



An
Bord
Pleanála

Inspector's Report ABP-300861-18

Development	17 Houses
Location	Maglin, Ballincollig, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	17/4567
Applicant(s)	Stonecrest Construction Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Gretta Costello
Observer(s)	None
Date of Site Inspection	16 th May, 2018
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The 0.944 hectare site lies immediately west of Maglin residential estate in Ballincollig, County Cork, an estate of detached, semi-detached and terraced houses. The site has direct frontage on its east side onto the cul-de-sac end of Maglin View. It comprises an undeveloped field, bounded to the north by terraced houses and to the west and east by agricultural lands. The lands slopes steeply to the south. Ballincollig Castle, a Recorded Monument and Protected Structure, lies approximately 200m south-west of the nearest site boundary.

2.0 Proposed Development

2.1. The original proposed development comprised the construction of 17 two-storey houses consisting of 14 semi-detached houses and 3 detached houses. This was revised in response to a further information request to 14 houses (10 semi-detached units and 4 detached units) in a linear layout fronting onto a public open space. The development would access the existing road serving Maglin View/Maglin Drive.

2.2. Details submitted with the application included a Services/Infrastructure Report.

3.0 Planning Authority Decision

3.1. Decision

On 19th January 2018, Cork County Council decided to grant permission for the proposed development subject to 36 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Area Planner noted planning history at this location, development plan provisions, reports received, and objections made. The proposed open space provisions, housing mix and variety were considered unacceptable. A refusal of permission was recommended for four reasons relating to prematurity pending a master plan for the developer's landholding, the adverse impact on Ballincollig Castle, and injury to residential and visual amenity.

The Senior Executive Planner noted internal correspondence which referenced the land being zoned for housing in the Macroom LAP and the principle of housing on the site being acceptable. It was considered that the most straight forward way to develop the site would be a revised layout for a line of 12 two-storey semi-detached houses looking onto an enhanced open space area. A request for further information was recommended.

3.2.2. Other Technical Reports

The Public Lighting Engineer had no objection to the proposal subject to conditions.

The Estates Engineer referred to the need for proposals relating to the changes of level along the south-western side of the site, increased usable open space, revised junction proposals, revised storm water provisions, construction access, and public lighting.

The Area Engineer supported the Estates Engineer's report. Third party concerns were referenced. It was submitted that the site was above the level of the adjoining field prone to flooding and Japanese Knotweed was noted as being in the area.

The Housing Officer noted the proposed unit to be acquired for social housing and had no objection to the proposal.

The Architect had no objection to the proposal but considered it appropriate to gain an understanding of the future development of adjoining land in the applicant's ownership.

The Archaeologist recommended that permission be refused due to its scale, design, prominent location and proximity to Ballincollig Castle resulting in a significant negative impact on the castle's context and setting.

The Conservation Officer recommended permission be refused due to the negative visual impact on the setting of Ballincollig Castle.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

Inland Fisheries Ireland had no objection to the proposal.

3.4. Third Party Observations

Submissions were received from Gretta Costello, Paul Murphy, and Rose O'Connell and others. The grounds of the appeal reflect the principal planning concerns raised.

3.5 Further to the Senior Executive Planner's recommendation, a further information request was issued on 3rd May 2017. This required a revised layout for 12 houses, compliance with recreation and amenity policy, archaeological and visual impact assessments, revised access and drainage provisions, lighting proposals, controls for Japanese Knotweed, and a landscaping plan. A response to this request was received by the planning authority on 18th December 2017. It comprised a scheme of 14 houses (10 semi-detached units and 4 detached units) backing onto the rear garden boundaries of houses to the north and fronting onto an open space to the south and west.

3.6 Following the submission of further information, the reports to the planning authority were as follows:

- The Public Lighting Engineer considered the information insufficient.
- The Area Engineer requested that the applicant extend the invasive species survey.
- The Estates Engineer considered the response on level changes, access, and the storm outfall were acceptable. Clarification was requested on construction access and control of Japanese Knotweed, and on boundary treatment.
- The Planner stated that she had been directed to draft conditions for the proposed development following discussion between the Divisional Manager and the Senior Planner. A schedule of conditions was set out.
- The Senior Executive Planner referred to reports seeking clarification and the previous direction. Reference was made to the outcome of discussions between the Divisional Manager and Director of Planning and the decision that the revised layout for 14 units was regarded as a considerable improvement and that Japanese Knotweed could be dealt with by way of condition. A schedule of conditions was set out.

