



An  
Bord  
Pleanála

## Inspector's Report ABP – 302207 – 18

---

<b>Development</b>	Partial Demolition of existing boundary, provision of agricultural and pedestrian entrance.
<b>Location</b>	Ardivighan Td, Ardilaun Green, Mullingar, Co. Westmeath.
<b>Planning Authority</b>	Westmeath County Council.
<b>Planning Authority Reg. Ref.</b>	18/6018.
<b>Applicant</b>	Eamonn O'Rourke.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refused.
<b>Type of Appeal</b>	First Party.
<b>Appellant</b>	Eamonn O'Rourke.
<b>Observer</b>	Adrian Kirwan.
<b>Date of Site Inspection</b>	24 <sup>th</sup> October 2018.
<b>Inspector</b>	Patricia-Marie Young.

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	3
3.3. Prescribed Bodies .....	4
3.4. Third Party Observations .....	4
4.0 Planning History.....	4
5.0 Policy Context.....	4
5.1. Planning Context.....	4
5.2. Natural Heritage Designations .....	5
6.0 The Appeal .....	5
6.1. Grounds of Appeal .....	5
6.2. Planning Authority Response .....	5
6.3. Observer .....	5
6.4. Prescribed Bodies .....	6
7.0 Assessment.....	6
8.0 Recommendation.....	11

## 1.0 Site Location and Description

- 1.1. The appeal site is situated at the western end of 'Ardilaun Green', a cul-de-sac road in the 'Ardilaun' housing estate, in the Townland of Ardivighan, 2km to the west of Mullingar's town centre.
- 1.2. Part of the eastern boundary of this restricted in area site contains a 2-meter in height concrete post and panel boundary. Behind which there is a deep drainage ditch and hedgerow. Immediately to the east of this boundary is a pocket of communal open space. This open space is indented by two turning bays. Ardilaun Green widens out at its western end to accommodate this open space.
- 1.3. Ardilaun Green consists of a mixture of mature 2-storey detached and semi-detached dwellings which are setback from the public road by garden areas that accommodate off-street car parking. The area has a strong residential character.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for part demolition of an existing boundary wall, provision of an agricultural entrance with gates, piers and all associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority decided to **refuse** permission for the following reasons.

*"1. The proposed development would endanger public safety by reason of traffic hazard and would therefore be contrary to policy P-TM6 of the Mullingar Local Area Plan 2014-2020.*

*2. The proposed development would seriously injure the amenities of residents in the vicinity."*

### 3.2. Planning Authority Reports

- 3.2.1. The **Planner's Report** is the basis for the Planning Authority's decision.
- 3.2.2. **Other Technical Reports:** -

- **Assistant Engineer:** Refusal recommended on traffic hazard and residential amenity grounds.

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. Several submissions were received from adjoining and neighbouring property owners. The concerns raised are the same as those in the observer's submission received by the Board and are summarised under Section 6.3 of this report.

## 4.0 Planning History

4.1. **P.A. Reg. Ref. No. 14/6231:** Planning permission was **refused** for a similar development on the appeal site and was refused for the same planning grounds as this current application.

## 5.0 Policy Context

### 5.1. Planning Context

5.1.1. The main site area lies within the administrative boundaries of the Westmeath County Development Plan, 2014-2020. This plan indicates that it is located within Character Area 4 Central Hills & Lake Area (Map Ref. 04), within an area designated as being under significant urban influence and within the 15km catchment radius of the Mullingar Local Area Plan, 2014-2020 (Map Ref. MLAP 09).

5.1.2. The boundary subject of this application straddles the eastern boundary of the LAP area and appears to be situated on the red line area of this plan. The adjoining Ardilaun Green housing development is zoned '*Existing Residential*' and the adjoining public green areas form part of the land zoned '*Open Space*' (Map Ref. No. MLAP 04) under the said LAP.

5.1.3. Policy P-TMP6 of the Development Plan seeks: "*to require all development to have high levels of accessibility and permeability within a site*".

5.1.4. Policy P-GA2 of the Development Plan seeks: “to protect the viability of farms and best quality land for agricultural and related uses”.

## 5.2. Natural Heritage Designations

5.2.1. None relevant.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The grounds of appeal are summarised as follows.

- The site is landlocked, an entrance is required for access purposes, the proposed entrance is positioned at the only possible access point onto the public road network and the appellant has the necessary legal interest to provide access at this location.
- Traffic levels associated with the entrance would be low and of a limited duration.
- The materials used for the entrance could be required by way of condition.
- Concerns are raised in relation to the additional information request to clarify ownership.
- A traffic engineer report concludes no material traffic safety concern.
- The proposed development is not contrary to Policy P-TM6.
- The proposed development would not give rise to any material noise impact.
- A condition limiting the use of the entrance could be imposed.

