



An
Bord
Pleanála

Inspector's Report ABP-300850-18

Development

11 no. houses consisting of 9 no. four bed semi-detached and 1 no. five-bed semi-detached three storey houses and also 1 three bedroom detached two storey house together with all associated site works and landscaping

Location

Killarainey, Moycullen County Galway

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

17/812

Applicant(s)

Almada Ltd.

Type of Application

Permission.

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

1. Woodland Residents Park Association
2. John Mugan
3. Vincent Gormley

Observer(s)

None.

Date of Site Inspection

28th of May 2018.

Inspector

Karen Hamilton

1.0 Site Location and Description

1.1. The subject site is located to the rear of the existing neighbourhood centre which fronts onto the main street (N59) in the village centre of Maigh Cuilinn, County Galway. The site is accessed via a service road to the rear of the neighbourhood centre. The site is set below the properties along the west of the site and is a vacant site which has been partially surfaced. Lands to the north contain a woodland area which is accessible from the residential estate to the east, Woodlands Park. The site is raised above the Woodlands Park Estate which contains large detached dwellings.

2.0 Proposed Development

2.1. The proposed development would comprise of the following:

- 9 No. dwellings (8 no. 4 bed semi-detached and 1 no. 5 bed detached) with associated works and open space provision.

3.0 Planning Authority Decision

3.1. Decision

Decision to grant permission with 12 no. conditions of which the following are of note:

C 1- The permission shall only relate to 9 no dwellings.

C 2- Unit 3 (house type G) shall be redesigned to provide a dual aspect dwelling from a south easterly and south westerly perspective.

C 3- Submission of an independent Road Safety Audit with the inclusion of a home zone design for surfaces within the development.

C 5- Management Company

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following the submission of further information on the following:

- Revision of the site layout including the removal of dwelling no.3, landscape buffer, satisfactory open space, separation distance between dwellings and rear of existing dwellings and inclusion of 2 storey dwellings only.
- Compliance with DMURS guidance for sightlines, footpaths and treatment of junctions.
- Removal of the swallow hole as a method to treat the surface water and inclusion for a separate proposal with SuDS.
- Evidence of correspondence with Irish Water.
- Construction Management Plan.
- Clarification on the proposed access gate.

The submission of further information included a reduction in the number of dwellings from 11 to 9.

3.2.2. Other Technical Reports

Environment Section- Request for further information.

Transportation Section- Request for further information.

3.3. Prescribed Bodies

Transportation Infrastructure Ireland – No observation.

Irish Water- No objection subject to a connection agreement.

3.4. Third Party Observations

A large number (19 no.) of third party submissions were received from residents in the vicinity of the site in relation to the overall design of the proposed dwellings and these issues are summarised in the grounds of appeal.

4.0 Planning History

None relevant on the site.

5.0 Policy Context

- 5.1. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009)- Urban Design Manual, A best practice guide.
- 5.2. Design Manual for Urban Roads and Streets, 2013 (DMURS)
- 5.3. **Galway County Development Plan 2015-2021/ Maigh Cuilinn LAP 2013-2023**

The Maigh Cuilinn LAP 2013-2019 was extended pursuant to Section 19 (1) of the Planning and Development Act and is read in conjunction with Galway County Development Plan 2015-2021.

The site is located on lands zoned both C1, Village Centre/ Commercial and OS, Open Spaces/ Recreation & Amenity.

Residential

Residential will be considered within lands zoned C1 subject to Policy RD1 and Objective RD1.

Objective LU 1 – Development Objective for Land use C1- Promote the development of the Village Centre as an intensive, high quality, well-landscaped, human-scaled and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail services, facilities and amenities to the local community and visitors to the village.

Policy RD 1- Residential Development.

Objective RD1 – Phased Residential Development - Support the development of lands designated as Residential (Phase 1) within the lifetime of the Local Area Plan, subject to normal planning, access and servicing requirements, and reserve the lands designated as Residential (Phase 2) for the longer term growth needs of the village

Open Space and Recreation

Objective LU 6 – Open Spaces/Recreation & Amenity (OS) (Refer to Map 1A/1B)

Promote the sustainable management, use and/or development, as appropriate, of the OS lands.

