



An  
Bord  
Pleanála

## Inspector's Report PL09.248190.

---

<b>Development</b>	Construction of dwelling with new site entrance, landscaping and associated works.
<b>Location</b>	Carton Demesne, Maynooth, Co. Kildare.
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	16/1307
<b>Applicant</b>	Boldnote Developments Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First party vs. refusal
<b>Appellants</b>	Boldnote Developments Ltd.
<b>Observer(s)</b>	Ross and Yvonne Mitchell
<b>Date of Site Inspection</b>	1 <sup>st</sup> June 2017
<b>Inspector</b>	Ciara Kellett

## 1.0 Site Location and Description

- 1.1. The appeal site is located within Carton Demesne which is mid-way between Maynooth and Leixlip. Carton House, a Protected Structure, is located within the demesne and Carton Hotel and Golf Club form part of the demesne. Carton Demesne is bounded by the old N4 road to the south, now the R148, and by agricultural lands and Kellystown Lane to the east. Dunboyne Road bounds the demesne to the north and it provides access to the residential areas of the demesne which are generally located along the northern boundary of the demesne. A stone wall associated with the demesne forms the boundary with Dunboyne Road.
- 1.2. Residential development has occurred within the demesne over the last few years, and the appeal site is within the residential area to the east of the demesne.
- 1.3. A number of dwellings have been constructed, or are mid-way through construction, in the immediate vicinity of the site. The existing dwellings are large, two storey, mainly detached dwellings of various designs, within a mature woodland setting.
- 1.4. The subject site, identified as site 14, is on the eastern side of the internal road and bounds the Dunboyne Road. It faces site 11, and site 12 is to the immediate south.
- 1.5. The Rye Water Valley/Carton SAC (Site Code 001398) runs through the Carton Demesne and bounds the residential area to the south.
- 1.6. Appendix A includes maps and photographs.

## 2.0 Proposed Development

- 2.1. The development is for the construction of a new two storey, 4 bedroom detached dwelling of 279sq.m in area, and all associated works.
- 2.2. The house design incorporates three large full height ground to first floor windows, and the front façade is clad in lagan stone and treated cedar. A blue black natural slate roof is proposed.
- 2.3. The proposed location of the dwelling is on existing open space/woodland to the north of site 12. The original location of site 14 was south of site 12. Following the discovery of archaeological remains on the original site 14, it was decided not to build on the site and to relocate the dwelling to the north of site 12.

- 2.4. It is intended to leave the former site 14 clear of any construction and return it to woodland.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority issued a decision to **refuse permission** for three reasons as follows:

1. Objective CH3 of Chapter 12 of the Kildare County Development Plan 2011 – 2017 encourages conservation, renewal and improvement which enhances the character and the setting of parks, gardens and demesnes of historic interest in the County. Map 12.9 details lands within Carton Demesne with a particular emphasis on the preservation of existing woodland areas. The proposed development within this landscape would, if permitted, result in the further removal of woodland within the Carton House demesne, resulting in the further suburbanisation of this rural setting which would detract to an undue degree from the rural demesne setting and character of the area. The proposed development, if permitted, would be contrary to the provisions of objective CH3 of the Kildare County Development Plan, would seriously injure the visual amenities of the demesne setting and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would exacerbate the suburbanisation of this rural demesne setting and would therefore contravene the provisions of the ‘Sustainable Rural Housing Guidelines for Planning Authorities’ issued by the Department of Environment, Heritage and Local Government in April 2005, resulting in a negative visual impact on the landscape character of the area and would be contrary to the proper planning and sustainable development of the area.
3. The Site Layout Plan, received by the Planning Authority on 21<sup>st</sup> March 2014, as part of compliance submission in respect of condition no.20 (of planning Reg. Ref. 12/555), indicated the site as a ‘common area’ which is intended to serve as a designated open space for the residents of the overall

