



An
Bord
Pleanála

Inspector's Report ABP-300872-18

Development	Construct 5 no. houses with all associated site works.
Location	Rahardrum, Virginia, Co. Cavan.
Planning Authority	Cavan County Council
Planning Authority Reg. Ref.	17/341
Applicant(s)	Patrick Potter.
Type of Application	Permission.
Planning Authority Decision	To grant with conditions
Type of Appeal	Third Party
Appellant(s)	Mark O'Dwyer.
Observer(s)	Anne Griffin.
Date of Site Inspection	15 th May 2018
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The 0.17ha appeal site lies in the townland of Rathardrum, Virginia Town, County Cavan. It is situated to the north of the N3, within the 50kph speed limit zone, on the western side of Sunnybank, a public road which forms a cul-de-sac to the north of the appeal site.
- 1.2. Sunnybank is a residential street that rises sharply from the N3. The speed limit on the road is 30kph. Development is a mix of single and two storey units, in detached, semi-detached and terraced form. The appeal site comprises a grass field with mature vegetation along its western and southern boundary. Along its northern and western boundary is a post and rail fence. To the north, east and south of the site is residential development. To the west is St. Mary's National School and Church (these developments are accessed from a parallel public road to the west of the site).

2.0 Proposed Development

- 2.1. The proposed development, as amended by way of further information (re-advertised in December 2017) comprises:
 - 5 no. residential properties, with four no. semi-detached storey-and-a half units, and one single storey detached dwelling. The properties are arranged such that they face east to Sunnybank. Each has two off-street car parking spaces to the front of the property. External finishes are a mix of napped plaster, brick, concrete roof tiles and PVC windows (see Plans and Elevations, drawing no. PO-010617-05 and 07, Rev B).
 - Widening of the public road by 1m, and provision of a 2m wide footpath along the frontage of the site, provision of additional street lighting and three 60mm speed bumps on the public road.
 - Connection to the existing public mains services.
 - Retention of all indigenous trees on site boundaries and removal of laurel from within the site and Leylandii from the southern boundary (see Site Layout Tree Survey, drawing no. PO-010617-04 Rev B).

- Associated site works.

2.1.1. Correspondence from Irish Water, submitted with the application documents states that the applicant's connection to water and waste water services can be facilitated.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 9th January 2018, the planning authority decided to grant permission for the development subject to 14 no. conditions. Most of these are standard conditions, the remainder are as follows:

- Condition no. 3 – Requires payment of development contribution in respect of street lighting and speed ramps.
- No. 4, 6, 7, 10 and 11 – Require the development to be in accordance with the details submitted in respect of plans and elevations; side elevation of Plot 1; front boundary treatment; external finishes; and retention of trees.
- No. 14 – Requires details of the side and rear site boundary to be agreed in writing with the planning authority prior to the commencement of development.

3.2. Planning Authority Reports

Planning Reports

3.2.1. The first planning report (28 September 2017) refers to the zoning of the appeal site, its planning history, pre-planning consultations, submissions, representations and technical reports. The planning assessment considers that the principle of the development is acceptable on the site; Part V does not apply (limited size of development); impacts on adjoining residential amenity will not arise; absence of open space is acceptable given the central location of the site within the town; that density is in accordance with government guidelines and that appropriate assessment is not required for the development. It recommends improvements to the layout and design of the development; completion of an arboriculture

assessment and detailed landscaping scheme; and that matters raised in technical reports (servicing and access road) are addressed.

- 3.2.2. The second report (9th January 2018) considers that the applicant has addressed the matters raised in the request for further information and recommends that permission be granted, subject to conditions.

Other Technical Reports

- Irish Water (25th September 2017) – Recommend further information (applicant to complete a pre-connection enquiry form).
- Roads (28th September 2017) – Recommends further information (traffic calming; off street parking; street lighting).

3.3. **Prescribed Bodies**

- 3.3.1. No submissions.

3.4. **Third Party Observations**

- 3.4.1. On file are observations from three parties (James O'Regan, Mark O'Dwyer and Ann Griffin). Issues raised are summarised as follows:

- Overdevelopment of the small site/excessive density. Piecemeal development, isolated from existing established residential plots.
- Inadequate access road to serve the development/additional vehicle movements on narrow lane. Lane should be widened, with 4m layby provided along entire site frontage, and provided with appropriate footpaths, lighting and surface finish.
- On-street parking on the narrow laneway already results in use of the access to the four properties opposite the site by drivers for turning vehicles. The proposed development will result in additional on street parking (e.g. from visitors) with further impacts on shared driveway. Damage to fence alongside properties from inadequate room for vehicles to turn. Seek road markings to define private area/entrance.