This will include the:

a) Development of open spaces and recreational activities in accordance with best practice and on suitable lands with adequate access to the local community and retain existing open space and recreational facilities.

Development Management Standards

Objective DS 4 – Development Management Standards and Guidelines

- Plot Ratio- 1.0- 1.25
- Site Coverage- 80%
- Minimum open space- Site specific.

The general development management standards and guidelines set out under the current Galway County Development Plan shall apply.

Specific development management guidelines set out in Section 3 of this plan shall also be applied, as appropriate, to development proposals in the Plan Area.

Transport

Objective TI 20 – Road Safety Audits, Traffic Impact Assessment

All residential development greater than 4 units are required to submit Road Safety Audits and Traffic Impact Assessments as part of their planning application documentation.

5.4. Natural Heritage Designations

The site includes the following Natura 2000 sites within a 15km radius:

- 1.2km east of Lough Corrib SAC,
- 2.4km west of Lough Corrib SPA,
- 2.9km north-west of Ross Lake and Woods SAC,
- 4.0km west of Connemara Bog Complex SAC,
- 6.9km north of Gortnadarragh Limestone Pavement SAC,

- 8.7km south-east of Galway Bay Complex SAC,
- 9.6km south east of Inner Galway Bay SPA
- 10.6km west of Connemara Bog SPA.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by the residents association and occupants of properties within the Woodland Estate to the west of the site and the issues raised are summarised below:

Residential Amenity

- Dwelling No. 3 will be 4m higher than that existing dwelling to the north east of the site and will overlook and overshadow. The ground level of the property should be retained.
- Properties 1 & 2 (house type E & F) remain 3 stories in height even after the required reduction by the Planning Authority and remain excessive. These dwellings should be further reduced in height.
- There is a requirement for the provision of recreational space which can connect through the estates (Policy CF9 of the LAP). The unsurfaced pathways will still comply with the policy of the development plan.

Recreation & Open Space

- The upgrade of works to the woodland park include new gravel trails and it is required that these remain unsurfaced as present.
- The upgrade of the woodland would encourage antisocial behaviour into the existing estate of Woodland Park.

Waste Water

- The proposal to connect into the Woodlands Park System is unacceptable as there is not enough capacity and it is a private system which has not been taken in charge by the Local Authority.

Groundwater

- The underlying topography of the site and use of soakpits will not allow the successful discharge of the surface water to the ground.
- The ground water should be pumped to the main waste water system on Church Road.
- Irish Water (Ref: CDSCPF1) raised concern on the disposal of both foul and rainwaters.

6.2. Applicant Response

An agent on behalf of the applicant has responded to the grounds of appeal which is summarised below:

- The scheme has been designed to minimise the impact of the proposal on the adjacent dwelling and consider the topography of the site.
- There are no first floor windows on the gable of House type G to cause any overlooking on adjoining residents.
- There are two alternative routes for the sewer connection i.e. gravity to the Woodland Park or pump to the sewer serving the Cearnog Nua development.
- The pumping of surface water to the main waste water system, as suggested by the appellant, would not be feasible or acceptable by Irish Water.
- The wooded area in the site is within the applicant's ownership, who has permitted the residents of Woodland Park access. The upgrade of works are at the request of the Planning Authority.

6.3. Planning Authority Response

None received.

6.4. Observations

None received.

7.0 Assessment

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of Development
- Impact on Residential Amenity
- Water and Waste Water
- Traffic and Access
- Open Space
- Other
- Appropriate Assessment

Principle of Development

7.2. The site is located on lands zoned as C1, Village Centre/ Commercial Centre where it is an objective to promote the development of the village centre with an appropriate mix of uses including residential. The site is located adjoining a mixed use development including retail and residential, in the village centre.

