



An
Bord
Pleanála

inspector's Report ABP-303931-19

Development	Revised design for 7 new houses further to Condition No. 3 of An Bord Pleanála's Order (PL17.247993)
Location	The Milk Tree, Ratoath, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	RA180448
Applicant	Colm MacDáibhéid
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellants	Damien & Margaret Bradley
Date of Site Inspection	23 rd May 2019
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located in the village of Ratoath, Co Meath. It is part of a larger site currently occupied by three detached houses, to the south of the signal controlled junction of the R155 Fairyhouse Road and the Inner Relief Road (also referred to as the Jamestown distributor road), to the south of the town centre. The distributor road links the R155 and R125 which is the main road connecting Dunshaughlin and Ashbourne. The 50 kph speed limits applies.
- 1.1.2. The site is bounded by the Fairyhouse Road to the west and the Inner Relief Road to the north. The Meadowbank Hill residential development which straddles the Inner Relief Road is to the east; with a cul-de-sac serving 6 no. semi-detached houses extending up to the shared boundary, which is delineated by a 1.8 - 2 metre high wall, backed by trees within the appeal site. Ratoath primary school bounds the site to the south with a leylandii hedge forming the shared boundary.
- 1.1.3. The site is roughly rectangular in shape and rises from north to south southeast.
- 1.1.4. The site comprises the rear portions of the three detached dwellings plots referred to earlier. Only the southernmost dwelling, which has access onto the Fairyhouse Road, is occupied. The two other houses with a shared access from a recessed area onto the Fairyhouse Road south of the junction, are derelict.
- 1.1.5. The site is given as 0.252 hectares.

2.0 Proposed Development

- 2.1.1. The proposed development is described as the revised design for 7 new houses, further to Condition No. 3 of An Bord Pleanála's Order, PL17.247993.
- 2.1.2. The said condition no. 3 reads as follows:

The seven number residential units numbers 14 to 20 shall be omitted. A revised application shall be submitted for residential units on this area of the site. The revised proposal shall better protect the residential amenity of the adjoining property bearing in mind the topography of the site, and should also improve the overall mix of unit types within the development.

Reason: To protect the residential amenities of the adjacent dwelling.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission for the development subject to 16 conditions which include:

3 The four number residential units nos 13 to 16 would adversely impact on the rear private amenity space of the adjoining residential property and shall not be permitted. Prior to the commencement of development onsite a revised site layout plan shall be submitted for the written agreement of the planning authority detailing the omission of dwelling no.s 13 to 16 and their replacement with two single storey dwellings. Prior to the commencement of development onsite floor plans and elevations for the two single storey dwellings shall also be submitted for the written agreement of the planning authority. Dwelling numbers 17 to 19 shall be permitted as proposed. This will result in the total number of units permitted under RA/160101, PL.17.247993 being 17 units.

Reason: To protect the residential amenities of the adjacent dwelling.

6 The applicant shall construct an off-line bus stop along the road frontage with the inner relief road. Precise details in relation to the location of design of the bus stop shall be agreed with the planning authority prior to the commencement of works onsite.

Reason: In the interests of proper planning and orderly development.

Contributions:

No. 11 - €1,000 for monitoring the development.

No. 13 - €12,375 towards public roads and public transport infrastructure, S48.

No. 14 - €9,000 towards social infrastructure, S48.

No. 15 - €1,125 towards surface water drainage, S48.

No. 16 - Contributions in respect of the two single storey dwellings will be applied following compliance with condition no 3.

3.2. Planning Authority Reports

3.3. Planning Reports

There are two planning reports on the file. The first recommending a request for further information includes:

- Further information required on 4 points:
 - Design of dwellings
 - Runoff discharge
 - There are no bus stops to the western end of the Ratoath Inner relief road. It is noted that the applicant has significant road frontage (blue line boundary) along the public road. The applicant is therefore requested to submit details for an off line bus stop along the road frontage with the inner relief road for the assessment of the planning authority.
 - Possibility of information being significant.

3.4. Other Technical Reports

Transportation Department:

- There are no bus stops to the western end of the Ratoath Inner relief road. It is noted that the applicant has significant road frontage (blue line boundary) along the public road. The applicant should be requested to incorporate an off line bus stop at this location.

Water Services - Further information – surface water.

Housing Department – No part V requirement.