### 6.2. Planning Authority Response

6.2.1. None.

### 6.3. Observer

6.3.1. The observation is summarised as follows.

- The additional information query which sought clarification on ownership does not negate the legality of the Planning Authority's refusal.
- The granting of this application would only increase traffic to Ardilaun Green, the Ardilaun housing estate and onto the R394.
- The R394 is a bottleneck.
- The proposal would contribute to flooding in this area.
- There is no history of access to agricultural lands at this location.
- The introduction of agricultural goods and machinery has the potential to give rise to public safety to traffic hazards.
- The usage of the entrance as set out by the appellant is questioned and not considered to be a realistic indication of actual use.
- There is an easement in place that already allows for access to these lands.
- The proposed development, if permitted, would result in the adjoining open space not being fit for purpose.
- This proposal would destroy a self-contained built environment, introduce significant safety, anti-social and security issues for residents of this estate.

#### 6.4. **Prescribed Bodies**

6.4.1. None.

### 7.0 **Assessment**

#### 7.1. **Introduction**

7.1.1. I consider that the main issues in this appeal case can be dealt with under the following broad headings.

- Principle of development/Planning History
- Traffic/Road Safety
- Amenity Considerations

I also consider that the matter of appropriate assessment needs to be addressed.

## **7.2. Principle of the Proposed Development/Planning History**

- 7.2.1. In relation to the principal of the proposed development I consider it appropriate that it be considered on its merits having regard to the local planning context which I have previously outlined under Section 5 above. This sets out that the appeal site has a transitional character in planning and land use terms. In planning terms, the eastern boundary of the appeal site lies on the boundary of a Development Plan and a Local Area Plan. In land use terms the appeal site occupies a location where suburban residential development predominates and ceases alongside its eastern boundary. Agricultural development predominates to the north, south and west of the appeal site with this agricultural character strengthening in a westerly direction.
- 7.2.2. Previously planning permission for a similar development was refused on similar grounds (P.A. Reg. Ref. No. 14/6231). The development sought under this application does not address the previous reasons for refusal. I also note that the planning permission for the Ardilaun residential housing estate, by way of condition, required the provision of a screen wall around the perimeter of the site, including at the end of the Ardilaun Green cul-de-sac (P.A. Reg. Ref. No. 99/1661).
- 7.2.3. Having regard to the planning history of the site I consider that there is presumption against the development sought under this application. Notwithstanding, the concerns the proposed development gives rise to and whether they can be overcome by measures put forward under this application or whether they can be overcome by way of conditions is discussed below.

## **7.3. Traffic and Road Safety**

- 7.3.1. The first reason for refusal indicates that the proposed development, if permitted, would endanger public safety by reason of traffic hazard and would therefore be contrary to Policy P-TM6 of the Mullingar Local Area Plan 2014-2020. Policy P-TM6 seeks to achieve a high level of permeability and accessibility at such locations.
- 7.3.2. I consider that this reason for refusal is reasonable having regard to the fact that Ardilaun Green, the larger residential estate it forms part of which was designed and laid out as a self-contained development with a hierarchy of roads that provide access to the public road network via a single entrance onto the R394 (Western Relief Road).

- 7.3.3. This hierarchy of roads and its entrance onto the public road network was purposefully designed to accommodate the residential category of development that it is. It was not designed with other categories of development in mind, for example agriculture, which generate different types of vehicle usage.
- 7.3.4. As such the potential conflict that could arise from a residential development sharing an internal road network that also was required to accommodate a quantum of agricultural usage was not considered in the formulation of its overall design. Indeed, the hierarchy of the internal road network and the access onto the R394 appears to be designed to cater for the quantum and types of residential units it contains with no design resolutions that would allow for no significant intensification of its use.
- 7.3.5. I concur with the observer and the Planning Authority in this case in that there are public safety implications that would arise from the proposed development at this location. In particular, for vulnerable road users including users of ancillary spaces including but not limited to the adjoining pocket of open space. On this point I also consider that the proposed development would inevitably have implications on the functional quality of this open space as it would no longer function as a green amenity space at the end of a cul-de-sac where traffic levels were low and characterised by more standard domestic vehicles.
- 7.3.6. I am cognisant that the appeal submission includes a traffic report that concludes that the reason for refusal by the Planning Authority is subjective and unsubstantiated.
- 7.3.7. This report, however, fails to examine the locational context of the proposed and the appropriateness of providing such an access opening onto an enclosed residential estate of c400 residential units with a single access to the public road network.
- 7.3.8. The report and the documentation provided by the applicant also do not deal with the environmental concerns the provision of such an agricultural entrance and the associated agricultural vehicles would give rise too. With concern arising from the debris and spillage that can result from the movement of agricultural vehicles when they are exiting after traversing a field following on from whatever purpose they were carrying out.