4.0 Planning History

ABP Ref. PL 04.092744 / P.A. Ref. 92/2555

I note from the Planner's report that permission was refused for a residential development of 24 houses on the site.

5.0 Policy Context

5.1. Ballincollig Carrigaline District Local Area Plan 2017

Maglin Urban Expansion Area

The site lies along the northern edge of an area to the south of Ballincollig designated 'Maglin Urban Expansion Area' where a new residential neighbourhood is proposed. The Plan states that that the majority of the future housing stock will be located on the Maglin Urban Expansion Site (para. 3.3.15).

Figure 3.1: Environmental Constraints to the Maglin Urban Expansion Area includes areas subject to flood risk. The proposed site is not located within a flood risk area on this Constraints Map.

Zoning

The site is zoned 'Existing Built-up Area'.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- There is a concern that construction traffic will spread Japanese Knotweed at this location.
- The site is next to a Norman castle and is steeped in local history. A detailed archaeological survey was not undertaken. The impact on the archaeology of the site is objected to.

- The development is opposed because the site floods and displaced water, due to construction, could flood Maglin homes. There is also a swallow hole on this land.
- The use of Maglin estate's existing entrance to serve the development is opposed to. It contravenes the character of the estate and alters the traffic and nature of the estate significantly.

6.2. Applicant Response

The applicant's response to the appeal may be summarised as follows:

- Japanese Knotweed is located in an area to the south of the existing Maglin estate and there is a gap between it and the boundary of the estate to allow for a construction traffic route. Treatments have been administered to the Knotweed and further treatments will be administered. Japanese Knotweed Ireland will be appointed to monitor the works on an ongoing basis to advise on the methodology of the works. Condition 5 of the Council's decision on the control of Knotweed is noted.
- Regarding archaeological testing, a geophysical survey was carried out followed by archaeological testing. The testing, metal detector survey and geophysical survey were all carried out under licence to the National Monuments Service. Condition 33 of the planning authority's decision on archaeological monitoring is noted.
- Ballincollig Castle is 250m away from the nearest proposed house and a full visual assessment and photomontages were completed.
- Regarding the issue of flooding, photographs attached to the appeal are taken away from the site and are not part of the development. The site is not identified as a flood risk area. Lands to the south are at risk of flooding and the proposed site is significantly above the level of these lands. The proposal also includes attenuation of surface water runoff.
- The existing Maglin estate was constructed by the applicant and was completed with the intention of using the main road through the scheme to access the additional lands the subject of the application in a further phase.

The existing entrance and internal roads have more than sufficient capacity to serve the additional houses. The use of an alternative access for construction traffic is to limit the impact on existing homeowners and to protect the integrity of the existing estate roads.

6.3. **Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

7.0 **Assessment**

7.1. Introduction

I consider the principal planning issues relate to the impact of the proposed development on Ballincollig Castle, flooding, traffic impact, and the control of Japanese Knotweed. One further procedural matter will also be considered as a miscellaneous issue.

7.2. Impact on Ballincollig Castle

7.2.1 Ballincollig Castle is a Norman castle that is a Recorded Monument and a Protected Structure. The nearest proposed house forming part of the development permitted by the planning authority would be in excess of 250 metres north-east of the castle. The form, scale and design of the proposed houses would not be out of character with the established housing at this location. The wedge-shaped site is wedged between houses in Castleknock to the north and houses in Maglin View and Maglin Grove to the east. The proposed houses would be understood visually as a natural extension to the residential development at this location. It has not been explained in any reports to the planning authority, in any meaningful manner, how the proposed houses would adversely impact on the setting and character of the castle and, in particular, how the housing would visually impact on the castle. The separation distance and siting adjoining existing houses will ensure that the proposed houses will have little impact on the setting, character or integrity of the castle. The applicant's visual impact assessment, with associated photomontages, submitted by

way of further information, ably shows the lack of demonstrable adverse visual impact upon the integrity and context of the castle.

7.2.2 Further to the above, I am satisfied that the revised layout, resulting from the planning authority's further information request, provides an improved layout that relates better to established housing (notably in relation to Castleknock houses), provides for improved linkage with the estate road network, and indeed, lessens any understanding that the proposed housing might have some degree of impact on the character and setting of Ballincollig Castle due to its linear layout, the locating of houses along the northern part of the site, and the provision of open spaces west and south of the proposed dwellings.

7.2.3 In terms of physical impact on the castle, I note that archaeological testing, a metal detector survey and a geophysical survey were carried out under licence to the National Monuments Service. No finds of archaeological significance resulted from the testing undertaken. It would be appropriate to attach a suitable condition with any grant of planning permission requiring archaeological monitoring of works at the construction stage.

