



An
Bord
Pleanála

Inspector's Report ABP-301926-18.

Development	19 dwellings (completion of 7 and permission for 12 more).
Location	Railway Gardens, Townparks East, Lismore, Co. Waterford.
Planning Authority	Waterford City & County Council.
Planning Authority Reg. Ref.	17/837.
Applicant(s)	Dromana Developments Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	Third Party.
Appellant(s)	Pat Gibney.
Observer(s)	None.
Date of Site Inspection	30 th August, 2018.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. Lismore is located approximately 15km to the west of Dungarvan, 5km to the west of Cappoquin, in the western area of Co. Waterford. The site is located within an existing residential area and comprises two parcels of land within an existing residential development, Railway Gardens.
- 1.2. Railway Gardens is accessed off Station Road to the east and currently comprises 29 houses, with a mix of single storey and two storey detached and semi-detached properties. The site rises towards the rear (west) of the site and the Board will note that part of the site has been fenced off. This area comprises the bases for 7 previously permitted houses within the wider estate. The land was purchased in 2017 and the site has a stated area of 0.97ha.

2.0 Proposed Development

- 2.1. Permission is sought for 19 dwellings (16 no. storey and a half / two storey semi-detached units, 2 no. storey and a half / two storey detached dwellings and 1 no. single storey detached dwelling) associated infrastructure and all associated site works at Railway Gardens, Townparks East, Lismore, Co. Waterford.
- 2.2. The Board will note that the proposal provides for the completion of 7 and permission for 12 new houses.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission for the proposed development, subject to 27 conditions.

The permission provides for the construction of 17 houses in total.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The original planning report considered that the proposed development would be acceptable in principle given the planning history associated with the site as well as the zoning afforded to the site in the Local Area Plan. A number of concerns were raised however, in terms of design and layout which resulted in a request for further information issuing.

Following receipt of the response to the FI, the applicant was requested to re-advertise the proposed development.

The final planning report on file concluded that while there were a number of outstanding issues to be addressed, they could be dealt with by way of conditions. The recommendation provides for the construction of 17 houses.

3.2.2. Other Technical Reports:

Water Services: Evidence of Pre-connection Agreements from Irish Water for connection of each proposed properties to the IW sewer and watermain networks required.

3.2.3. Third Party Submissions:

There were 13 submissions from third parties in relation to the proposed development, including one from a local councillor as follows:

- | | |
|---|--|
| 1. Cllr John Pratt | 9. Josephine Tobin |
| 2. Pat Gibney | 10. Dermot O'Shea & Rosana
Montilha |
| 3. Railway Gardens Residents
Association | 11. Michael & Orla Russell |
| 4. James Brendan O'Connell | 12. Gavin Pratt |
| 5. Eugene & Bernie Fitzpatrick | 13. Frank & Greta Gondi |
| 6. Louise Brierley | |
| 7. Martina Brosnahan | |
| 8. Aidan Roche | |

The issues raised reflect those issues raised in the appeal and are summarised further below in section 6 of this report.

Following the submission of the response to the FI request, a further 6 submissions were made to the Planning Authority. The submissions advise that:

- Issues raised not addressed by council or developer
- Issues raised in relation to site and press notices
- Continued lack of communication with residents
- Issues of overlooking remain a concern.

4.0 Planning History

PA ref 04/1943: Permission granted for the construction of 51 dwellings and all associated site works. Of this permission, 29 houses were completed and the bases for 7 houses were constructed but these 7 houses remain unfinished.

PA ref 11/127: Permission was sought to extend the duration of 04/1943. This permission was refused on the grounds that the application was made outside the appropriate period.

PA ref 11/358: Permission sought for retention and completion of the following houses (No.'s 30,31,32 & 33- 4 bedroom semi-detached) (No.'s 34 & 35 -3 Bed Semi-detached) & (no. 37 - 3 Bedroom detached) as previously granted under Planning Ref: no. 04/1943. This application was withdrawn prior to a decision issuing.

