



An
Bord
Pleanála

Inspector's Report ABP-303383-19

Development	Construction of 4 no. dwellings and all associated works
Location	Woodlands, Oakpark, Tralee, Co Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	18/267
Applicant(s)	Trevor Giles
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	John Hegarty on behalf of Woodlands Residents Association.
Observer(s)	None
Date of Site Inspection	26 th February 2019
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The subject site is located in a residential suburb, approx. 2km north of Tralee. It is located in the grounds of a large detached house which fronts onto Oakpark Road and is also within the ownership of the applicant. The subject site has a stated area of 0.13ha and the overall site. The overall site within the applicant's ownership, has a stated area of 5.1ha.
- 1.2. The site is currently overgrown with mature trees and vegetation. It is bound to the north by the rear garden of houses in the Derrylea Estate, to the east by no. 38 Woodlands, to the south east and south west by an area of public open space and by the existing detached house, within the applicant's ownership, to the west.
- 1.3. There is an existing vehicular access gate along the south eastern boundary of the site from the Woodlands Estate Road.

2.0 Proposed Development

- 2.1. It is proposed to construct 4 no. (2 no. pairs) of 2-storey semi-detached houses. Houses 3 and 4 adjoin an existing detached house (no 38 Woodlands) and form a natural extension to the existing estate. Houses 1 and 2 are located opposite Houses 3 and 4. There is a separation distance of approx. 22m between the front building line of the pairs of semi-detached houses.
- 2.2. The houses have a gross floor area of approx. 107sqm and accommodate a kitchen / dining room with interconnected living room at ground floor level with 3 no. bedrooms (1 no. en-suite) and a bathroom at first floor level. The houses are traditional design with gable ended roofs with a maximum height of 8.6m and projecting front porches. Rear private open space has been provided for each dwelling.

- 2.3. It is proposed to alter the existing access gate along the south eastern boundary of the site to provide a new 8.2m wide entrance, comprising a 5m wide carriageway and 2 no. footpaths, approx. 1.6m in width.
- 2.4. The proposed development will be connected to existing public main sewer and water supply. It is proposed to provide an storm water infiltration / attenuation trench on site to reduce discharge of storm water
- 2.5. Following on from a request for further information the private driveways were omitted and 11 no. spaces are proposed in a communal courtyard to the front of the dwellings, in this regard 2 no. car parking spaces per house with 3 no. additional visitor car parking spaces. Footpaths and a vehicular turning area have been provided within the site.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 17 no. conditions.

- Condition 1 clarified that permission was granted for the revised scheme submitted by way of further information.
- Condition 4 ensured the design of the houses is in accordance with the plans submitted and limited the colour and texture of the external materials.
- Condition 5 ensured the landscaping plan is fully implemented.
- Condition 11 ensured the houses will not be used for the provision of overnight commercial guest accommodation.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The initial planners report (16th May 2018) recommended that further information be submitted regarding the following: -

- Clarity regarding the provision of car parking on site.
- Potential to provide driveways to serve the residential units.
- Surface water details
- Boundary treatment details
- Compliance with 'Recommendation for Site Development Works for Housing Areas'
- Public lighting details.
- Details of proposed pedestrian facilities within the site.

The final report (11th December 2018) considered that the concerns raised in the further information requested had been adequately addressed and recommended that permission be granted.

3.2.2. Other Technical Reports

Tralee Municipal District Office Operations Department (14th May 2018) recommended that further information be sought regarding compliance with 'Recommendation for Site Development Works for Housing Areas' and surface water. These issues were included in the request for further information.

Housing Estates Unit report (26th April 2018) raised concerns regarding the following:

- No boundary treatment plan submitted.
- Services not indicated on the plans submitted.
- Visitor car parking should be provided on site and car parking arrangements clarified.
- Pedestrian facilities should be improved.

- Stop signs and road markings are required.
- A bond should be provided.

The final report (29th November 2018) recommended that conditions be attached to any grant of permission.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland. No comments.
- Irish Water. Noted that proposed connections to the system are subject to constraints of the Irish Water Capital Investment Programme.

3.4. Third Party Observations

Objections were received by John Hegarty on behalf of the Woodlands Residents and Joan Murphy which raised the following concerns: -

- The area is subject to flooding. When flooding occurs, it causes the combined foul and drainage water system to overflow. The proposed development will exacerbate the existing situation.
- The proposed development will have negative impact on the setting of the existing historic house located on the grounds.
- The additional number of vehicular movements onto a congested road will result in a traffic hazard.
- The sightlines from the site are insufficient.
- The development is out of character with the area and the density is too high.
- The loss of trees will have a significant visual impact and an impact on the environment.