7.2.4 Finally, I note that the site is on lands zoned 'Existing Built-up Area' in the recently adopted Ballincollig Carrigaline District Local Area Plan. The proposal is compatible with the zoning provisions. It is apparent from this Plan that the Maglin area is planned to provide an expansive new residential neighbourhood. The proposed housing comfortably fits with the development intent for these zoned lands.

7.3. Flooding

7.3.1 The site of the proposed development comprises elevated ground over lands that lie to the south and south-west. The recently adopted Ballincollig Carrigaline District Local Area Plan indicates that the proposed site is not located within a flood risk area. The applicant, in submissions to the planning authority and the Board, has noted that the site is outside of flood zones A and B on the Cork County Council flood zone mapping for the area and is not identified as a flood risk area on Office of Public Works Preliminary Flood Risk Assessment (PFRA) mapping. A Flood Risk Assessment is not required for this site and it is apparent that the proposed houses would be developed at levels well above possible flood levels. I acknowledge that

the control of surface water generated by the proposed development would be required to minimise potential impacts on adjoining property and it is apparent that adequate provisions are being made by way of storm water attenuation on the site. The attenuation measures and drainage arrangements, as submitted by way of further information, meet with the planning authority's requirements for same. The effects on adjoining property by way of increased flooding would be negligible with appropriate attenuation measures in place.

7.4. Traffic Impact

7.4.1 The proposed development seeks to use the existing Maglin estate road network. The proposal comprises a small extension to the number of houses which the internal road network serves. The proposed development would tie in with the existing internal road at the western end of Maglin View. I have no concerns that the proposed development would cause any traffic hazard as a result of the additional traffic volumes that would be generated or by the form and layout of the tie-in with the existing road. The proposal constitutes a rational approach to the extension of the road network at this location and would not undermine the character of the estate or significantly alter traffic patterns on the road.

7.5. The Control of Invasive Plant Species

7.5.1 The site of the proposed development does not contain any invasive plant species. However, it is accepted that Japanese Knotweed is growing a short distance to the south-east of the site. In response to the planning authority's request for further information, a report from Japanese Knotweed Ireland was submitted. Remedial works relating to the treatment of the invasive plant species in the vicinity of the proposed construction traffic route were identified. The attachment of a condition agreeing appropriate control measures with any grant of planning permission and compliance with these measures should ensure Japanese Knotweed will not be spread further as a result of the proposed development being constructed.

7.6. Procedural Matters

7.6.1 I note the original proposal submitted to the planning authority in March, 2017. This comprised a scheme of 14 semi-detached houses and three detached houses. It is apparent that the design, scale and layout of the development was changed in a significant manner by way of the further information response to the planning authority's request for further information. In my opinion, the revised scheme was materially different to the original proposal. This further information was not subject to revised public notices and, in my opinion, the revised scheme should have been. The Board may wish to request new public notices which will potentially invite further third party submissions.

8.0 **Recommendation**

8.1. Further to any request seeking new public notices, I recommend that permission is granted subject to the following reasons, considerations and conditions.

9.0 **Reasons and Considerations**

Having regard to the zoning provisions for the site as set out in the Ballincollig Carrigaline District Local Area Plan 2017 and to the design, character and layout of the development proposed, it is considered that the proposed development would not adversely affect the character and setting of the protected structure of Ballincollig Castle, would not adversely impact on the residential amenities of adjoining properties, would be acceptable in terms of visual impact, would not endanger public safety by reason of traffic hazard, would not contribute to the expansion of invasive plant species in the area, and would otherwise be in accordance with the provisions of the Ballincollig Carrigaline District Local Area Plan. 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 drawings and details submitted to the planning authority on the 18th December, 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. Details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity

3. Details of all boundary treatment for individual housing units and along the site's perimeter shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of residential and visual amenity.

4. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be contoured, soiled, seeded, and landscaped in accordance with the landscaping scheme to the planning authority on 18th December, 2017. This work shall be completed before any of the dwellings are made available for occupation.

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

5. Prior to the commencement of development, details of a programme of works to control the spread of Japanese Knotweed in the area arising from the construction of the proposed development shall be submitted to, and agreed in writing with, the planning authority.

Reason: To control the spread of invasive plant species in the area.

6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

7. 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.

8. 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 noise and vibration management measures and off-site disposal of construction/demolition waste.

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

9. 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.

10. Proposals for a street name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

11. 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.

12. 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.

13. 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.

14. 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.

Kevin Moore
Senior Planning Inspector

5th June 2018