



An
Bord
Pleanála

Inspector's Report ABP-301947-18

Development	Demolition of Existing House and Construction of 6 no. Houses
Location	'Cul na Greine', Knockateemore, Dungarvan County Waterford'
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	17/900
Applicant(s)	Lisa Quealy
Type of Application	Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Lisa Quealy
Observer(s)	Mary and Laurence Keane Catherine Sheehan.
Date of Site Inspection	24 th August, 2018
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located in a residential area c.2.5km to the north of Dungarvan town centre. The site comprises a backland site that is surrounded to the east, west and south by residential development that dates from the early 2000s approximately and which form part of the Cruachan and Waters Edge residential developments.
- 1.2. To the east, the site adjoins two storey dwellings that back onto the appeal site. To the south, the site adjoins the curtilage of a single storey bungalow dwelling that is accessed via the Pinewood lawn development located to the south east. To the west, the site adjoins 2 no. two storey semi-detached dwellings at the northern end and the sites of two detached single storey bungalows to the south.
- 1.3. The site is currently occupied by a derelict single storey dwelling that is located at the southern end of the site. Access to this bungalow was via a laneway that is located immediately to the west of the appeal site as delineated by the red line boundary. This laneway is stated in the application documentation to be the alignment of an old roadway in the area, the Old Hospital Road. It has a current usable width of c.3.5 metres and is characterised by a mature trees and planting along the western side. There is additional mature planting on the eastern side of this roadway as well as planting to the eastern and northern boundaries of the site.
- 1.4. An area at the northern end of the site has been used for the deposition of used building materials and there is reference on the appeal file to the use of part of the site as a builder's store. The material observed on site at the time of inspection was however more characteristic of waste than usable building materials.
- 1.5. The stated area of the appeal site is 0.1233 ha.

2.0 Proposed Development

- 2.1. The development as submitted initially for planning permission comprised the demolition of the existing derelict house on the site and the construction of 2 no. three bedroom two storey dwellings and 4 no. two bed two storey dwellings to be located in two terraces of three dwellings. The first terrace is proposed to be fronting

onto the existing Cruachan housing estate to the north with direct access provided to the three dwellings from the estate road.

- 2.2. The remaining three dwellings are proposed to be provided in a terrace at the rear of the site with access to these units via an access roadway along the western side of the site and following the alignment of the existing roadway. The submitted plans indicate the existing trees along the western side of this roadway being retained.
- 2.3. Two parking spaces per residential unit are proposed to be provided. Private amenity spaces ranging between 45 and 95 sq. metres are proposed to be provided to the rear of the residential units. A shared landscape area of 123 sq. metres is proposed at the rear (southern end) of the site.
- 2.4. The proposed density of development equates to approximately 40 units per ha.
- 2.5. It should be noted that following a request for additional information issued by the Planning Authority, the form of development was revised to a total of 5 no. units with three of these changed to single storey units. The revised design is detailed in 3.1 below.

3.0 Planning Authority Decision

3.1. Further Information

Prior to issuing a Notification of Decision the Planning Authority requested further information on the following issues:

- Concerns regarding over development of the site, shortfall in private amenity space, lack of public open space,
- Inadequate car parking for 3 units at southern end and poor access to the parking spaces at the northern end of the site.
- That there would be inadequate overlooking of and surveillance of the proposed access roadway to the west of the site.
- Need for section drawings through the development showing relation with existing adjoining dwellings.

- That only part of the access roadway is within the red line boundary.
Required to demonstrate a right of way over the roadway.