5.0 Policy Context

5.1. Development Plan

The Lismore Local Area Plan, 2014-2020 is the relevant planning policy document pertaining to the subject site. The site is zoned 'R2' Existing Residential in the LAP

where it is the stated objective to protect the amenity of existing residential development and to provide for new residential development at medium density.

Medium density is advised as being in the range of 15-30 dwellings per net hectare.

Appendix D of the LAP provides for the Waterford County Development Plan, 2011-2017 Chapter 10 Development Standards.

5.2. Natural Heritage Designations

The site is not located within any designated site. The site is located approximately 1km to the south of Blackwater River (Cork/Waterford) SAC, Site Code 002170.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third party appeal against the decision of the Planning Authority to grant permission for the proposed development. The grounds of appeal are similar to those raised with the Planning Authority and are summarised as follows:

- The proposed development constitutes a major residential development for Lismore, and disagrees with the Lismore Local Area Plan 2014-2020
- Issues raised in relation to water services in Lismore including with regard to the Wastewater Treatment Plant.
- The AA screening carried out by Waterford City & County Council does not take into account the cumulative effects of recent grants of permission in Lismore and the fact that the WWTP has not been upgraded to allow increased flows. Wastewater from the plant flows directly in the Blackwater River, an SAC.
- Non-compliance with conditions of 04/1943 – condition 1b – which stated that no more than 10 houses shall be constructed until the WWTP and the storm water system have been upgraded. 29 houses were constructed without the upgrading of the storm water system

- No surface water drainage or sewage details have been submitted. The development would be prejudicial to public health.
- The existing town water supply needs to be upgraded.
- The development does not comply with the Sustainable Residential Development in Urban Areas Guidelines and is not consistent with the principles of sustainable development, would restrict the growth of the town and contributes to ribbon development.
- Issues raised in with regard to connections to services, which are not completed, located outside the red line of the application site.
- No development impact assessment submitted as required.
- Conditions attached to grant of permission require further information be agreed with the PA which will exclude third parties. Issues raised with regard a number of conditions.
- Issues raised in relation to the first schedule in the Deeds of Easement as they relate to temporary inconvenience arising and concern over responsibility for any damages to the existing estate.
- Issues raised regarding the abandonment of the estate by the original developer 7 years ago which resulted in the estate being put on the Unfinished Estates list for a period. No collaborative approach, as required by guidelines, was taken and the residents were never consulted.
- Impact on traffic movements. Also, it is noted that there is only one access into the estate, which already has 29 houses constructed.
- The houses do not comply with the minimum requirements of the Waterford County Development Plan in terms of separation distance or provision of private open space.
- Boundary treatments.
- Issues with site and public notices.
- Lack of footpaths

- Inadequate details regarding lighting, landscaping plan and construction management plan.
- Objections to two storey houses proposed backing onto New Street and issues in relation to previously permitted wayleave for connections.

It is requested that permission for the development be refused, and that the applicant and the Local Authority engage with the residents and the residents association to draw up a Site Resolution Plan, which can be agreed in advance of a new planning application. It is further requested that the estate be taken in charge by Waterford City & County Council.

6.2. Applicant Response

The applicant submitted a response to the third party appeal. The submission however, was received outside the appropriate period and was returned.

6.3. Planning Authority Response

The Planning Authority has responded to this third party appeal as follows:

- The proposed residential development on residentially zoned land is consistent with the Lismore Local Area Plan, 2014-2020.
- Connections to water services must be agreed with Irish Water.
- The proposed development would give rise to 47 dwellings overall. 51 dwellings were permitted under PA ref 04/1943¹. The current proposal seeks to finish the estate and it is considered that it would be in accordance with the proper planning and sustainable development of the area.
- Condition 15a requires the provision of footpath.
- Houses along the boundary with New Street have been amended to dormer dwellings in lieu of 2 storey houses as originally proposed.
- The applicant has demonstrated sufficient legal interest to make the application. Any contention otherwise is a civil matter.