- 7.3.9. I observed at the time of inspection that the appellants adjoining landholding had the appearance that it is likely to be used as grazing land. However, I am cognisant that there is always potential for different activities to occur on farm land alongside different requirements for the provision of nutrient enrichment through to the carrying out of pest/disease control.
- 7.3.10. I am also cognisant that construction works subject to planning applications when granted often include a requirement to deal with spillage on the public road network. Construction works and the likelihood for spillages occurring onto the public road would be for the limited duration of these works. It is highly probable that vehicle access and egress associated with the proposed development would give rise to spillages onto the public road network, yet the documentation submitted with this application puts forward no measures to deal with this likelihood even though this is likely to occur on a more frequent basis and would be one of the on-going issues the use of this agricultural entrance would result in.
- 7.3.11. During my site inspection I observed that at several locations along the internal access route though the Ardilaun housing estate that there is an overspill of car parking alongside the roadside verge. I also observed that there are pinch points present. In particular, to the south of the entrance onto the R394. At this location the carriage width significantly reduces and its alignment kinks. As a result, the capacity of the estate road at this location to accommodate two-way traffic is not possible and there certainly would not be the width to accommodate the average agricultural vehicle.
- 7.3.12. The applicant contend that the appeal site is a land locked parcel of agricultural land benefitting from no access for agricultural machinery and the like. They submit that an entrance is therefore required to serve their land at this location.
- 7.3.13. Based on the above considerations I concur with the Planning Authority's stated reasons for refusal.

#### 7.4. **Visual Amenity**

- 7.4.1. Should the Board be minded to grant permission for the proposed development I consider that improvements could be achieved to the proposed development by way of an appropriately worded condition. In my view the design resolution put forward in

this application are not site context appropriate and such a condition would be in the interests of safeguarding the visual amenities of its setting.

#### **7.5. Residential**

The provision of such an agricultural entrance irrespective of improvements to its overall design at such a site sensitive location would in my view diminish the established level of residential amenities of properties within its vicinity.

#### **7.6. Other Matters Arising**

##### **7.6.1. Flooding**

Having regard to the minor nature and scale of the development sought I am not convinced that this would be the case subject to the entrance being appropriately designed to deal with the matter of surface water drainage and that works carried out in accordance with such a design. Should the Board be minded to grant permission for the proposed development I recommend that they include a condition to deal with this matter as a precautionary measure.

##### **7.6.2. Landownership**

I consider that it was reasonable in the context of the information provided with the planning application that the applicant was requested by the Planning Authority to provide by way of additional information clarification on their legal interest in the subject lands. Such information is important in terms of examining the validity of the application and ensuring that the applicant has demonstrated that they have sufficient legal interest in the land or has the consent of the landowner to make an application for planning permission.

#### **7.7. Appropriate Assessment**

Having regard to the nature and scale of the proposed development and to the nature of the receiving environment, namely an urban and fully serviced location, 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.

#### **7.8. Environmental Impact Assessment**

Having regard to the modest nature the proposed development, the capacity of the soils on site to accommodate surface water runoff and wastewater and the distance of the site from nearby sensitive receptors, 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. I recommend that permission be **refused**.

### 8.2. Reasons and Considerations

1. Having regard to the location of the proposed entrance, the potential traffic such an entrance would generate, the distance between it and the public road network with the route between the two running through a formally designed and laid out housing estate, it is considered that the proposed development would endanger public safety by reason of a traffic hazard and that it would have the potential to result in conflict between road users as well as users of the public domain within this housing estate. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would be located at the end of a modest cul-de-sac, Ardilaun Green, which is characterised by residential development and a pocket of open space that is in itself an important amenity resource for residents of this cul-de-sac and amenity resource that adds to the visual quality of its streetscape scene. It is considered that the provision of an agricultural entrance of the design, scale and nature of that proposed would be at variance with the predominant pattern of residential development in the area, it would represent a visually incongruous form of development that would detract from the residential and visual amenities of its setting. The proposed development would seriously injure the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.

---

Patricia-Marie Young  
Planning Inspector  
20<sup>th</sup> December 2018.