In response, the following further information / revised designs were submitted:

- A reduction in the number of dwellings from 6 no. to 5 with the three dwellings at the southern end of the site proposed to be single storey.
- Retained two storey units at the northern end of the site have 11 metre rear gardens.
- No first floor overlooking issues.
- That the Planning Authority have permitted other permissions granted for similar infill developments where no public open space was required. Notably infill developments at Shandon Street and Ormonde Square Dungarvan. There is open space available in 'close proximity' to the site as deemed acceptable in these permitted developments.
- Density of development reduced.
- The proposed 3 no. single storey units at the southern end of the site are elderly units has a hard / soft 'concourse' type open space that serves all three units. This area measures 1358 sq. metres or 17 percent of the total site area allocated to the elderly units.
- Car parking in accordance with development plan standards with 2 spaces for three bed units and one space for the elderly units.
- Reorientation of one of the units to face the access roadway and provide surveillance.
- Two section drawings Drg. No.695-PL-102C showing relationship with adjoining properties provided.
- Letter submitted from the agent of the owner of the drainage services in the Cruachan development consenting to a connection to serve the proposed development.
- Supporting documentation for the right of way submitted.

3.2. Decision

The Planning Authority issued a Notification of decision to refuse Permission for two reasons that can be summarised as follows:

1. That the road access is considered inadequate to serve the proposed development due to its restricted width and absence of a turning area. The proposal would give rise to a sub standard development that would endanger public safety by reason of a traffic hazard.
2. That the car parking, access and private amenity space provision are such that they do not comply with the provisions to the Waterford County development Plan and would result in a development that is injurious to the residential amenities of future occupants.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The initial report of the Planning Officer notes the development is consistent with the zoning objective but that the number of units is excessive, the layout cramped and development plan standards regarding car parking, access and open space not met. Status of the access also questioned in terms of ownership and the comments of the Water Services section noted. Second report subsequent to the submission of further information notes the issues regarding parking, open space provision and traffic safety and refusal of permission consistent with the Notification of Decision to Refuse Permission is recommended.

3.3.2. Other Technical Reports

Water Services – Notes that layout shows the development connecting to existing water services which are not taken in charge by Irish Water. Notwithstanding this, the development will rely on Irish water infrastructure and permission should be requested from Irish water for a connection.

3.4. **Prescribed Bodies**

None

3.5. **Third Party Observations**

A total of 5 no. third party observations are recorded on the appeal file. The following are the main issues raised in these submissions:

- That there is no right of way over one half of the roadway / laneway. Lack of legal interest to undertake the development.
- That the sightlines at the junction with the existing road are poor.
- Non compliance with car parking standards.
- Inadequate private and public open space provision.
- Overlooking and loss of privacy.
- Site sizes incompatible with prevailing development.
- Proximity to Dungarvan Bay SPA.
- Inadequate separation between first floor windows.
- Inadequate details regarding boundary treatments.
- Risk of anti social behaviour / activity from lack of surveillance / overlooking of the access road.

4.0 **Planning History**

There is no record on the appeal file of any planning history on the site.

5.0 Policy Context

5.1. Development Plan

The site is zoned residential Medium under the provisions of the *Dungarvan Town Plan, 2012-2018*. This plan has been extended following the merger of Waterford City and County Councils and remains the plan in effect at the time of assessment.

The site is zoned 'Residential Medium' under the provisions of the above plan with the stated objective '*to protect the amenity of existing residential development and to provide for new residential development at medium density.*' Dwellings are a permissible use on lands zoned Residential Medium.

Table 10.4 of the Plan states that the density of new housing development is a factor of design, but in traditional layouts in urban areas will range from 25 dwellings/hectare for medium density Residential zoning R1 (10 houses per acre).

Section 10.4 of the Plan relates to open space and states that the minimum provision should be 90 sq. metres for a terrace, 120 sq. metres for a semi detached and 40 sq. metres for elderly or sheltered housing.

With regard to public open space, the plan states that the provision of a minimum of 15% of the site area will be required for public open space. Areas of passive and active open space shall be required and incidental pieces of unusable land shall not be considered to fulfil or partially fulfil the 15% requirement.

A minimum of two car parking spaces shall be provided within the curtilage of each dwelling house.

