



An  
Bord  
Pleanála

## Inspector's Report ABP-300704-18

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<b>Development</b>	Construct 4 houses & all site works.
<b>Location</b>	Big Street, Termonfeckin, Co. Louth.
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	17/825
<b>Applicant(s)</b>	Victor & Lauraine Collins
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Professor Patrick Murphy
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	7 <sup>th</sup> May 2018
<b>Inspector</b>	Karla Mc Bride

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the coastal village of Termonfeckin in County Louth, the surrounding area is mainly residential in character and there are several detached houses in the vicinity. The site is located on the E side of the village and it comprise the rear garden of an existing single storey detached house which is located on the corner of Big Street and Thunderhill Road. The site is bound to the N by the existing house, to the E by the public road with a small scale commercial development beyond, and to the S and W by the side gardens of the neighbouring houses. The site boundaries are mainly defined by mature trees and hedgerows.
- 1.2. Maps and photographs in Appendix 1 describe the site and surroundings in detail.

## 2.0 Proposed Development

- 2.1. The proposed development of the 0.17ha site would comprise the construction of 4 x semi-detached 2-storey houses with front and rear gardens.
  - The 2 x 3-bed houses (Type A) would be c.12m wide, 9m deep and 8.5m high
  - The 2 x 4-bed houses (Type B) would be 15m wide, 9m deep and 8.5m high
  - Shared vehicular access off Thunderhill Road to proposed & existing houses
  - Connect to existing environmental services.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant planning permission subject to 15 standard conditions.

- Condition no.7 set out vehicular access requirements.
- Condition no.8 set out drainage requirements.
- Condition no.15 set out archaeological requirements.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the planning officer recommended that planning permission be granted.

#### **3.2.2. Other Technical Reports**

Infrastructure Department: No objection subject to conditions related to sightlines & visibility at the proposed vehicular access and surface water drainage

### **3.3. Prescribed Bodies**

Irish Water: No objection subject to conditions.

DoCH&G: Notes that the site is located within the Zone of Archaeological Potential around Termonfeckin (RM LH022-041) and an Archaeological Impact Assessment is required by way of FI.

### **3.4. Third Party Observations**

One submission from Professor Patrick Murphy who raised concerns in relation to non-compliance with policy, exceedance of local population requirement, impact of residential amenities, inadequate separation distances, prejudice development potential of neighbouring site, excessive height & density and lack of integration.

## **4.0 Planning History**

No relevant cases.

## **5.0 Policy Context**

### **5.1. Development Plan**

The site is located within an area covered by the Louth County Council Development Plan 2015 to 2021 and the Termonfeckin Settlement Plan.

## **Zoning:**

The site is located within a Level 3 Settlement and covered by the Village Centre zoning objective which seeks “To provide, protect and enhance village centre facilities & enable town centre expansion.” Residential use is permitted subject to it “comprising of not more than 50% of the floor space of the overall development”

## **Core strategy:**

**Policy CS 1:** seeks to promote household & population growth in accordance with Table 2.5 & 2.6 of the Core Strategy.

**Policy CS 2:** seeks to facilitate orderly and sustainable development through the implementation of an overall phasing strategy.

**Policy CS 3:** seeks to require the submission of a ‘Core Strategy Population and Phasing Statement’ with all applications for residential development on zoned land.

**Policy SS 9:** seeks to promote & facilitate limited development within Level 3 Settlements that is commensurate with the nature and extent of the existing settlement, to support their role as local service centres and to implement the policies & objectives relative to each settlement (Appendix 2, Volume 2 (a)).

## **Residential development standards:**

Density: Central (30/ha); Edge of centre (20-30/ha) & Edge of village (15-20/ha)

Height: Consistent with area & not exceed 3-storey

Public open space: 15% of Gross Site Area

Private amenity space: 80sq.m. (suburban) & 50sq.m. (town centre)

Separation distances: 22m between opposing first floor windows

Car parking: 1 space per dwelling

## **Termonfeckin Settlement Plan:**

**TERM 5:** seeks to retain & enhance existing trees & vegetation in the village area.

**TERM 6:** seeks to improve comprehensive pedestrian & cycling linkages to & within the village centre and between residential areas, schools and recreational areas.

**TERM 7:** seeks to ensure that that all new developments are set within heavily landscaped settings with comprehensive stone and hedgerow boundary treatments.

## 5.2. Natural Heritage Designations

The Boyne Coast & Estuary SAC & pNHA are located c.1.0km to the E of the site.

The Boyne Coast & Estuary SPA is located c.2km to the SE of the site.