4.0 Planning History

Reg. Ref. 05/307073: Outline permission granted in 2005 for the construction of 2 no. houses and associated works.

Reg. Ref. 07/307509: Permission granted in 2007 for a house and associated works.

Reg. Ref. 12/397509: An extension of duration of permission was granted in 2012 for Reg Ref. 07/307509.

5.0 Policy and Context

5.1. Tralee Town Development Plan 2009-2015 (extended)

The site is located within the development boundary of the Tralee Development Plan. It is zoned residential with the land use objective *'to protect and improve residential areas and to provide for facilities and amenities incidental to the residential areas'*.

Policies HPO6, HPO7 and HPO12 relate to promoting high quality housing developments. Policy UDPO1 relates to urban design principles for infill developments.

Chapter 12 sets out Development Management Guidelines, in particular details on site coverage, plot ratio, urban design principles, infill developments, residential developments, private open space and car parking standards.

5.2. Kerry County Development Plan 2015-2021

The site is located within the boundary for Tralee. It is an aim of the plan *'to support and enhance the role of towns, to protect their diversity, economic vitality and environmental attributes, which are important for the identity and distinctiveness of towns. To create quality urban places where people want to live, work, visit and socialise, by applying the principles of urban design to the planning and management of urban areas'*.

Policies HS-4, HS-8, US-1, US-3, US-7 relate to high quality development in suitable locations and Section 13.3 sets out standards for residential developments in urban areas.

5.3. National Planning Framework.

5.3.1. The relevant policies of the National Planning Framework which relate to creating high quality urban places and increasing residential densities in appropriate locations are set out below.

- Policy Objective 4
- Policy Objective 6
- Policy Objective 11
- Policy Objective 33
- Policy Objective 35

5.4. Natural Heritage Designations

There are no relevant designated areas in the vicinity of the site.

5.5. EIA Screening

5.5.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third party by Patrick Mann & Co. Solicitors on behalf of John Hegarty on behalf of the Woodlands Residents Association against the decision of Kerry County Council to grant permission. The main grounds of the appeal are detailed below.

- The internal reports from the Roads and Water Services sections of Kerry County Council are not available to view online and there are concerns that the issues raised in the third-party objections were not fully assessed.
- The proposed development is on the grounds of an historic house. The proposed development will negatively impact on the setting of the original house. It is noted that a site has already been separated from the original plot.
- The vehicular access / egress is located on a bend. The provision of additional vehicular movements on an already congested estate road will result in a traffic hazard. It is already difficult to exit the estate road onto Oakpark and the proposed development will exacerbate the existing situation.
- The proposed development is out of character with the area and will negatively impact on the residential and visual amenities of the area.
- The development will result in the loss of trees on site, which will have a serious detrimental impact on the area and the environment.
- The applicant is proposing to connect to the existing public foul sewer. During heavy rain falls the combined foul and drainage water system overflows. Which has serious implications for public health. The proposed development will exacerbate the existing situation.

6.2. Applicant Response

None

6.3. Planning Authority Response

None

7.0 **Assessment**

7.1. The main issues in this appeal relate to traffic, water services and residential and visual amenities. Car parking arrangements and Appropriate Assessment requirements are also considered. Concerns were also raised in the appeal that the application was not fully assessed by Kerry County Council, the impact on the setting of the existing house and the loss of trees on site. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Traffic.
- Car Parking
- Water Services.
- Residential and Visual Amenity.
- Appropriate Assessment.

7.2. **Traffic**

7.2.1. Vehicular access is proposed from the south east boundary of the site via the existing internal Woodlands Estate Road. It is proposed to widen an existing vehicular access gate to provide a 5m wide carriageway with 1.6m wide footpaths on either side. The access is bound to the south west by open space and to the north east by no 38 Woodlands. It will form a T-junction with the existing estate road. Road signage is proposed to ensure vehicular and pedestrian safety. In accordance with Development Plan standards 2 no. car parking spaces have been provided per house with 3 no. additional visitor spaces. A turning area with a communal area to the front of the houses is also proposed.