5.2. Natural Heritage Designations

The site is located within c.50 metres at the closest point to the Dungarvan Bay SPA site.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the first party grounds of appeal:

- That the response to further information provided for a reduction in number of units from 6 to 5 of which 3 were now proposed to be single storey. It is submitted that these revisions addressed the issues raised by the Planning Authority in the further information request and in the objections from adjoining properties.
- The revised scheme amends the open space, site density, house orientation / overlooking, relationship with adjoining properties, waste and water connections and legal / right of way issues.
- That the existing Hospital Road access along the western side of the site is narrower than the plan standard of 5.5 metres, however it is in line with the cul de sac widths in the existing Cruachan estate where shared road access is part of the design. The road and access issues that are one of the two reasons for refusal could have been resolved if raised as part of the FI request.
- Shared open space for the three elderly units is proposed at c.17% of the area, 1358 sq. metres of space in the area fronting all three units.
- That the elderly units have been designed to provide a high level of passive surveillance.
- That the revised layout means that the units facing the northern end of the site have private amenity spaces of 96 sq. metres and 120 sq. metres. The private amenity spaces for the elderly units in the revised plan are 59, 65 and 69 sq. metres.
- Two parking spaces are proposed for each on the conventional three bedroom dwellings. The elderly units would be served by one parking space per unit plus one visitor space.

- That the layout with the two units facing the existing Cruachan development is consistent with the layout of this existing residential area.
- The access road to the elderly units would be a shared surface. This road access is proposed to be c.5 metres wide over a length of c.30 metres.
- That the consent of the owner of the existing estate services to the connection was submitted as part of the response to FI.
- The applicant has also submitted a declaration as to right of access and deed of grant and surrender as evidence of their right of way over the Hospital Road. The applicant has the same rights of way as the properties to the west of the road.
- That the site boundary extends over half of the laneway and stated that all development is contained within the boundary.
- Noted that the cul de sac to the east of the appeal site is only 5 metres wide and serves 7 no. three bedroom two storey dwellings. The likely number of occupants using the lane would be 9 and the revised layout has effectively halved the length of the access required.
- That the sizes of the gardens in the family units are similar to those in the surrounding residential area.
- Noted that the council permitted a scheme of 8 no. semi detached dwellings in Dungarvan (Ref. 16/479) with garden sizes that were significantly below the 120 sq. metres specified in the development plan.

6.2. Planning Authority Response

The following is a summary of the main issues contained in the response of the Planning Authority:

- That the development falls significantly below development plan standards particularly regarding private amenity space, parking and access.

- That the Planning Authority have no control over occupancy and therefore it is not appropriate to assess the development on the basis of anything other than plan standards.
- That the district engineer considers that the development is sub standard in terms of access roadway width, access to emergency services, turning provision etc.
- That car parking is below development plan standards. The comparisons with other permitted developments are noted however these are both town centre developments and the appeal site is located at the edge of the zoned area of Dungarvan.
- The planning authority would be amenable to some form of residential development on the site however the proposed development is not satisfactory for the reasons set out in the Planners Reports.

6.3. Observations

Observations have been submitted by two parties and the following is a summary of the main issues raised in these submissions:

- That the refusal of permission is supported.
- That the proposals are very unclear with regard to the proposals for the trees that comprise the western side of the existing roadway known as the Old Hospital Road. The plans could result in the loss of these trees due to construction damage.
- That proposals for the boundary treatment are required to prevent overlooking, loss of amenity and trespass.
- That the development would result in a loss of privacy and amenity.
- That the applicant is using part of the right of way as access for the site.
- Access is inadequate with restricted width and no turning area.
- That while use of the access may be light if used for elderly persons this could change over time.