## 6.0 The Appeal

### 6.1. Grounds of Third Party Appeal

Professor Patrick Murphy who owns the neighbouring house and site to the E along Big Street raised the following concerns:

- Non-compliance with Policies CS1, CS2 & CS3 of the Dev. Plan with respect to the residential zoning in a Level 3 Settlement; no shortage of residential sites, existing planning approvals far exceed the house need quota set out in Table 2.4 (125 homes for 13 settlements; and the 4 houses exceed the local population requirement.
- Non-compliance with s.4.9.2 of Dev Plan in relation to height & impact of 2-storey buildings on neighbouring single storey houses.
- Non-compliance with s.4.10.3 & item 10 of Table 4.2 of the Dev. Plan; inadequate separation distances (less than 22m) & overlooking and loss of privacy (from 8 first floor windows); and prejudice future development potential of neighbouring site which is owned by the Appellant.
- Non-compliance with s.1.4.6 (protection of heritage) & 3 items in Table 4.2 (context, distinctiveness & privacy/amenity) of the Dev. Plan; excessive height & density which exceed standards and lack of integration with the village.
- No objection in principle to new housing on the site but the current proposal would violate the rights of the adjoining landowner.

## 6.2. Applicant Response

### General response:

- Site comprises a brownfield Town Centre site which provides for a modest infill development of 4 houses.
- Accords with the Core Strategy & Policies CS1 & CS2 which seek to promote orderly development and & SS9 to facilitate limited development in Level 3 settlements, and it would constitute a consolidation of the urban core
- Both house types comply with the development standards set out in Table 4.5 & 4.7 (minimum floor areas, room sizes & widths).
- Both house types comply with the private amenity space standards set out in Table 4.9 for Brownfield & Suburban locations.
- Complies with s.2.16.7 in relation to Level 3 Settlements with respect to a satisfactory range of services given the limited number of houses proposed.
- Complies with s.4.10.3 & Policy RES28 in relation to privacy and separation distances between opposing first floor windows, and there are no houses within 22m except for the existing cottage which is single storey.
- Complies with s.4.4 in relation to the housing layout guidelines, proposal comprises a small scale high quality residential infill scheme which has been designed to respect the existing character & street patterns, the internal road layout complies with DMURS and is well connected to the surrounding area.
- Complies with s.4.4.2 in relation to dwelling mix, by proposing 2 house types.

### Response to Third Party appeal:

#### Issue no. 1:

- Dev. Plan does not convey any private property rights on any individual site so the suggestion of violation is rights is incorrect.
- S.4.10.3 requires a 22m separation between opposing windows at first floor level between existing houses, with no standards for minimum garden depths.

- Appellant does not have a house on the adjoining site or permission for a house, and the development potential is constrained by access and site width issues as the lands directly opposite the proposed houses are too narrow.
- Any future development of the neighbouring site would be confined to the rear section and could constitute back land development.
- Proposal complies with all relevant residential development standards.

**Issue no. 2:**

- Proposal is not located within the historic village core, it is not high density (29 units/ha) & unsustainable to restrict development to single storey units.

**Issue no. 3:**

- Proposal does not constitute dense commercial development in contravention of Policies CS1, 2 & 3.
- The PA clarified that extant permissions were taken into account in the preparation of the Core Strategy & in the allocation of 125 houses to the 13 Level 3 settlements, and proposal will not exceed population projections.

**Issue no. 4:**

- Acceptable height and design as s.4.9.2 provides for a mix of house types & sizes, and there is a variety of single & 2-storey houses in the vicinity.

**6.3. Planning Authority Response**

No further comment.

**6.4. Observations**

None received.

## 7.0 Assessment

The main issues arising in this case related to the following:

- Principle of development
- Density, design & layout
- Residential amenity
- Vehicular access & car parking
- Other issues

### 7.1. Principle of development

The proposed residential development would be located within the Level 3 Settlement of Termonfeckin in the current County Louth Development Plan. Policy SS 9 of the Plan seeks to promote and facilitate limited development within Level 3 Settlements that is commensurate with the nature and extent of the existing settlement, to support their role as local service centres and to implement the policies & objectives relative to each settlement (Appendix 2, Volume 2 (a)). The appeal site is covered by the Village Centre zoning objective which seeks “To provide, protect and enhance village centre facilities & enable town centre expansion” and residential use is permitted subject to it “comprising of not more than 50% of the floor space of the overall development.”

The proposed development would comprise 4 houses which would occupy 100% of the floorspace of the overall development on a c.0.17ha site. It is noted that the site is located on the periphery of the Village Centre zoning objective and at a distance from the village centre. It is also surrounded by existing dwelling houses and separated from the village centre by long established residential uses. I am satisfied that proposed residential development of this site is acceptable in principle.

The concerns raised by the Third Party in relation to the overprovision of dwelling houses in Termonfeckin village relative to anticipated population growth are noted. However, having regard to the small scale and location of the proposed development, I am satisfied that the additional 4 houses would assimilate into the



surrounding residential area in a manner that would not contravene the population or housing projections for Termonfeckin, or set a precedent for any future large scale residential developments in the surrounding area.