development. The proposed development would therefore be contrary to condition no.1 of planning Register Reference 12/555 which requires that the development be carried out in accordance with documentation received by the Planning Authority as may be amended by conditions.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Notes no proposals to return the former site 14 to woodland have been submitted.
- Notes circumstances behind the application, but expresses reservations in regard to the placing of an additional dwelling on this portion of the site.
- The subject lands narrow at this point with the access road curving to the east towards the stone wall. This has the effect of taking away further woodlands where it is an objective to preserve such lands.
- The original proposal provided for large dwellings on large plots which would be more in keeping with the setting - this proposal represents further densification/ suburbanisation.
- Considers that the site selection has not provided the optimum solution to the issue that has arisen with the former site no.14. The applicants have failed to justify the site selection and an alternative site within the footprint may be more suitable.
- The dwelling type differs to those immediately surrounding this site in terms of layout and expanse. Considers that this has largely been influenced by the more restricted site area and positioning of the site.
- Considers the proposed dwelling design would be more appropriately located on a less prominent site.
- Proposal will result in the removal of a significant number of trees which has not been justified by the applicant. An arboriculture report has been submitted, but it is not considered that the report justifies the removal of

woodland, which would be contrary to the provisions of Ch.12 of the County Development Plan which identifies this woodland as an area to be preserved.

- The applicant has failed to demonstrate compliance with the rural housing policy as set out in Ch.4 of the County Development Plan.
- The Planner recommends a refusal of permission.

The decision was in accordance with the Planner's recommendations.

### 3.2.2. Other Technical Reports

- **Area Engineer:** No objections.
- **Environment:** No objections subject to conditions.
- **Water Services:** No objections subject to conditions.
- **Transportation:** No objections.
- **Conservation Officer:** No Report on file.
- **Heritage Officer:** Recommends an alternative site be chosen within the landholding.

### 3.3. Prescribed Bodies

- **Irish Water:** No objections.

### 3.4. Third Party Observations

A third party submission was made by the owners of site 12 to the south of the proposed site 14. They consider that there are discrepancies between the landholding and the site boundary, and state that the proposed development will:

- Remove mature trees and part of parklands;
- Result in a dwelling design which is not consistent with existing dwellings and dwellings under construction; and,
- Impact on the privacy of their dwelling, and contend that there are more suitable lands within the landholding.

## 4.0 Planning History

There have been a substantial number of planning applications associated with residential development within the Carton Demesne. The majority of the applications relate to changes to individual house designs by the owners. The parent permissions for the overall residential development in this part of the demesne, known as Temple Wood, are as follows:

- **Reg. Ref. 06/2885:** Permission granted in August 2007 for 24 houses on lands where permission had previously been granted as Phase 4 under Reg. Ref. 91/441.
- **Reg. Ref. 12/555:** Permission granted in June 2013 for amendments to 06/2885, including increasing the number of dwellings from 24 to 30 within a revised site boundary. Condition no.1 of this permission is referred to in Reason no.3 for refusal for the subject application. It states:

*The development shall be carried out in accordance with the documentation received by the planning authority on 05.07.2012 as amended on 17.12.2012 and 24.04.2013 except as may be amended by conditions hereunder.*

**Reason:** *To enable the planning authority to check the proposed development when completed by reference to approved particulars.*

- **Reg. Ref. 14/918:** Permission granted in January 2015 for changes to the house design on the original site 14.
- **Reg. Ref. 16/329:** Permission granted in September 2016 for revisions to the approved and partially complete development granted under Reg. Ref's: 06/2885 and 12/555. The revisions include a revised site layout providing 34 houses (in lieu of 30 as approved under Reg. Ref. 12/555). Condition no.4 of this permission permitted a total of 32 houses only.

## 5.0 Policy Context

While Carton Demesne is in Maynooth, it is outside the Maynooth Local Area Plan boundary and is therefore, subject to the policies and objectives of the Kildare County Development Plan.

### 5.1. Kildare County Development Plan 2017 - 2023

The new Kildare Plan came into effect on 1<sup>st</sup> March 2017 and will be considered herein.

Chapter 3 refers to Settlement Strategy, Chapter 4 refers to Housing, Chapter 10 to Rural Development, Chapter 12 to Architectural and Archaeological Heritage, Chapter 16 to Rural Design and Chapter 17 to Development Management Standards.

Chapter 3 identifies Maynooth and Leixlip as both being 'Large Growth Town II'. However, as noted above Carton Demesne is outside the Local Area Plan boundary and hence, rural policies and objectives for development are also considered herein.