7.3. Residential development in Maigh Cuillin is subject to phasing as per Objective RD1 which states that lands not designated as Phase 1 may be developed where the proposed development complies with the Core Strategy of the county development plan, the policies and objectives of the Local Area Plan, the principles of proper planning and sustainable development and to meeting normal planning, access and servicing requirements. The location of this serviced site, between a mixed use development and a residential estate, is considered appropriate for residential development.

7.4. Section 3.1.3 of the Maigh Cuillin LAP requires a plot area ratio of 1.00 to 1.25 for lands zoned C1 and a maximum site coverage of 80%. The plot ratio of the proposed development is 0.40:1 and the site coverage is c 50%. Residential Density at village centres or immediately adjacent to public transport hubs is 35-50 per ha. The proposed development was reduced from 11 no. to 9 no. units (26 units per hectare) following an additional information request in relation to the impact of the adjoining residential amenity. The density requirement for inner urban suburbs is 15-35 per ha

and having regard to the location of the site between the main village shopping centre and an established residential estate I consider the site may be classified as a transitional area and therefore a density of 26 units per hectare is appropriate at this location.

- 7.5. Having regard to the location, the zoning on the site and the policies and objectives of the development, subject to complying with other planning requirements as addressed in the following sections, I consider the principle of development acceptable.

Impact on Residential Amenity

- 7.6. The proposed development is located to the west of the existing residential estate, Woodlands Park. Following a request for further information on the redesign of the site layout plan to reduce the impact on the adjoining properties at Woodland Park, the number of dwellings was reduced from 11 no. to 9 no. and the orientation of the dwelling away from the existing dwellings to prevent overlooking. The grounds of appeal, residents of the adjoining residential estate, are concerned that dwelling No. 3 (Type G) remains 3 storeys in height, therefore having an overbearing impact on their amenity.
- 7.7. Dwelling No. 3 (Type G) was reduced in height by c.0.5m (c. 9m) and redesigned as a two storey dwelling. The dwelling is located c. 6.5m from the western boundary and c. 9.3m from the edge of the closet dwelling. The ground floor level of the dwelling is higher than the adjoining property by c. 3m. Having regard to the location of the closest dwelling, Woodlands Park, from proposed dwelling no. 3 and the orientation of both dwellings away from each other I do not consider dwelling No. 3 would cause any overbearing on the amenities of this property. There are no windows along the first floor eastern elevation of the dwelling, therefore there is no issue with overlooking on the adjoining property.
- 7.8. Condition No 2 required the redesign of Unit 3 (house type G) to provide a dual aspect dwelling from a south easterly and south westerly perspective. The national guidance on urban design provides guidance where high quality materials and external design make a positive contribution to the locality and I consider the dual aspect will provide an appropriate finish for those proposed dwellings along the west of the site.

7.9. Therefore, having regard to the design of the proposed development and location from Woodlands Estate, I do not consider the location or height of the proposed development would have a serious negative impact on the amenities of the residents with the adjoining estate.

Water and Wastewater.

7.10. The proposal includes a public connection for water and wastewater. The grounds of appeal are concerned the wastewater connection is via the Woodlands Park system, which they argue has never been taken in charge and does not have the capacity to accommodate 9 no. dwellings.

7.11. Water: Irish Water (IW) correspondence refers to the location of the IW infrastructure at a distance away from the site and the use of private infrastructure for a connection. IW require the submission of an agreement with the private owner for water connection between the site and IW infrastructure, which I consider reasonable.

7.12. Waste Water: The proposed development includes a gravity flow foul water network connecting to a 24hr foul sewer pump chamber which pumps supply to the existing foul water network immediately outside the site via a standoff manhole. A further information request required the submission of a response from Irish Water in relation to a preconnection enquiry. Irish water correspondence to the application (letter CDSCOF1) refers to a preferred connection to the existing IW foul sewer to the north of the site via a gravity connection. Condition No. 4 requires the applicant to enter into a Connection Agreement with Irish Water. The applicant's response to the grounds of appeal state that two possibilities, connection by gravity to Woodlands Park or pumped connection to Cearnog Rua are possible and they have the necessary easements for either route or connection. No response to the further information the Environment Section, although the planners report refers to correspondence. This aside, the location of the site within the village setting is considered serviceable and any connections for water and wastewater are a matter for satisfactory agreement with the Local Authority and Irish Water.