## 7.2. **Density, design and layout**

The proposed development would comprise the construction of 4 x 2-storey semi-detached houses on a 0.17ha site which is currently occupied by a single-storey house. The existing and 4 proposed houses would equate to approximately 29 units per hectare which complies with the Development Plan density standard of 20 to 30 units/ha for Edge of Centre sites which is appropriate for this location.

The proposed development would comprise two house types, each pair of semi-detached houses would be positioned at a slight angle to each other and front onto Thunderhill Road to the E. The proposed 2-storey houses would be 9m deep and 8.5m high and between 12m wide (Type A) and 15m wide (Type B), they would have a fairly standard suburban design. The existing hedgerows and trees along the W and S site boundaries would be retained. The proposed houses would be set back between c.7m and 16m from the roadside boundary to the E and they would have a shared and recessed access off Thunderhill Road which would result in the loss of the existing hedgerows along this section of the local road.

The design and layout of the proposed development, including the landscaping proposals, is considered acceptable in terms of visual amenity, subject to compliance with conditions related to the implementation of the landscaping scheme.

## 7.3. **Residential amenity**

### **Proposed houses:**

The proposed 4 x 2-storey semi-detached houses would provide for an acceptable level of residential amenity in terms of floor area, room size, orientation, storage and amenity space, in line with national and local requirements.

### **Existing house:**

The proposed c.10m wide side elevation of the northernmost 2-storey house (Type A) would be set back c.11m from the c.5.5m wide side elevation of the existing single storey house to the N. The proposed N elevation would contain a small landing window at first floor level and no windows to habitable rooms, and the neighbouring

house would not be overlooked. Having regard to the orientation of the proposed houses to the S of the existing house, it is likely that a shadow would be cast across the intervening open space during the middle part of the day. However, none of the habitable rooms in the existing house would be overshadowed having regard to the 11m separation distance and the absence of windows in the S facing elevation. I am therefore satisfied that the existing house would not be overlooked or overshadowed to any significant extent, with no loss of residential amenity or privacy anticipated.

**Neighbouring house to W:**

The neighbouring single storey house to the W (which is owned by the Appellant) fronts onto Big Street to the N and the proposed 2-storey houses would front onto Thunderhill Road to the E. The proposed houses would be located entirely to the rear of the existing house to the N and its neighbour to the W at Big Street. The rear NW corner of the proposed northernmost 2-storey house (Type A) would be set back c.30m from the rear SE corner of the neighbouring single storey house to the W. Although the proposed E facing rear elevations of all 4 houses would contain bedroom windows at first floor level, the neighbouring house to the W would not be overlooked as the proposed and neighbouring houses are located at right angles to one another and because of the 30m separation distance. The northernmost houses would also be set back c.22m from the rear garden boundary of the neighbouring house which would not be overlooked or overshadowed to any significant extent having regard to the depth of the separation distance. I am therefore satisfied that the neighbouring house to the W would not be overlooked or overshadowed to any significant extent, with no loss of residential amenity or privacy anticipated.

**Neighbouring house to S:**

The rear SW corner of the proposed southernmost 2-storey house (Type B) would be set back c.14m from the front NE corner of the neighbouring 2-storey house to the S. The proposed S elevation would contain a small landing window at first floor level and no windows to habitable rooms, and the neighbouring house would not be overlooked. There would be no potential for overshadowing having regard to the orientation of the proposed development to the N of the neighbouring house. I am therefore satisfied that the neighbouring house would not be overlooked or

overshadowed to any significant extent, with no loss of residential amenity or privacy anticipated.

**Neighbouring house to E:**

The proposed separation distances with the existing houses to the E are in excess of 50m which would ensure that the neighbouring houses are not overlooked or overshadowed, with no loss of residential amenity or privacy anticipated.

**Conclusions:**

Having regard to foregoing, including the design and layout of the proposed houses, the separation distances, orientation and relationship to the neighbouring residential sites, I am satisfied that the proposed development would not have any significant adverse impacts on the residential amenities of properties in the vicinity.

**Adjoining site to W:**

The Third Party Appellant also owns the “L” shaped site that lies in between the appeal site and his single storey house to the W at Big Street. The Appellant has raised concerns in relation to the possible impact of the proposed development on the future development potential of his adjoining lands.

The 2 northernmost houses (Type A) would be set back between c.5m and 7m from the W site boundary with this adjoining site. The width of the section of the adjoining site that is located to the immediate W of the proposed houses varies between c.16m and 18m and this narrow width could place a constraint on the residential development potential of this particular section of the site. The 2 southernmost houses (Type B) would be set back between c.5m and 14m from the W site boundary with the adjoining site and the section of the adjoining site that is located to the immediate W of the proposed houses is c.35m wide and over 50m deep.