Chapter 4 refers to Housing. The area is not identified within the Plan for development but nonetheless the policies are appropriate to consider. With respect to Design and Layout, policy **DL1** states:

*Promote a high quality of design and layout in new residential developments and to ensure a high quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development.*

With respect to Open Space, it is the policy of the Council **PS1** to:

*Ensure that all residential development is served by a clear hierarchy and network of high quality public open spaces that enhances the visual character, identity and amenity of the area.*

Section 4.12 considers Housing in Rural Areas. This section of the Plan mainly refers to 'one-off' housing.

Chapter 12 refers to Architectural Heritage. Carton House and Demesne is recognised throughout this chapter. Policy **PS6** states:

*To maintain the views to and from Carton House and within Carton Demesne.*

**PS16** states:

*To protect and retain important elements of the built heritage including historic gardens, stone walls, landscapes and demesnes, and curtilage features.*

Section 12.5 refers to Country Houses and Demesnes. It states:

*Piecemeal development of demesnes can be detrimental to the historical and architectural importance of the demesne and country house. It is an objective of the Council to prohibit development in gardens or landscapes which are deemed to be an important part of the setting of a protected structure or where they contribute to the character of an Architectural Conservation Area.*

Policy **CH3** states:

*To encourage conservation, renewal and improvement which enhances the character and the setting of parks, gardens, and demesnes of historic interest within the county.*

This policy has not changed and is the same as that in the earlier County Development Plan (2011 – 2017), which was referred to in the Planning Authority's reason for refusal.

Map 12.12 is of Carton Demesne and illustrates the various different areas. The strip of land running alongside the boundary wall is identified as a woodland to be preserved.

Appendix 2 is the Record of Protected Structures. Carton House, stables, outhouses, interiors, gate lodges, and yards are all listed on the Record of Protected Structures.

Appendix 4 lists the Scenic Views. View 30 is '*Within Carton Demesne Walls: Views to and from Carton House, the Lake and Woodland Areas*'.

Chapter 16 refers to Rural Design and provides key principles for Site Selection, such as choosing a site with identifiable and well established boundaries. With respect to Site Layout, it advises that existing trees should be used or retained.

Chapter 17 refers to Development Management Standards. The site is not located in any residential area defined in the Plan, nor is it a 'one-off' rural dwelling. With



respect to Open Space, it states that narrow tracts of land (less than 10m) or pieces of 'left over after planning' are not acceptable.

## 5.2. **Natural Heritage Designations**

The Rye Water Valley Carton SAC (Site Code 001398) is located c.230m to the south of the site.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

A first party appeal against the Planning Authority decision to refuse permission has been lodged. In summary, it states:

- The replacement site was selected as the optimum location because it maintains the new dwelling within immediate proximity of the other Temple Wood residences, does not impact on the SAC, minimises impact on the general woodland, no further land is available between the house sites to the west of the road, and sites 22-32 are not available.
- The application confirmed that the former site 14 would not be built upon and returned to woodland. A drawing is included with the appeal. It is considered that the relocation of site 14 marginally increases the amount of common area and affords the opportunity to plant blocks of native broadleaf trees in the relocated common area, where the sycamores have already been cleared.
- **Reason no.1** – Report prepared by arborist, who has been extensively involved in Carton Demesne during its redevelopment, is included with the appeal documents. Report concludes that removal of self-seeded sycamore trees will not have a negative impact on the landscape character of this part of the demesne, and is not at variance with the management plan for the demesne set out in the County Development Plan.
- The redesign impacts minimally on the existing woodland with 8 sycamores out of 34 being removed to facilitate the new house. Of the 8 low grade, 2 are noted as being in poor condition. Broadleaf native trees will be planted to

supplement trees allowing the eventual longer term thinning and reduction of the remaining sycamores in accordance with the woodland management plan.