- Proposed ramps will be a danger to pedestrians (e.g. at night and as there is no footpath along the road) and to children (on bikes). Speed of traffic is not a problem but extra traffic and parking is. Traffic signs/children at play/road markings should suffice.
- Impact of construction traffic on narrow laneway (on other road users and emergency services).
- Impact of utility services on laneway (digging it up).
- No bin collections from laneway due to its narrow nature.
- Poor visibility of site notice.
- No provision for open space.
- Impact on public surface water system and Lough Ramor (no attenuation proposed).
- Impact on public sewer (Virginia sewage treatment facility is currently exceeding capacity and permission refused by the Board under PA ref. 16/600 for this reason).
- Impact of view from property to the north.
- Precedent - Previous refusals in the 1990s of development on the lane when there was fewer houses on it (PA ref. 90/18383; 95/299 and 96/399).

4.0 Planning History

4.1. Listed in submission to the planning authority:

- 90/18383 - Outline permission granted for a dwelling house.
- 96/399 - Outline permission granted for a dwelling house.
- 95/299 - Unclear. PA report refers to an application to erect two no. bungalows, which was refused. Planning register refers to a development at a different site.

5.0 Policy Context

5.1. Cavan County Development Plan 2014 to 2020

5.1.1. The appeal site is zoned 'Existing Residential' in the current statutory development plan for the County (see attachments). Policy objectives for the zone are:

Objective: *To promote the development of balanced communities and ensure that any new development in existing residential areas would have a minimal impact on existing residential amenity. New housing and infill developments should be in keeping with the character of the area and existing buildings and shall not impact on the amenities of current or future residents. The design of new dwellings shall be of high quality with good layout design and adequate private and, where appropriate, public open space and an appropriate mix of house sizes, types and tenures.*

5.1.2. Section 10.3.2 of the Plan sets out general design considerations for all new development (see attachments). These include the following provisions:

- A mix of dwelling types and sizes will ensure that different categories of households are catered for.
- All dwellings shall have an area of private open space behind the building line. This open space shall be provided in accordance with the 'Urban Design Manual', 2009.
- Open space provision in accordance with the 'Sustainable Residential Development in Urban Areas Guidelines' (green field sites - 15% of the total site area, with provision of accessible and usable open space).
- Design residential streets to be in line with the 'Sustainable Residential Development Guidelines', including that priority should be given to needs of walking, cycling and public transport, the need to minimise car-borne trips and safety (streets, paths and cycle routes should provide for safe access by users of all ages and degrees of personal mobility).
- Car Parking in Residential Areas – New residential development should take account of specified criteria regarding car parking, including that provision of car parking for dwellings should be within the curtilage of the site.

- Street Lighting and Public Utilities - Street lighting should be at least to the standards set out in the ESB publication 'Public Lighting in Residential Estates'. Pedestrian links shall be illuminated. Lighting levels within a new development must create a secure environment.
- Density - Applications for residential development will generally be required to demonstrate compliance with the DECLG 'The Sustainable Residential Development in Urban Areas,' 2009. Of note the Plan states '*However, whether or not a particular density is appropriate in any given case will, in practice, depend on local conditions and on the design and layout of the scheme rather than on some predetermined scale of densities for the area*'.

5.1.3. Section 8.14 of the Plan deals with water protection and Policy NHO53 requires Sustainable Urban Drainage Systems in all new developments.

5.2. Natural Heritage Designations

5.2.1. The nearest Natura 2000 site lies >5km to the south of the appeal site (see attachments).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appellant's property lies to the north of the appeal site. Grounds of appeal are:

- Housing density and open space - Development does not comply with objectives of the County Development Plan in respect of density and public open space provision (Section 10.3.2 (j) and (e) respectively).
- Width of access road - Inadequate width of roadway to serve the development and existing development. Development does not comply with objectives of the County Development Plan (Section 10.3.2 (f) Design of Residential Streets).
- Surface water disposal - The applicant has not demonstrated how stormwater will be dealt with (attenuation/compliance with SUDs, risk of development resulting in or contributing to downstream flooding).

- Foul water disposal - Virginia's sewage treatment facility is reported to be operating beyond capacity. A recent residential development was refused by the Board for this reason (PA ref. 16/600).
- Impact on residential amenity – View towards Lough Ramor.