7.13. Surface Water: A soakaway is proposed to treat the storm water for each house and the remaining storm water from the roads with have a separate soakaway. The grounds of appeal argue this proposal will not be sufficient to deal with the flow of

surface water from the site. The infiltration test recorded very good filtration rates and the Engineers report response to the additional information request refers to construction of the soak away in accordance with BRE Digest 365 and the use of a petrol interceptor upstream of the proposed soakaway for storm runoff from road/footpath areas. Geological Survey Ireland (GSI) data records the rock type as Megacrystic pink/grey monzogranite which is permeable igneous rock. I consider the use of soakaways reasonable to deal with the surface water within the site and prevent significant runoff into adjoining areas. Therefore, having regard to the geology on the site and the use of soakaways, I consider the surface water may be treated appropriately within the site.

Traffic and Access

- 7.14. Access to the site is via a private road, to the rear of the existing mixed use development, which joins a local road (L1313) in Maigh Cuilinn village centre. This road is currently used as access to a multi-storey carpark and service area for the mixed use development. Additional Information was submitted in relation to alterations to the boundary treatment at the entrance of the site was revised to include a 600mm high wall for required sightlines, “auto track” analysis to illustrate access for service vehicles, amended road markings to the existing access road and internal redesign for the removal of footpaths and inclusion of home zones. Condition No. 3 requires the submission of an independent road safety audit review the proposal and accept the measures recommended by the audit or provide alternative measures that meet the auditors approval. I note the planner report refers to the response from the Roads and Transportation Unit of the local authority whilst no response is evident.
- 7.15. Objective T1 20 of the Maigh Cuilinn LAP, refers to the need for residential units greater than 4 units, to submit Road Safety Audits and Traffic Impact Assessments as part of their planning application. DM Standard 24 of the county development plan refers to the need for significant development proposals to be accompanied by Road Safety Audits. The application was not accompanied by a Road Safety Audit and the Engineers Report refers to the revised design, new road markings on the approach road into the site, the pre-existing footpath with dropped kerbs, signage for delivery's and the low number of vehicles entering the site, therefore the proposed development did not warrant the inclusion of a Road Safety audit Report. I note the

access road to the site leads onto a local road, an established access, and includes footpaths along either side. Directional signage and new road markings are proposed for the service delivery area adjoining the site, which I consider reasonable. I have assessed the access into the site which includes a footpath and a setback of c. 6m from the existing access road, which I consider reasonable for the proposed development. In addition, I do not consider the proposed development is a significant development proposal which requires the submission of a Road Safety Audit, as determined in the county development plan.

- 7.16. The proposal includes a home zone/ shared surface for the internal roads and brick paving for the driveways. Objective T1 11 of the county development plan provides guidance for routes in built areas of towns in the national (DMURS). Chapter 4 of DMURS refers to the appropriate use of materials on shared surfaces for home zone principles. As stated above condition No. 3 requires the submission of an independent road safety audit which is to include the shared space/ home zone street design aspect and the pavement finish. I consider the inclusion of a condition requiring a permeable shared surface for all vehicular areas, in accordance with the home zones principles, reasonable in conjunction with the public landscaped areas.
- 7.17. Having regard to DMURS, the guidance in the development plan and the access into the site and the number of vehicles into the site, I do not consider the proposed development would cause a traffic hazard or have a significant negative impact on the surrounding area.