7.2.2. The third-party appeal stated that the proposed access is on a bend and the proposed development would endanger pedestrians and in particular children. The proposed carriageway and footpaths form a T-junction with the existing road and it is my opinion that it would be a natural extension to the existing access road and footpath. It is also proposed to provide a raised table and tactile paving at the

entrance to the development. It is considered that adequate sightlines and road signage have been provided to ensure the layout would not endanger public safety by reason of a traffic hazard.

7.2.3. The footpath widths vary from 1.2m to 1.6m. To ensure pedestrian safety and comfort the Design Manual for Urban Roads and Streets (DMURS) recommends a minimum footpath width of 1.8m. Therefore, it is recommended that a condition be attached to any grant of permission that the footpath be provided to standards set out in DMURS.

7.2.4. It is also stated that the Woodlands Estate access road is at capacity and concerns have been raised regarding the potential impact the development would have on the capacity of the junction of Woodlands and Oakpark Road, which is located at the entrance to the estate. There is a yellow box located on Oakpark Road at the junction with Woodlands and there are traffic lights on Oakpark Road at the junction with Kileen Road, approx. 20m south west of the entrance to Woodlands Estate. While no traffic assessment of the estate road or junction of Oakpark Road and Woodlands has been submitted it is considered that due to the existing traffic management measures in place and the limited number of existing dwellings within the Woodlands Estate, the provision of 4 no. additional houses with 11 no. car parking spaces would not generate a significant level of vehicular movements to negatively impact on the surrounding road network. Therefore, having regard to the limited number of vehicular movements potentially generated by the development and the layout of the proposed internal access road with associated sightlines and road markings it is considered that the proposed access / egress arrangements would not result in a traffic hazard.

7.2.5. It is also noted that the Planning Authority raised no objection to the proposed access / egress arrangements or the potential impact of traffic generated by the development.

7.2.6. In conclusion, I do not consider the proposal would result in a traffic hazard or generated any road safety issues. Therefore, traffic concerns should not form the basis for a refusal of permission.

7.3. **Car Parking Layout**

7.3.1. In response to the further information request the private driveways for the dwellings were omitted and communal car parking provided. Additional 1.2m wide footpaths were also provided within the development. As the drawings submitted do not clearly define the private domain from the public domain it is unclear if the porches of the proposed houses front directly onto a public or private footpath. Due to the potential for parked vehicles to overhang the 1.2m wide internal footpath I would have concerns that the proximity of the front porches to the car parking area would impact on the privacy of future residents and would have a negative visual impact. DMURS recommends a minimum buffer between 1m – 3m between the front building line of houses and the public domain. However, due to the limited availability of space within the subject site I would have concerns that any alterations to the proposed layout would result in substandard footpaths and / or carriageway widths.

7.3.2. It is noted that the layout was altered to provide additional car parking on site. In my opinion private driveways, with a minimum of 2no car parking spaces each, would provide sufficient car parking and adequate privacy for future occupants. It is therefore recommended that a condition be attached to any grant of permission that private driveways with a minimum of 2 no. car parking spaces be provided per dwelling and the layout of the internal road network, including footpath widths, should be in accordance with the guidance set out in DMURS.

7.4. **Water Services**

7.4.1. The proposed development will be connected to existing public main sewer and water supply. It is proposed to provide an storm water infiltration / attenuation trench on site to reduce discharge of storm water. The trench will connect to the existing public system. Concerns have been raised that the proposed development would

exacerbate the existing issue with overflow from the combined foul and drainage system during heavy rainfalls. It is noted that the Tralee Municipal District Office Operations Department recommended that a drawing showing full details of the surface water be submitted by way of further information. While this information was requested it was not submitted and the response to the Further Information request was not referred to the water services section.

- 7.4.2. It is considered that the proposed disposal and attenuation of surface water is sufficient and that a condition be attached to any grant of permission that drainage proposals including the disposal and attenuation of surface water, be agreed with the Planning Authority.