¹ The Board will note that the PA referenced file no. 04/194. This is clearly a misprint and the appropriate file number is 04/1943.

- Condition 27 deals with tree protection measures. There would be no objection to the requirement for a landscaping plan.
- The submitted appeal does not include any additional grounds for overturning the Council's decision to grant permission.

It is requested that the Board uphold the decision to grant permission for the completion of the housing estate at Railway Gardens, Lismore.

6.4. **Observations**

None.

7.0 **Assessment**

I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards
2. Planning History & Water Services
3. Roads & Traffic
4. Other Issues
5. Appropriate Assessment
6. Environmental Impact Assessment

7.1. **Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:**

Sustainable Residential Development in Urban Areas (DoEHLG, 2008)

- 7.2. The subject site is located to the eastern area of Lismore, Co. Waterford and on lands zoned 'R2' Existing Residential in the LAP. It is the stated objective to protect the amenity of existing residential development and to provide for new residential development at medium density. The Board will note that site works for 7 of the proposed houses, previously permitted, had commenced as part of development of

the wider existing Railway Gardens estate. The site can connect to public services and as such the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies.

7.3. The 2008 guidelines updated the Residential Density Guidelines for Planning Authorities (1999), and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines. The development proposes the construction of 19 dwelling units on a site covering approximately 0.97ha and in terms of the recommendations of the Guidelines, the density could be considered at the lower levels permissible on such zoned lands. However, given the nature of site and its location within the context of Lismore, I have no objection to the proposed density of same. The Board will note that the existing estate was granted permission for the development of 51 residential units under PA ref 04/1943, 29 of which were completed. If permitted, the development will result in the estate comprising 48 residential units.

7.3.1. The objective of the Sustainable Residential Development in Urban Areas guidelines is to produce high quality, and crucially, sustainable developments. Section 5.6 of the guidelines provides certain safeguards with regard to such urban developments to deal with both existing and future residents the area of the proposed development and I consider it reasonable to address the proposed development against same.

a) *Compliance with the policies and standards of public and private open space adopted by development plans;*

- In terms of private open space, the Board will note that proposed development layout, as permitted, provides for rear gardens generally having a depth of between +9.5m to 12.6m and with areas of between 86m² to 159m² for the semi-detached houses. The Development Plan guidelines require that 120m² is provided for semi-detached houses with 150m² required for detached houses.
- In terms of compliance with the Development Plan requirements for private open space, I note that the previously permitted 7 houses, which are proposed to be completed do not now comply with current

standards. In order to achieve the additional spaces, the houses would have to be relocated within their sites but in doing so, would not maintain the established building line. While I note that the Development Plan provides for minimum standards, I would consider that the completion of these previously permitted houses should be considered as acceptable. Their completion will enhance the visual amenities of the wider estate, to the benefit of all existing and future residents.

- In terms of the proposed houses within the site, I would consider that the private open space provision is adequate.
- With regard to public open space, the proposal as amended, proposes to retain a large central amenity space with an area of 2,871m². The original permission for the wider site provided for 2,670m² of public open space across two areas. In total the proposed development will provide for 3,976m² across the wider estate in the two areas. As the proposed development is essentially an addition to the previously, and partially constructed Railway Gardens development, the future residents will also have access to the existing green area.