- Consider that this supports the objective of CH3 of Chapter 12.
- **Reason no.2** – considers that drawings submitted with the application clearly indicate that the original site 14 is to be returned to woodland, and demonstrates that the number of dwellings will remain constant and cannot be construed as suburbanisation.
- With respect to the design of the dwelling, the applicant invites the Board to append a condition based on an amended design which could be agreed with the Planning Authority, should the Board share the Planner's concerns regarding the design of the house. 3D sketches are included in the appeal. The applicant notes that the amended design is more in keeping with that previously granted on former site 14, Reg. Ref. 14/918, is dual fronted and is of a style in keeping with the dwellings on the surrounding sites.
- **Reason no.3** – The relocation does not represent any overall loss of common area or lead to an increase in density. The proposed relocation takes place within the boundary of Temple Woods. The proposal does not significantly change the layout or character of Temple Woods.
- It is agreed that this is a deviation from the documentation submitted under Reg. Ref. 12/555 and referenced under condition no.1 of that approval, hence, the reason why there was an obligation to apply for planning permission. Note that there have been numerous applications seeking amendments to the grant of Reg. Ref. 12/555 which has created a variety of house designs. Each of these applications requires the granted development to deviate from condition no.1 of Reg. Ref. 12/555.
- Reference is made to the third party observation submitted to the Planning Authority and the points raised in relation to removal of trees, site ownership, house design and privacy.

## 6.2. Planning Authority Response

The Planning Authority had no further comments to make.

### 6.3. Further Responses

An observation was submitted on behalf of Ross and Yvonne Mitchell, who have entered into a contract for purchase of the replacement site 14. In summary, planning points made include:

- As a result of the discovery of ancient burial ground, the observers were left with a site which cannot be built on – hence the replacement site 14 now the subject of this planning application.
- Note that the developer has produced a set of design criteria which each homeowner must comply with, should any changes be made to the original permitted design. The developer exercises control over the nature of the design.
- Notes the developer's suggestion that if the Board is minded to grant permission it could consider the alternative design, but the observers are of the view that the design to be progressed should be that which was submitted to Kildare County Council for permission.
- Consider that the original design for the former site 14 is not in keeping with the developer's own design guidelines or the other houses in the demesne – the design for replacement site 14 has been redesigned to remove this inconsistency.

### 7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of development – increase in suburbanisation
- Visual amenities of the demesne setting
- House design and layout

- Appropriate Assessment

## 7.2. Principle of development - increase in suburbanisation

As noted in Section 4 above, there have been a number of permissions granted for development since 2006 in this part of the Carton Demesne, known as Temple Wood. The original 2006 permission granted 24 dwellings and subsequent permissions have approved up to 32 houses in the same general area, as recently as September 2016. The subject application is not adding to that overall number.

I note the Planning Authority's concerns with the suburbanisation of this area, however, as there is no increase in numbers proposed, I do not consider that this change in location of a dwelling would intensify or exacerbate the overall 'suburbanisation' or density of development of the area as already permitted by the Planning Authority. The Planning Authority considered 32 dwellings in this location to be acceptable and there is no intention to increase this figure.

I note the refusal reason no.3 refers to condition no.1 of Reg. Ref. 12/555 which states that the development should be carried out in accordance with the documentation submitted. That parent permission indicates the new site 14 as 'common area' which is intended to serve as a designated open space for the residents. I am satisfied that there is no significant net decrease in open space with the relocation of site 14. The drawings indicate that the former site 14 will revert back to woodland and therefore, common area. Numerous applications have been submitted to the Planning Authority since Reg. Ref. 12/555 which have amended the parent permission – as noted above, additional dwellings have been permitted as recently as September 2016 – which have amended the parent permission.

Therefore, I do not consider that the proposed change to the layout as approved by the parent permission, is reason to refuse permission for the development. The subject planning application is in essence, seeking permission to make that change.

In conclusion, I consider that the relocation of site 14 and the house thereon, will not lead to any increase in density or suburbanisation of the area over and above what has already been permitted to date. Therefore, I consider the principle of development to be acceptable in this case and will not lead to an increase in suburbanisation.

### 7.3. Visual amenities of the demesne setting

Reason no.1 for refusal refers to the removal of woodland within the Carton House demesne which would result in the further suburbanisation of the rural setting and would detract to an undue degree from the rural demesne setting. Reason no.2 states it would result in a negative visual impact on the landscape character of the area.