6.2. Applicant Response

6.2.1. The applicant makes the following response to the appeal:

- Density and Open Space - Development is very small in scale and is proposed on an infill site, on zoned lands, near the town centre with ready access, on foot, to the town core and existing public amenities. Provision of 20% open space would have left a small area of open space that would not be functional in terms of providing public amenity space and may have encourage anti-social behaviour. A generous amount of private open space is provided for each dwelling which will enable usable external areas and enhance the quality of the proposed housing. None of the previous housing developments along the road were required to provide open space. A contribution to the planning authority in lieu of public amenities is more beneficial than provision on the site.
- Width of Access Road – A footpath is provided along the front of the site. It will be the only section of the road that will provide for the movement of pedestrians. Traffic calming measures will also be introduced and new public lighting. The additional measures proposed in the application will have a positive impact on the area for the general public using the road.
- Surface Water/Foul Water - No objections to the development have been raised by Irish Water or the planning authority.
- Impact on View - The design of the development has sought to minimise its impact on surrounding properties. The dwelling on the uppermost part of site is single storey. Storey and a half houses proposed on lower part of site. The ground level of site will also be lowered to reduce the impact of the development on the dwellings to the north of the site (attaches 3-D images of proposed development).

- Views from the houses to the north of the site is of the existing residential landscape and mature trees.

6.2.2. The applicant's response to the appeal also includes a Design Statement.

6.3. **Planning Authority Response**

6.3.1. Refer the Board to the planning authority's assessment of the development, which has considered the matters raised in the appeal.

6.4. **Observations**

6.4.1. There is one observation on the appeal. It is made by Anne Griffin and repeats matters raised in submissions to the planning authority (summarised above).

7.0 **Assessment**

7.1. Having regard to my inspection of the appeal site, the details of the proposed development, the submissions made by third parties, during the course of the application and appeal, and by the appellant, I consider that key issues arising in respect of the proposed development are as follows:

- Density of development.
- Impact on amenity.
- Open space.
- Access to the site/traffic issues.
- Surface and foul water.

7.2. A number of other matters were also raised, which I comment on briefly below:

- Impact on view towards Lough Ramor – There is no entitlement to a view in Irish law. However, I do consider the impact of the proposed development on the residential amenity of property in the vicinity of the site in my assessment below.
- Precedent – Parties to the appeal refer to planning applications previously determined in respect of the site, for modest residential developments in the 1990's. Given the time which has elapsed since these planning applications

were determined, and the current national, regional and local planning context for the proposed development, I do not consider that they provide relevant precedents for the determination of the proposed development.

- Impact on utility services on laneway – I would accept that the provision of utilities to the site could result in works with the public roadway. However, as there are sites serviced both north and south of the development, I would not expect such impacts to be substantial. Further, repair of the public road could be addressed in any construction management plan.

7.3. Density of Development

- 7.3.1. The proposed development lies within the boundary of Virginia town and on land which is zoned 'Existing Residential Development'. This zoning provides for new housing and infill developments, subject to development being in keeping with the character of the area and not having an impact on the amenity of existing or future residents. The proposed residential development is therefore, in principle, consistent with this zoning.
- 7.3.2. Section 2.14 of the government's guidelines, '*Sustainable Residential Development in Urban Areas*' (2009), defines small towns as those with a population of between 2,000 and 5,000. In 2011, Virginia had a population of c.2,300 and would be considered as a small town.
- 7.3.3. For such settlements, the government's guidelines encourage compact forms of urban development and higher residential densities, subject to caveats, including that such development is plan led, accessible by alternative means of transport, is in proportion to the pattern and grain of existing development and enhances town or village form. In section 6.9, densities of 30-40+ housing units per hectare are proposed in centrally located sites and 20-35 dwellings per hectare on edge of centre sites.
- 7.3.4. The appeal site lies within walking distances of the town centre of nearby schools and services and, therefore, comprises a more centrally located site within the town. It comprises 5 residential units on a site of 0.17ha i.e. c.29 units per hectare and the proposed density falls within the parameters set out in the government's guidelines. The appeal site lies in a residential area that is characterised by a mix of

development types, with the density of individual units/small schemes varying along the length of the road. Within this context, the footprint and scale of the proposed development is consistent with the established pattern and grain of development. I consider, therefore, that in principle, the proposed density of development is acceptable on the appeal site.

7.4. Impact on Amenity

- 7.4.1. The proposed residential units are orientated to face east, i.e. onto the public road to the east of the site. To the rear they back onto school/church lands. To the north and south, gable ends face existing property. In addition to the above the proposed development is cut into the rising topography and a single storey dwelling lies south of the existing residential property to the north of the site. Having regard to these factors, I do not consider that the proposed development would give rise to any adverse effects on the residential amenity of nearby or adjoining property by way of overlooking, overshadowing or being overbearing.