Open Space

- 7.18. The woodland area along the north of the site is currently accessed from the Woodland Park Estate includes informal trails and appears to be a well-used amenity area. The proposed development includes three small landscaped areas (c. 480m²) within the housing scheme and a formal access into the woodlands area (2,881m²) currently zoned as open space. The grounds of appeal are concerned the surfacing of the trails will encourage pedestrian activity other than the proposed occupants of the new residential scheme.
- 7.19. The surfacing of the trails was included as a response to an additional information request on the provision of open space and includes works to one trail which will be cleaned, compacted and edged. Objective CF9 of the LAP supports the

establishment of greenway linkages and amenities as attractive circulations routes for pedestrians and cyclists. I consider the inclusion of the routes through the woodland will promote permeability, in line with objective CF9 and the principles of the national design manual for sustainable residential development and I consider the surfacing reasonable as the materials are permeable and integrate with the woodland environment.

- 7.20. The open space requirement for residential development in Zone 1 is site specific, the three landscaped parcels (c. 480m²) represents 13% of the site. Condition no 3 requires the inclusion of shared space/ home zone street design which I consider, in addition to the landscaped areas, and access to the woodland would provide sufficient amenity space for the residents of the modest estate, therefore complying with the development plan standards.

Other

- 7.21. Management Company: The proposed development includes 9 no. dwellings and no apartments. Condition No 5 includes a requirement for a “properly constituted management company” for the maintenance of the communal areas, road etc. Circular PD 1/08 from the Department of Environment, Heritage and Local Government included guiding principles for a taking in charge policy for planning authorities, stating that planning authorities must not attach management companies as a condition of planning for traditional housing estates, save for exceptional circumstances e.g. mix of types. Having regard to the design of the proposed estate I do not consider the inclusion of a management company is appropriate.
- 7.22. Part V: A letter from Galway County Council Housing Unit accompanied the planning application and states that they have agreed the provision of 1 unit (3 bed town house) fulfil the Part V obligation for the scheme. The scheme was amended from 12 to 9 no. dwellings and I note no Part V condition was included on the grant of permission, which I consider reasonable to allow for any amendment for the provision of a social and affordable scheme.

Appropriate Assessment.

- 7.23. The site is located within 15km of six Natura 2000 sites of which the most relevant Lough Corrib SAC (1.2km) and Lough Corrib SPA (2.4km). A stream runs through the woodlands forest to the north of the site, within the proposed open space. The

proposal includes connection to the public water and waste water system and the discharge of the surface water is via a soak pit on site. A Screening for Appropriate Assessment accompanied the planning application and concluded that when integrating normal best practice construction methods, including a silt fence along the stream, prevention of spills and waste management the proposed development would not have a significant negative impact on the watercourse within the adjoining woodland or any Natura 2000 sites, which I consider reasonable.

- 7.24. Therefore, having regard to the nature and scale of the proposed development and the provision of services for the site and separation distance to the nearest 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 the conservation objectives of any European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the village centre zoning (CI) of the site, the policies and objectives of the Maigh Cuilinn Local Area Plan 2013-2023, the Galway City Development Plan 2017-2023, the national guidelines for Sustainable Residential Development in Urban Areas and the pattern of development in the area, it is considered that subject to compliance with the conditions as set out below the proposed development would not seriously injure the amenities of the area, or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. Therefore, the proposed development would 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 proposed development shall be amended as follows:
 - (a) Unit 3 (type G) shall be redesigned to provide a dual aspect from a south easternly and south westernly perspective.Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority for written approval before commencement of development. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose

4. . Prior to commencement of development the applicant shall submit full details of the road network serving the proposed development, including signage, road markings, materials, turning bays, junctions, parking areas, footpaths and kerbs which shall comply with the home zone principles and the detailed standards of the planning authority for such road works.

. **Reason:** In the interest of amenity and of traffic and pedestrian safety

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

. **Reason:** In order to safeguard the residential amenities of property in the vicinity

6. All rear gardens shall be bounded by block walls, 1.8 metres in height, capped, and rendered, on both sides, to the written satisfaction of the planning authority.

Reason: In the interest of residential and visual amenity

7. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed

name.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas]

8. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

9. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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

Reason: In the interest of public health.

11. 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 secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance 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 and maintenance of the development until taken in charge

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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

Karen Hamilton

Planning Inspector

06th of June 2018