- That the revised plans while reducing units from 6 to 5 only results in a reduction of 2 bedrooms overall.
- That the applicant make reference to the fact that the roadway used to provide access to three single storey houses. Such a development would be feasible now.
- That the site is not currently the subject of anti social activity and its amenity has been adversely impacted by the recent depositing of builders rubble in the northern part of the site.
- That the comparison by the applicant of this development to permitted developments in the town centre does not make sense.
- That the site is not suited to elderly accommodation being remote from the town centre, shops and facilities.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Principle of Development / Land Use Zoning
- Traffic, Access and Parking
- Design, Layout and Impact on Residential Amenity
- Other Issues
- Appropriate Assessment
- Environmental Impact Assessment
- Conclusion

7.2. Principle of Development / Land Use Zoning / Revisions to Layout

- 7.2.1. The appeal site is located within the development boundary of Dungarvan and is located on lands that are within the area covered by the Dungarvan Town Development Plan, 2012-2018. The site is zoned Residential Medium under the provisions of the plan. Under this land use zoning objective residential development is normally permissible. The proposed development is therefore considered to be acceptable in principle.
- 7.2.2. The density of development envisaged in the Dungarvan town plan on lands zoned Residential Medium is from 25 units per ha. I note however that Dungarvan, with a population of approximately 8,000, would be defined as a large town for the purposes of the *Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities, 2009*. In the outer suburban areas of such settlements which is what I consider the appeal site to be, net residential densities in the range of 35-50 units per ha. are promoted as appropriate by the Guidelines.
- 7.2.3. The layout as originally submitted to the Planning Authority for assessment provides for 3 no. two storey units in a terrace located fronting onto the northern boundary of the site and the existing Cruachan Estate. A further 3 no. two storey terraced units were proposed to be located at the rear of the site, back to back with the existing dwellings. This layout was considered to be unacceptable to the Planning Authority for reasons that included inadequate open space provision, excessive density of development and the impact on surrounding properties. While the back to back separation distances between dwellings within the scheme was at or close to the recommended minimum of 22 metres set out in the Plan and 7.4 of the Residential Development Guidelines, I would be in general agreement with the comments of the Planning Authority regarding the inadequacy of the private amenity spaces proposed and the generally excessively tight nature of the layout. Private open space provision for four of the proposed units was only 45-50 metres which is not considered to be acceptable in this outer suburban location. I would also note and share the concerns expressed with regard to the acceptability of the access to the houses at the rear of the site due to the restricted width of the access and lack of parking. For these reasons it is proposed that the assessment would proceed on the basis of the revised layout submitted by the first party in response to the request for further information.

- 7.2.4. The stated objective for lands zoned Residential Medium is '*to protect the amenity of existing residential development and to provide for new residential development at medium density.*' The following sections provide an assessment of the impact of the proposed development on residential amenity.
- 7.2.5. I also note the fact that under a number of headings including car parking and open space, the first party appellant in their appeal compares the proposed development with permitted developments elsewhere in Dungarvan. As highlighted by the Planning Authority and observers, the cases referred to are either town centre developments or edge of centre developments and are therefore significantly different in context to the appeal site.

7.3. Traffic, Access and Parking

- 7.3.1. The revised layout provides for parking to be provided with two spaces for each of the three bed semi detached units at the northern end of the site and a single space per elderly unit with an additional shared space. For the three bedroom units to the north, the principle of two spaces per unit is acceptable and is consistent with the development plan requirement. I would, however, note the configuration of the parking spaces for unit no.1 which are accessed from the very northern end of the access roadway and which would appear to create potential conflicts with traffic using this roadway. At the rear of the site, the proposed provision of only a single space per unit plus one visitor space would in my opinion be potentially acceptable if the proposed units were definitely to be used for elderly accommodation. As highlighted by the Planning Authority however, there is no way of ensuring that this is the case. I would also note and agree to a significant degree with the comments of the observers regarding the unsuitability of the appeal site as a location for elderly accommodation given its separation of 2.5 km from the town centre and the fact that there are limited services within close proximity to the site. Overall therefore the provision of car parking on the site is in my opinion problematic.