7.5. Open Space

- 7.5.1. The County Development Plan requires provision of 15% of site area for public open space i.e. $15/100 * 0.17\text{ha} = 0.0255\text{ha}$ or 255sqm. This would provide a relatively small area of open space, e.g. an area c.15m x 15m, and may provide little more than a local amenity area. Further, the appeal site lies within Virginia town centre in walking distance of amenity/recreation areas, including Deerpark Forest to the west of the town. I am persuaded, therefore, by the arguments of the applicant, and the approach taken by the planning authority, that it is more useful to provide this contribution to open space provision by way of a development contribution. However, if the Board are so minded, they could reduce the number of units and provide a local area of open space within the development.

7.6. Access to the site/traffic issues

- 7.6.1. Access to the appeal site is via a cul-de-sac off the N3. The road is narrow, with residential development alongside most of the road, and with pinch points along the

road due to the proximity of adjoining development (see photographs). Within this context, unfettered development would be inappropriate.

- 7.6.2. Notwithstanding this, at the time of site inspection traffic volume and traffic speed on the road was low and, given the relatively modest scale of the development, I do not consider that the number of vehicle trips likely to be generated by the development could not be accommodated. Further, the applicant proposes widening of the public road along the site frontage, provision of a 2m wide footpath and speed bumps. All of these arrangements will provide an improved environment for traffic, slowing speeds and providing a more pedestrian friendly environment. (I would not accept that speed bumps present a hazard to pedestrians or cyclists as they would be illuminated – see Site Layout, Site Section and Site Boundary Details drawing no. PO-010617-02).
- 7.6.3. I accept that the during construction, construction traffic could give rise to temporary congestion on the lane and potentially traffic hazard. However, such temporary impacts could be managed and minimised by condition, with construction traffic managed in accordance with details to be set out, and agreed with the planning authority, in a Construction Management Plan.
- 7.6.4. In line with development plan standards, 2 parking spaces are provided for each residential unit and this is acceptable. Inappropriate on-street parking and any misuse of the entrance to the development opposite can be controlled by the planning authority (e.g. by way of road markings) and should not, in my view, influence the determination or merits of the proposed development.

7.7. Surface and Foul Water

- 7.7.1. The applicant proposes a traditional approach to site drainage i.e. discharge of surface water into the existing public sewer (Site Layout Drawing). This would be inconsistent with policies of the County Development Plan which require Sustainable Urban Drainage Systems to be integrated into new developments, thereby minimising pollution of downstream watercourses and minimising the impact of urbanisation on downstream flooding. If the Board are minded to grant permission for the development, and as the site and development is modest in scale, I would recommend that this matter be dealt with by condition i.e. for the applicant to agree

revised details in respect of surface water drainage, to include Sustainable Urban Drainage Systems, prior to the commencement of development.

- 7.7.2. The appeal site lies in a serviced urban area and the proposed development is modest in scale, comprising 5 residential units. In this regard, I note that the development proposed under PA ref. 16/600 and PL02.248992, which was refused by the Board on the grounds of constraints at the Virginia wastewater treatment plant, was much larger in scale, comprising the retention/completion/alteration of 21 houses and construction of 58 houses. In this instance, Irish Water have indicated that water and wastewater connections can be provided and I do not consider that a development of this scale, would add significantly to the loading of the WWTP.

8.0 Appropriate Assessment

- 8.1. Having regard to the modest nature of the proposed development, its location within an urban area, proposed connection to the existing sewerage system and distance from nearest European sites, 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.

9.0 Recommendation

- 9.1. Having regard to the above, I recommend that planning permission for the proposed development be granted, subject to conditions.

10.0 Reasons and Considerations

- 10.1. Having regard to the location of the proposed development on zoned land within Virginia town centre, the character and pattern of development in the vicinity of the site, the modest nature and detailed design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not comprise overdevelopment of the site, adversely impact on the amenity of nearby residential property and would not give rise to traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 submitted on the 4th day of August 2017 and the 8th day of 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. Prior to the commencement of development, details of the side and rear site boundary shall be submitted to the planning authority and agreed in writing.

Reason: In the interest of visual and residential amenity.

3. The site shall be landscaped in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include details of the species, variety, number, size and locations of all proposed trees and shrubs. Planting shall comprise predominantly native species. Cupressocyparis x leylandii shall not be used on any part of the site. 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 order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

4. 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. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

- 5 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. In this regard, prior to the commencement of development, revised arrangements for the disposal of surface water shall be submitted to the planning authority for written agreement, and shall include Sustainable Urban Drainage Systems.

Reason: In the interest of public health, water quality and flood prevention.

- 6 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.

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 management of construction traffic, hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

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. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of street lighting and speed ramps and the amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

10. 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

Deirdre MacGabhann
Senior Planning Inspector

2nd July 2018