Taking the full estate area into account, being 2.36ha, I calculate that the open space provided, if the current proposal is permitted, would equate to approximately 16.8%. In this regard, I accept that the open space provision generally accords with the requirements of the County Development Plan.

b) Avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;

- The subject site is zoned for residential development and as such, the principle of the development is considered acceptable. I am generally satisfied that the density proposed adequately complies with the plan requirements.
- The Board will note that the current development plan requires a 4m minimum separation distance between the gables of non-adjoining dwellings. In terms of the 7 houses to be completed, this separation

distance is not achievable, given that the bases for these house were constructed as part of the original estate development. I do note that approximately 3.2m is achieved between the closest occupied property gable. Given the specific context of this site, I consider that the proposed development is acceptable in this regard. All other separation distances between gables complies with the minimum standard.

c) *Good internal space standards of development;*

The proposed development provides for a number of different house types. The Waterford County Development Plan, Section 10.3 deals with development standards for new development with Table 10.4 providing guidance for minimum standards for housing estate developments in urban areas. The details of the houses are as follows:

Type	Unit Type	Floor Area
A	Detached (4-bed)	158.1m ²
B-B	Semi-detached (4-bed)	123m ²
C-C	Semi-detached (3-bed)	103.6m ²
D-D	Semi-detached Dormer Bungalow (3-bed)	119m ²
E	Detached bungalow (2-bed)	81.96m ²

In terms of above, I am satisfied that the proposed houses offer appropriate accommodation, storage and rooms of a size which will support a high level of residential amenity. I have no objections to the proposed houses in terms of the proposed internal spaces proposed.

d) *Conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;*

Given the nature and scale of the proposed development, I am satisfied that the development might reasonably be considered as being acceptable in principle, given the zoning afforded to the subject site. That said, third parties have raised concerns in terms of the proposed height of the dormer dwellings along the boundary with existing single storey houses fronting onto New Street. The existing estate comprises a mix of single storey and two storey

houses, with the previous permission for the site providing for dormer bungalows along this boundary. I note the amendments to the house designs following a request for further information along the boundary with the New Street houses and should the Board be minded to grant permission in this instance, I consider that the amended proposal should be considered. In principle, I have no objection to the proposed house designs.

- e) *Recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area;*

Not relevant in this instance as there is no protected structure or Architectural Conservation Area in proximity to the subject site.

- f) *Compliance with plot ratio and site coverage standards adopted in development plans.*

The Waterford County Development Plan provides guidance in terms of site coverage and density and having regard to the nature of the subject site, I am satisfied that the proposed development is acceptable in my opinion, in terms of density, site coverage and plot ratio.

7.3.2. It is acknowledged that national guidelines encourage the provision of higher density development within urban areas in order to use serviced lands in a sustainable manner, but regard has to be given to the existing nature of development in the vicinity of the subject site as well as the nature and scale of the surround area and existing residential estates. The development proposes 19 residential units to complete the existing Railway Gardens Estate. This figure was reduced to 18 following an amendment to the layout after a request for further information issued from the Planning Authority.

7.3.3. The Board will also note condition 1 of the PAs decision to grant permission, which requires the omission of house no 48 as indicated on the plans. The condition also requires the relocation of the turning circle. I also note that the applicant submitted a response to the third party appeal, but as it was received outside the appropriate period, it was returned. Should the Board be minded to grant permission for this development, I consider that the inclusion of a condition which requires the

omission of house no. 48 and improved roads provision in this area of site is both reasonable and acceptable.

7.3.4. In terms of compliance with the Lismore Local Area Plan, the Board will note the third party appellants submission that the proposed development constitutes a major residential development which would not accord with the objectives of the plan. It is further submitted that the proposed development does not comply with the Sustainable Residential Development In Urban Areas Guidelines.

7.3.5. Having regard to the above and acknowledging that the current Plan for the area zones the lands for residential development, I consider that the principle of the proposed development is acceptable.

7.4. Planning History & Water Services

7.4.1. The Board will note the planning history associated with the site, where permission for the existing Railway Gardens estate was permitted to provide for 51 residential units. The third party submissions indicate that there are a number of outstanding conditions attached to the parent permission which have not been complied with. Such issues are a matter for enforcement by the Planning Authority and I would note that a number of issues arise with regard to water services. I note that the Planning Report does not make an issue in this regard, noting that all connections must be agreed with Irish Water.