3.5. A further information request, incorporating the issues raised, was issued on 26th the 2018.

3.6. Further information was submitted 20th December 2019.

3.7. Further Reports

3.8. Planning Report

3.8.1. The second planning report recommending permission includes:

3.8.2. Re item 1 – the applicant has submitted revised plans which detail the ridge height of the dwellings reduced by a further 300mm while the house at the highest point of the site (unit 13) has been lowered to have a FFL of 89.00m giving a total reduction in the ridge height of this house of 1.3m. The applicant has also submitted sections showing the proposed dwelling heights and FFL's relative to the adjacent property. Re adjacent property the report notes that the increased setback of 2m at ground level, is only 0.7m at first floor and above and that the proposal to place a 1.2m raised screen above the boundary wall is problematic. The ground level at No 91 Meadowbank Hill is 87.00m. The ground level of site no. 13 is 89.00m. The ridge heights of the dwellings will remain between 9.53 to 9.66m. The ridge height of the dwelling on site 13 would be 11.66m above the ground level of Meadowbanks Hill. Overlooking would still be an issue. Two storey dwellings should not be permitted on sites 13 to 16. Applicant has not addressed the issue of mix of unit types. This should be requested by condition. Revised floor plans and elevations have not been submitted with the FI response.

It is considered that item no. 2 has been satisfactorily addressed.

In response to item 3 the applicant has stated that the location and space requirements for an off-line bus stop are not indicated in the request for further information and would be subject to agreement with the local authority. The applicant has recommended a condition. The Roads Dept consider it amenable to condition.

Re Item no. 4, the FI was considered significant and further notification required.

3.9. Further Technical Reports

Water Services – the proposal broadly meets requirements. Condition - re surface water.

3.10. Prescribed Bodies

3.11. Irish Water:

3.11.1. Further information – wastewater – pipe sizes and gradients differ between long section and layout drawings.

3.11.2. Following receipt of further information - Irish water – no objection.

3.12. Third Party Observations

3.12.1. Third party observations on the file have been read and noted.

4.0 Planning History

PL17.247993, PA Ref RA160101, planning permission granted by the Board, on foot of the planning authority's decision to grant, for demolition of 3 no. dwellings and clearance of the site and construction of 19 no. dwellings: Condition 3, which required a revised application, in respect of seven residential units numbered 14 to 20, to be submitted, has been referred to earlier in this report.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Meath County Development Plan 2013-2019

Ratoath is designated as a 'small town' and should cater for greater local growth rather than commuter growth, allow for consolidation of local facilities and infrastructure to serve the local population and facilitate core sustainable communities.

Chapter 11 sets out Development Management Standards and Guidelines:-

In respect of small towns, on sites which are located on well established, existing or proposed public transport routes or nodes with additional capacity, residential densities in excess of 35 net residential units per hectare should be utilised. In all other instances maximum densities of 35 net residential units per hectare shall be applicable, and in general, densities and house types shall be compatible with the established densities and housing character in the area.

5.1.2. Ratoath Local Area Plan 2009-2015

The plan was amended consequent to the variation of the County Development Plan setting an order of priority for the release of residentially zoned land; Volume 5 of the County Development Plan.

The site is within an area zoned A1 – Existing Residential, the objective for which is to protect and enhance the amenity of developed residential communities. While infill or redevelopment proposals would be acceptable in principle, careful consideration would have to be given to protecting amenities such as privacy, daylight/sunlight and aspect.

- 5.1.3. The development management standards and guidelines applicable to the LAP are those set out in the Meath County Development Plan 2013-2019.

The key principle which directs the housing policies in this plan is the delivery of a high quality living environment in neighbourhoods with a range of housing types and sufficient community facilities to serve the needs of residents. Generally, the objective will be to provide a range of residential units which vary in both size and type and an overall scheme design which can accommodate a broad population profile. The design and layout of overall schemes and individual units should aim to meet the requirements of lifelong living and, at the design stage, should take into account the needs to ensure that units can be extended and/or adapted in the future.

RES POL 3 – to achieve a mix of housing types and sizes in the consideration of individual planning applications for residential development.

RES OBJ 3 – to achieve a better and more appropriate mix of dwelling size, type, tenure and accessibility in all new residential development.