Having regard to the design and layout of the proposed houses and their relationship to the adjoining site to the W taken in conjunction with the “L” shaped configuration and dimensions of the neighbouring site, I am satisfied that the proposed development would not have a significant adverse impact on the development potential of the neighbouring site.

#### **7.4. Vehicular access and car parking**

The vehicular access to the existing house on the appeal site is directly off Big Street to the N and the E site boundary, which runs parallel to Thunderhill Road is defined by an existing hedgerow. The proposed development would comprise the closure of the existing access off Big Street and the creation of a new shared vehicular access to the proposed and existing houses off Thunderhill Road to the E. The proposed access would be located diagonally opposite and to the S of a small junction at the intersection of Thunderhill Road with another local road off Big Street.

The proposed entrance would be c. 6.3m wide and it would provide access to a recessed and shared paved area which would be c.5.5m deep and c.24m wide long and c.5.5m wide. This area would be separated from the front car parking spaces by a c.1.5m wide footpath that would also extend along E site boundary of the site to the existing public path along Big Street. A large section of the existing hedgerow would be removed and replaced by a wall or timber fence which would be set back from the existing boundary in order to provide for improved c.45m sightlines to the N and S of the new entrance. This arrangement is considered acceptable in terms of traffic safety subject to the permanent maintenance of the sightlines and subject to compliance with Council requirements in relation to sightlines, visibility, set backs, boundary treatment and gates. Any outstanding concerns could be addressed by way of planning conditions.

The proposed development would provide for two off-street car parking for each of the proposed and existing houses which exceeds the Development Plan minimum requirement of 1 space per unit, and the proposal would not give rise to overspill car parking on the surrounding road network.

#### **Conclusions:**

Having regard to the foregoing, I am satisfied that the proposed development would not give rise to excessive traffic generation, overspill car parking or a traffic hazard and it would not obstruct or endanger the safety of other road users.

#### 7.5. **Other issues**

**Environmental services:** Irish Water and the Council's Environmental Services department have no objection to the proposed development. Having regard to the location of the proposed houses within an existing village and on serviced lands, I am satisfied that the proposed arrangements are acceptable subject to compliance with Council requirements in relation to water supply and drainage. Any outstanding concerns could be addressed by way of planning conditions.

**Heritage:** The site is located within the Zone of Archaeological Potential around Termonfeckin (RM LH022-041) and an archaeological assessment is therefore required. This could be addressed by way of a planning condition.

**Screening for Appropriate assessment:** The site is located c.1-2km from the nearest European sites to the E and SE at the Boyne Coast & Estuary SAC and SPA. However, having regard to the location of the works within an existing village on serviced lands and the absence of a direct connection between the proposed works and the designated sites, I am satisfied that screening for AA is not required.

#### 8.0 **Recommendation**

Arising from my assessment of this appeal case I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below and subject to the following conditions.

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

Having regard to the provisions of the County Louth Development Plan 2015 to 2021, and to the nature, and scale of the proposed development, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity or give rise

to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 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 landscaping scheme 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 or until the development is taken in charge by the local authority, whichever is the sooner, 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 visual amenity.

3. The developer shall comply with the following transportation requirements:
  - (a) Adequate visibility shall be maintained in accordance with the submitted plans and particulars for a minimum of 45m on either side of the entrance from a point 2.4m back from the edge of the carriageway over a height of 1.05m above road level and no impediment to visibility shall be placed, planted or allowed to remain within the visibility triangle.

- (b) Where it is necessary remove hedges to provide adequate visibility, the new boundary wall or fence shall be located behind the visibility splay and shall be a minimum of 3m from the edge of the carriageway. Any pole, column or sign materially affecting visibility must be removed.
- (c) The area within the visibility splay shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and shall be retained and kept clear thereafter. No work shall commence on site until the visibility splays have been provided.
- (d) Any entrance gates shall be set back at least 5.5m from the road edge, wing walls or fence shall be splayed back at an angle of 45 degrees and gates shall open inwards. The gradient shall not exceed 2% for the first 5m

**Reason:** In the interests of road safety.

- 4. Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

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

- 5. The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

**Reason:** To protect the residential amenities of property in the vicinity.

- 6. The developer 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:

- (a) 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

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

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.

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.

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.

7. The developer shall pay to the planning authority a financial contribution of twenty-one thousand, six hundred euro (€21,600) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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. The application of any indexation required by this condition 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.



**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.

8. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to the value of thirteen thousand, two hundred euro (€13,200) to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

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Karla Mc Bride  
Planning Inspector

2<sup>nd</sup> July 2018