two back to back rows of seven dwellings. The west facing row will overlook an area of proposed public open space and the east facing row will form one side of the street opposite the semi-detached dwellings currently being completed. The gables of the southern-most dwellings will face onto a new strip of open space. Overall, there will be adequate rear separation distances

between dwellings and the spacing between flank walls will be similar to that throughout the estate.

- 7.3.6. A condition has been attached to the notification of decision to grant permission requiring the applicant to submit a revised site layout plan to show a mix of house designs, with House Types A & B interspersed along both runs within the submitted boundary. In my opinion, this is acceptable and will reflect the established pattern of the semi-detached dwellings containing mirrored projections.
- 7.3.7. It is noted in the Planning Report that the proposed dwellings will have a deep plan layout similar to the permitted dwellings. I would be in agreement that the detached nature of the proposed dwellings will allow for improved internal levels of daylight and sunlight access.

7.4. Drainage, boundary wall and other

- 7.4.1. A number of issues have been raised by the third party appellant who appears to be the previous owner of the site and owner of adjoining lands.
- 7.4.2. With respect to drainage, it is submitted that there are serious surface water problems, with flooding occurring during periods of heavy rainfall. There is also disagreement in terms of the lodgment of bonds and the ownership and operation of a pumping station.
- 7.4.3. In response, the applicant submits that all grounds of appeal are attributable to the manner in which the development was previously undertaken. The applicant aims to repair any improperly laid sewer pipes through their lands and a full CCTV and as-built survey will be provided to the Council.
- 7.4.4. The Planning Authority considers that issues relating to the governing consent cannot be revisited for the purposes of this amendments application. Notwithstanding this, if the Board is minded to grant permission for the proposed development, I recommend the attachment of a condition stating that details relating to drainage and the attenuation of surface water shall be in accordance with the requirements of the Planning Authority.

7.4.5. Condition 17 of Reg. Ref: 11/259 relating to the relocation of a boundary wall lies outside the planning application boundary and is not therefore a matter to be considered within this application.

7.5. **Appropriate Assessment**

7.6. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

8.0 **Recommendation**

8.1. It is considered that the proposed development should be refused for the reasons and considerations hereunder.

9.0 **Reasons and Considerations**

The proposed development is located on lands zoned “transitional agriculture” within the Roscommon Local Area Plan, 2014-2020 where residential development is open for consideration in accordance with the Sustainable Rural Housing Guidelines (2005). Notwithstanding the planning history of the site, the Board is not satisfied, on the basis of the information submitted with the planning application and appeal, that the proposed development would cater for locally derived rural housing needs. The proposal would therefore conflict with the policies of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

Donal Donnelly
Planning Inspector

25th May 2017