7.4.2. In terms of water services, the Board will note that the proposed development will connect to existing services serving the wider area. While I acknowledge that the proposal will connect to existing services in the area, I would have a concern regarding the lack of any real detail in this regard. It is also not clear if the proposed development was referred to Irish Water for comments. I note that certain improvement works have been carried out on WWTPs in other towns in the vicinity of Lismore, including Cappoquin, it is not clear if the existing infrastructure in Lismore is capable of accommodating additional loading.

7.4.3. While I have no objections in principle to the proposed development, I would have a concern that if permitted, the proposed development could potentially have a negatively impact on the amenities of the existing residents as it has not been shown that the existing sewerage network and the surface water network within the Railway

Garden estate is capable of accommodating the level of development proposed. Also, there are inadequate details of service connections submitted with the application.

7.4.4. Should the Board be minded to grant permission in this instance, I would consider it necessary that appropriate conditions are included to prevent any development occurring on the site until such time as Irish Water has commented on the application and that sufficient evidence is provided to satisfy the planning authority that capacity has been increased to accommodate the proposed development. Full details of connections should also be submitted.

7.5. Roads & Traffic:

7.5.1. Access to the subject site is proposed over the existing and permitted estate road serving Railway Gardens. This access road has an existing width of up to 7m. The existing road within the Railway Gardens essentially circles the public open space with houses located along the site boundaries. There are no footpaths along the boundary of the open space. If permitted, the proposed development will use the existing estate road, which is wider than recommended in terms of DMURS. The proposed road to service the proposed dormer houses to the north east, is to have a width of 6m.

7.5.2. In terms of the design of the proposed development, including the entrance and access to the site, and notwithstanding the previous planning permission pertaining to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The DMURS provides radically new design principles and standards from DMRB. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S) and is applicable in the case at hand. The Manual seeks to address street design within urban areas (i.e. cities, towns and villages). It sets out an integrated design approach. What this means is that the design must be:

- a) Influenced by the type of place in which the street is located, and

b) Balance the needs of all users.

7.5.3. DMURS sets out a road user priority hierarchy as follows:

- 1 Pedestrians;
- 2 cyclists
- 3 public transport
- 4 car user.

The key design principles for roads include –

- Integrated streets to promote higher permeability & legibility;
- Multi-functional, placed-based, self-regulations streets for needs of all users;
- Measuring of street quality on the basis of quality of the pedestrian environment
- Plan-led, multidisciplinary approach to design.
- The importance of this design approach is dependent on site context, but also on road type - local, arterial or link. The DMURS defines a hierarchy of places based on place-context and place-value, with centres (such as town and district centres) having highest place-value. Places with higher context / place-value require:
 - Greater levels of connectivity;
 - Higher quality design solutions that highlight place;
 - Catering for and promotion of higher levels of pedestrian movement;
 - A higher level of integration between users to calm traffic and increase ease of movement for vulnerable users.

7.5.4. DMURS provides detailed standards for appropriate road widths - 2.5m to 3m per lane on local streets and a 3.25m standard for arterial and link route lanes, junction geometry - greatly restricted corner radii to slow traffic speed and improve ease of pedestrian crossing, junction design - omit left turn slips and staggered crossings etc., and requires that roads are not up designed above their speed limit.

In terms of the above requirements of DMURS, the applicant has sought to design the internal roads of the proposed estate to ensure compliance and to a design speed of 20km/ph. In addition, pedestrian crossings have been provided, although I do consider that the design standards have not been fully applied with particular regard to the priority hierarchy.

7.5.5. In particular, the Board will note the intention to provide a new stretch of 6m wide road, and that in order to access the public open space area, pedestrians will have to navigate crossing the estate road. I have concerns that the width of the existing road, together with the proposed layout of the subject appeal, prioritises car users, contrary to the requirements of DMURS. I also note the concerns raised by the third party in terms of the provision of footpaths. However, the Board will note the requirements of Condition 1 as included in the Planning Authority's decision to grant planning permission for the development. Should the Board be minded to grant permission in this instance, I would recommend that a similar condition be included, in the interest of pedestrian safety and compliance with DMURS.