- 7.3.2. The revised layout also results in a reduction in the length of the access to the units at the rear of the site and the first party appeal highlights how the section of access where the width is c.5 metres is now only c.30 metres in length. This is noted, however I have a number of concerns with regard to the proposed use of and works to the existing Old Hospital Road roadway that bounds the site to the west. The first party states that they have demonstrated how they have sufficient legal interest to use the roadway as an access, however this would appear to be countered by the information presented by the objectors who own properties to the west of the road. While the first party would appear to have rights to access the appeal site via the right of way over the roadway it is not clear to me from the information available that they have the required interest to undertaken the works required to create the surfaced access proposed. The first party appeal states that the site boundary extends over half of the laneway and stated that all development is contained within the boundary, however the works to the road would appear to extend outside the red line boundary indicated in the application.
- 7.3.3. With regard to the width of the access roadway, the current usable width is significantly less than the five plus metres indicated on the revised plans. There is in my opinion a lack of clarity with regard to how this width is to be obtained without impacting negatively on the existing mature trees that bound the western side of the roadway and which serve to screen the proposed development from existing properties to the west. The submitted drawings do not clearly indicate the extent to which the existing roadway would be extended into the site. Similarly, there is in my opinion a lack of clarity with regard to the treatment of the boundary with these existing properties to the west.
- 7.3.4. Rather than being 5 metres in width as stated by the first party, the actual carriageway width indicated in the revised layout is a maximum of 3.5 metres which would be inadequate to cater for two cars passing or allow access for larger vehicles. It is therefore my opinion that the issues raised by the council engineering staff with regard to service and emergency access to the development remain valid notwithstanding the revised layout and reduction in the length of access.

7.4. Design, Layout and Impact on Residential Amenity

- 7.4.1. As set out at 7.2.3 of this assessment above, I have concerns regarding the traffic / access and private amenity space provision in the originally submitted layout and for this reason it is proposed to proceed with an assessment of the revised layout submitted by way of further information on 3 May, 2018 and on which the appellant bases their appeal submission. The revised layout proposes a reduction in number of units from 6 to 5 of which 3 were now proposed to be single storey. Two semi detached two storey units are proposed at the northern end of the site facing onto the existing Cruachan development with three single storey units to the rear.
- 7.4.2. The proposed layout results in the units at the northern end of the site would have private amenity spaces to the rear of the building line of c.95 sq. metres and 110 sq. metres. The development plan standard as per section 10.4 of the Plan is a minimum of 120 sq metres in the case of semi detached units. I do however note the provisions of section 7 of the Sustainable Residential Development Guidelines and the fact that no minimum standards are prescribed. I also note the fact, highlighted by the first party appeal, that the private amenity spaces in the existing semi detached units in the adjoining Cruachan Estate range generally between 95 and 105 sq. metres. Therefore, notwithstanding the location of the site on the outskirts of Dungarvan I consider that the private amenity space provision to these units is acceptable.
- 7.4.3. The private amenity spaces for the elderly units in the revised plan are stated by the first party to be 59, 65 and 69 sq. metres. The clear areas to the rear of the building line of these units is however approximately 50 -60 sq. metres. The provision is therefore significantly below the open space standard of 150 sq metres for a detached dwelling set out in the development plan. This standard is in my opinion excessive for a two bedroom residential unit and I note the case made that the open space provision exceeds the 40 sq. metres specified in Table 10.6 of the Plan for elderly or sheltered housing. The amenity space provision and general layout of the proposed 3 no. elderly units is in my opinion acceptable, however I would share the concerns expressed by the Planning Authority regarding the control over the end occupants of these units. The applicant is not a housing association or person who has any established connection with elderly or secure housing provision and it is therefore unclear who the end occupants of the units would be. It is therefore my

opinion that the proposed 50-60 sq. metre open space provision proposed is too restrictive for this outer suburban location. I also consider that notwithstanding the single storey designs, that the separation of the units to site boundaries at c.5 metres is excessively tight and such that it would result in an overall poor standard of residential amenity for future occupants.