7.5. Residential and Visual Amenity

- 7.5.1. Concerns have been raised in the appeal that the proposed development is out of character with the area and will negatively impact on existing residential and visual amenities. The site currently overgrown with vegetation and mature trees.
- 7.5.2. The Woodlands Estate is a low-density housing estate characterised by single storey detached and semi-detached houses and a limited number of two-storey semi-detached houses. The proposed houses are two-storey, 3-bedroomed, semi-detached dwellings with gable ended hipped roofs. The proposed development has a density of 30 units per hectare. It is noted that National Policy Objective 35 aims to increase residential density in existing settlements and that the Planning Authority raised no objection to the proposed density. Having regard to the variety of house style in the immediate vicinity it is considered that the proposed development will not negatively impact on the suburban character of the area.
- 7.5.3. The front building lines of Houses 3 and 4 respect the established building lines within the estate and it is considered that the proposed houses will form a natural extension to the existing estate. The rear boundary of Houses 3 and 4 adjoins the rear boundary walls of houses in the Derrylea Estate. The rear gardens have a depth

of approx. 11m and a separation distance of 38m from the existing houses. House 4 is located approx. 3m from the boundary with no 38 Woodlands. Having regard to the established pattern of development and the siting and design of the proposed houses it is my opinion that they will not result in undue overlooking, overshadowing or have an overbearing impact on adjoining properties.

7.5.4. The Tralee Local Area Plan requires a minimum of provision of 80sqm of private open space per semi-detached dwelling. The rear gardens of Houses 3 and 4 are approx. 110sqm each and have a north east orientation. The rear garden of Houses 1 is approx. 60sqm and rear garden of House 2 is approx. 85sqm. Both houses have a south west orientation. It is acknowledged that House 1 does not reach the minimum requirement for rear private open space however having regard to the orientation of the rear garden and the boundary with an area of public open space it is considered that a sufficient quantity and quality of rear open space has been provided per dwelling and will not have a negative impact on the amenities of future residents.

7.5.5. Details of proposed boundary treatments were request by further information. In response the applicant stated that the existing concrete post and panel fence was to remain along the western boundary (with the existing house), and new concrete posts and wire fence was to be provided along the remaining boundaries. All boundaries would be planted with native hedgerows to support existing wildlife and maximise screening. It is considered that the proposed boundary treatments will not have a negative impact on the existing visual amenities of the area.

7.5.6. It is noted that the proposed development will result in the loss of 3 no. mature trees on site. A landscape proposal and tree survey was submitted in response to the further information request. It is proposed to retain existing trees where possible and plant 18 no. new 1.5m high silver birch / alder trees. There are a number of mature trees on an area of public open space located to the south east of the site. Having regard to the landscaping proposal for the site and the location of existing mature trees adjacent to the site it is my opinion that the loss of a limited number of trees will

not have a significant negative impact on the visual amenities of the area. It is also noted that the Planning Authority had no objection to the loss of the trees.

7.5.7. Concerns have also been raised that the proposed development will have a negative impact on the setting of the original house, which is located within the blue line boundary of the proposed development. The existing house is not a protected structure and limited views of the house are available from the public road. Having regard to the overall size of the site and the siting, design and layout of the proposed 4 no. houses it is considered that the proposed development will not negatively impact on the setting of the house or the existing amenities of the occupants.

7.5.8. In conclusion, it is considered that the proposed development does not injure the character of the suburban area or impact on the existing residential or visual amenities and therefore should not form the basis of a refusal of permission.

7.6. ***Appropriate Assessment***

7.6.1. Having regard to the nature and scale of the proposed development and the distance from the nearest European site, 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.

8.0 **Recommendation**

8.1. It is recommended that permission be granted subject to conditions.

9.0 **Reasons and Considerations**

9.1. Having regard to the residential zoning objective for the site, the provisions of the Kerry County Development Plan 2015 – 2021 and the National Planning Framework, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and

would not seriously injure the amenities of the area. The proposed development would, therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 15th November 2018 by way of further information, 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 The proposed development shall be amended as follows:
 - (a) A private driveway with car parking for a minimum of 2 no. car parking spaces shall be provided to the front of each dwelling. Prior to commencement of development revised drawings showing the dimensions and layouts of the driveways shall be submitted to and agreed in writing with the Planning Authority.
 - (b) The internal layout of the development, including footpaths and the carriageway, shall be design in accordance with the Design Manual for Urban Roads and Streets.

Reason: In the interest of privacy and the proper planning and sustainable development of the area.

- 3 Details of the site boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

- 4 Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 5 Proposals for a 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.

Reason: In the interest of urban legibility

- 6 The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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 landscape, in the interest of visual amenity

- 7 The formation of the vehicular access to the site shall be constructed in accordance with the requirements of the planning authority.

Reason: In the interest of orderly development and traffic safety

8 Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

9 Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity

10 The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

11 Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety

12 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

13 The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

14 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development

15 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

Elaine Power
Planning Inspector

11th April 2019