7.5.6. In terms of permeability, DMURS seeks to promote high connectivity which maximises permeability particularly for pedestrians and cyclists. In order to achieve such networks, DMURS seeks to limit the use of dendritic networks and cul-de-sacs that provide no through access. In terms of the proposed development, the Board will note that there are two opportunities for potential expansion of the estate to the west, with the existing estate roads terminating immediately adjacent to that boundary.

7.5.7. In terms of parking, the Board will note that each proposed house will have 2 spaces. This accords with the requirements of the County Development Plan. In terms of the construction phase of the proposed development, I accept that there will be some impacts to existing road users. However, I am satisfied that these impacts are generally temporary in nature.

7.5.8. In conclusion, the Board will note that the zoning of the subject site, affords potential for a residential development. In terms of general roads and traffic issues, I am satisfied, based on the information submitted to date, and subject to appropriate conditions, that the requirements of the Design Manual for Urban Roads and Streets, have and can be met. I note the issues raised in terms of the number of houses

which would access the existing estate roads and with only one entrance / egress to the estate. I am generally satisfied that the potential impact of the proposed development, and the traffic generated by same on the local road network, that the proposed development would not result in a significant traffic hazard for existing residents in the area and would not adversely affect the existing residential amenities of the existing residents by reason of the additional traffic resulting from the proposed development.

7.6. Other Issues

The third party appeal raises a number of other issues in terms of the proposed development.

- With regard to the issues raised in terms of site and public notices, I have no comments.
- Issues raised in relation to non compliance with conditions of 04/1943 are matters for the Planning Authority and enforcement. There does not appear to have been any enforcement action
- In terms of the responsibility for the repair of any potential damages to the existing estate roads, I consider that this matter can be dealt with by way of condition and the provision of a bond.
- In terms of the inclusion of the estate on the Unfinished Estates list, I am satisfied that this no longer appears to be the case. There is no legal requirement for an applicant to consult on an application and the Planning Authority has not objected.
- Issues were raised with regard to boundary treatments proposed. I am satisfied that such issues can be addressed by way of condition.
- Landscaping and lighting issues can be dealt with by way of condition.

7.7. Appropriate Assessment

The site is not located within any designated site. The site is located approximately 1km to the south of Blackwater River (Cork/Waterford) SAC, Site Code 002170.

Having regard to the location of the subject site within an established and built up

area, together with the nature and scale of the proposed development on zoned and serviced lands, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

The Board will note the third party submissions in relation to the discharging of treated waste water into the Blackwater River from the Lismore Wastewater Treatment Plant. I consider that further information is required, including permission from Irish Water, in relation to water services.

7.8. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

8.1. It is recommended that further information is sought as follows:

Further information is required as follows:

1. Please submit confirmation from Irish Water that the existing water services, water, wastewater and surface water systems, have the capacity and are capable of accommodating the proposed development.
2. Please submit full details, including drawings and sections, of proposed water service connections for the proposed development, including any wayleaves.
3. Please submit a revised site layout plan which provides for the following:
 - the provision of a footpath on both sides of the estate access road and around the open space
 - the omission of house no 48 and associated turning area as indicated on the site layout plan
 - the relocation of the turning circle to the front of house no. 47
 - provision of a hammer head at house no. 49
 - redesign of house no. 49 to provide for dual aspect
4. With regard to the provision of the visitor spaces as provided for in the plans submitted in response to the Planning Authority's further information request, please submit the written consent for the provision of these spaces, as the area lies outside the ownership of the applicant.

Following receipt of the above, the Board will further consider the proposed development.

A. Considine
Planning Inspector

19th September, 2018