- 7.4.4. I note the concerns expressed by the Planning Authority regarding a lack of public open space provision to serve the development. Given the proximity of the site to the main area of public open space within the Cruachan development and the restricted scale of the site, it would appear appropriate that some form of financial contribution in lieu of public open space would be appropriate in the event that a grant of permission was being considered. The first party appeal states that a shared open space for the three elderly units is proposed at c.17% of the area, 1358 sq. metres of space in the area fronting all three units. The layout in this area would be overlooked by the units and would be acceptable in the event that there was a way of ensuring that the three units were for elderly or shared accommodation. The layout would, however require some form of management arrangement to be put in place.
- 7.4.5. In terms of design and internal layout, the proposed units are consistent with internal space standards and design principles set out in the development plan and in the Sustainable Residential Development Guidelines. The design of the units proposed facing the Cruachan development are consistent with the existing dwellings in the area and are considered to be acceptable.
- 7.4.6. Fundamentally, however there is no clear basis for elderly housing in this location which is c.2.5km from the centre of Dungarvan and separate from local shops and services. More significantly, there is no certainty as to the end user of the units and in the absence of this it is considered that the proposed layout has to be assessed against normal development plan standards and the provisions of the Sustainable Residential Development Guidelines. It is considered that when so assessed the proposed layout is deficient in terms of private amenity space provision and car parking and that the shared open space / communal area proposed would not be appropriate.

7.5. Other Issues

- 7.5.1. I note the comment on file from the Water Services section of the council which states that notwithstanding the fact that the existing drainage infrastructure in the Cruachan estate has not been taken in charge, that the development will rely on Irish water infrastructure and permission should be requested from Irish water for a connection. The first party has submitted the agreement of the existing owner of the network to a connection however no comment or consent from Irish Water is on file.

7.6. Appropriate Assessment

- 7.6.1. The site is located within c.50 metres at the closest point to the Dungarvan Bay SPA site. Having regard to the fact that the site is an infill location within an existing developed urban area and that it is proposed that any development would be connected to the public water and drainage network, and to its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

7.7. Environmental Impact Assessment

- 7.7.1. Having regard to the nature of the proposed development comprising residential housing to be located within an established residential area, to the limited scale of the proposed development in terms of number and scale of units, the proposed connection of the development to the public water and waste water system and to the separation of the site from ecologically sensitive sites 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.

7.8. Conclusion

- 7.8.1. In conclusion, it is considered that the principle of infill development is acceptable on the appeal site and that the form of development proposed at the northern end of the site with units fronting onto the existing Cruachan residential area is acceptable in principle. It is not however, considered that the site is clearly appropriate for the provision of elderly or sheltered housing and that any such housing format would need to be supported by a clear track record of provision of such housing type. A future proposal for residential development in the rear part of the site would potentially be acceptable, however such proposals would need to be accompanied by clearer proposals regarding the treatment of the access roadway as well as a further reduction in unit numbers / density and detailed consideration of layout to ensure the protection of the residential amenities of surrounding properties. Further clarity with regard to the applicant entitlement to undertake works to the existing right of way and the consent of Irish Water would also be required.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the restricted width of the proposed access to units at the rear of the site, to the restricted car parking and circulation space within the development and to the configuration of the parking spaces proposed to serve Unit 1 it is considered that the proposed development would endanger public safety by reason of a traffic hazard and obstruction of road users. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the restricted level of private amenity spaces proposed to serve Units Nos. 3, 4 and 5 at the southern end of the site, to the restricted depths of the private amenity spaces proposed and to the lack of clarity regarding the impact of the proposed development on the existing trees and boundary to the west of the site, it is considered that the proposed development would result in a poor quality of residential amenity for future occupants of the development and would have a potential negative impact on the residential amenity of surrounding properties, particularly to the west. The proposed development would therefore seriously injure the amenities of properties in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Stephen Kay
Planning Inspector

17 September, 2018