The development is located in lands where development has previously been granted and considered acceptable in principle on numerous occasions. The overall Temple Wood development is in the general area where woodland is identified for preservation in Map 12.12 in the County Development Plan. It is proposed to plant native broadleaf species in the former site 14 which will contribute to the overall woodland setting, albeit over time. The applicant states that only 8 of the 34 trees are to be removed on the new site 14. Having regard to the fact that development is already permitted and under construction in this area, I do not consider the removal of an additional 8 sycamore trees to detract further from the woodland setting. I also note that the trees to be removed are towards the centre of the site. Trees framing the approach to the site will remain in-situ.

Having regard to the location of the subject site within an area where development has already been permitted, I do not consider that the relocation of one site will result in a negative visual impact on the landscape character of the area, nor will it, of itself seriously injure the visual amenities of the demesne setting contrary to policies PS6, and PS16.

Furthermore, the dwellings themselves are located on large plots providing substantial private open space. The relocation of the common area from one side of site 12 to the other is unlikely to impact on the visual and residential amenities of property in the vicinity.

The development is accessed via a barrier which prevents unauthorised vehicular access, which serves to 'isolate' the development from the demesne. No works are proposed which directly affect the Protected Structures, nor will there be an impact on protected vistas to and from Carton House or within the demesne. I therefore, do not concur with the Planning Authority that the relocation of one site within the footprint of the Temple Wood development would be contrary to policy CH3 which

seeks to encourage conservation, renewal and improvement which enhances the character and the setting of parks, gardens, and demesnes of historic interest.

I would recommend that should the Board consider granting permission, that a condition is included which requires the protection of all the remaining trees and that the planting of the new trees on the former site 14 takes place within the first planting season following the grant of permission.

#### **7.4. House Design and Layout:**

The proposed design of the dwelling is referred to in the Planner's Report. The applicant suggests that the design can revert back to the design approved on the former site 14 (Reg. Ref. 14/918) should the Board agree with the Planner's concerns in relation to the design. The observation submitted by the prospective owners of site 14 states that they wish to see the design which is before the Board to be the assessed design.

I am of the opinion that the design of the dwelling before the Board is the design which should be considered. I am satisfied that the two house designs are materially different and not easily amended by way of condition.

The Planner considers that a more suitable dual fronted design which addresses the access road and remaining woodland would be more appropriate. From the planning history and my site visit, I note that a substantial number of houses have departed from the design as originally granted in the parent permission. The Temple Wood development is now characterised by different house designs yet the palette of materials used is consistent – substantial glazing, cedar wood and stone cladding. The subject design is not seeking a departure from this palette. While I accept that the mass of the dwelling is greater than previous designs, I do not consider that this will read as such, having regard to the orientation of the dwelling. In addition, as noted above there are no trees planned for removal to the front of the site, thus there will be limited views of the dwelling itself.

The overall development is not sited within an area zoned for residential development, yet, having regard to the numbers of dwellings, cannot be considered with respect to design guidelines for one-off dwellings. However, having regard to policy DL1 which aims to promote a high quality of design and layout in new

residential developments, it can be concluded that the dwelling provides a high quality living environment in terms of overall layout and appearance.

In summary, I consider the design acceptable and in keeping with the mix of designs that now characterises the overall development.

#### **7.5. Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### **8.0 Recommendation**

- 8.1. I recommend that planning permission should be granted subject to conditions for the reasons and considerations as set out below

#### **9.0 Reasons and Considerations**

Having regard to the location of the site within an area previously approved for residential development, and to the nature and scale and pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the setting of Carton Demesne or of property in the vicinity. 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, as amended by the further plans and particulars received by An Bord Pleanála on 16<sup>th</sup> March 2017, 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on 21<sup>st</sup> June 2013 planning register reference number 12/555, and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. 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.

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

4. The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

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

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

**Reason:** In the interest of the amenities of the area.



7. 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 and off-site disposal of construction/demolition waste, and protection measures for the trees identified for preservation within the site.

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

8. The landscaping scheme shown on drawing numbers (03) 010 and (03) 011, as submitted to An Bord Pleanála on the 16th day of March, 2017 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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.

---

Ciara Kellett  
Senior Planning Inspector

14th June 2017