5.2. **Natural Heritage Designations**

- 5.2.1. The nearest Natura sites are Malahide Estuary SPA (site code 004025) and Malahide Estuary SAC (site code 000205) located in excess of 18km from the subject site.

5.3. **EIA Screening**

- 5.3.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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

The 3rd Party appeal by Damien & Margaret Bradley against the PA's notification of decision to grant permission can be summarised as follows:

- Under the previous permission these seven houses were to be omitted in favour of a revised application.
- The original planning application had houses numbered 1 to 20. House no. 1 was not permitted. In the new application the houses are re-numbered 1 to 19.
- The ridge heights have reduced by 0.6m from the original application (2016) and by a further 0.3m in the further information response, total reduction 0.9m. It is submitted that this is minimal.
- It is reasonable to assume that the dwellings will be extended into the attic and therefore overlooking from 2nd floor would occur. Sightlines shown on drawing 15011-P-4040, 04-12-18, would be meaningless.
- The original application featured an extended kitchen at ground level, now omitted with a setback of 12.18m, that is an additional 2.15m (not 2.50m as stated) at ground level. At first and attic level the additional setback is 0.72m.
- Re screening - additional blockwork would be totally unacceptable and a timber screen would be obtrusive and overbearing. Its maintenance would be problematic and the suitability of the existing wall to support the screen fence has not been proven.
- The decision does not take account of overlooking of the front of their home.
- It is inappropriate to deal with design by way of condition.

6.2. Applicant Response

The applicant has not responded to the grounds of appeal.

6.3. Planning Authority Response

6.3.1. The planning authority has responded to the grounds of appeal, which response includes:

- All the matters outlined in the submission were considered in the course of its assessment.
- The 2 single storey dwellings in lieu of 13-16 would not have an overbearing impact. The 3 dwellings 17-19 would not overlook the rear amenity space.

7.0 Assessment

7.1. The issues which arise in relation to this appeal are: appropriate assessment, Condition 3 of 247993, overbearing impact, overlooking and other conditions and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

7.3. Condition 3 of 247993

7.3.1. Condition 3 of 247993 required that units nos 14 to 20 (now 13 to 19) be omitted and a revised proposal submitted which better protected residential amenity of the adjoining property, bearing in mind the topography of the site; and that it should also improve the overall mix of unit types within the development.

7.3.2. A number of alterations are proposed which better protect the residential amenity of the adjoining property and these are dealt with below under the headings

overbearing impact and overlooking. In relation to housing mix it is noted that in the previous application the gross floor area of the majority of the proposed houses was given as 172m². In the current appeal units 13 – 19 have a stated floor area of between 142.8m² and 146.4m². In my opinion this improves the overall mix of unit types.

7.4. Overbearing Impact

- 7.4.1. The applicant argues that the reduction in heights is minimal; that the setback from the boundary is less than indicated - an additional 2.15m, not 2.50m as stated, at ground level, and at first and attic level the additional setback is 0.72m.
- 7.4.2. A number of alterations are proposed to reduce overbearing impact.
- 7.4.3. The front building line has been brought forward, increasing setback from the eastern boundary. The setback varies slightly from one dwelling to another, but, for example, the setback has increased from 11.210m at first floor to 11.930m, in the case of unit no. 13, an increase of 0.710m. In addition the ground floor, which previously extended beyond the main building, is now in line with the main building, an increased setback at ground floor of 2.430m. Also in the case of No 13, which is sited at the highest point in the site, but not in the other cases, it is proposed to reduce the ground level such that the finished floor level will be 89m compared to the previously proposed level of 89.5m.
- 7.4.4. The proposed building height has been reduced for all the dwellings, from a ridge height of 10.560m, as previously proposed, to 9.660m, a reduction of 0.900m
- 7.4.5. In my opinion these alterations significantly reduce the overbearing impact. I do not consider further reduction necessary, but should the Board consider that the impact remains excessive, a further reduction in impact could be achieved by reducing the eaves and ridge height. It is worth noting that the proposed eaves height allows for a wall of 0.650m within the roof space, per drawing 15011-FI-2050. A reduction in height of this magnitude would not alter the ground or first floor layout, although it would reduce the potential for development within the roof space.
- 7.4.6. The modification required by condition no. 3 of the planning authority's decision, which would require that the four residential units, nos 13 to 16, be omitted and

replaced with two single storey dwellings is, in my opinion, unnecessary. It would reduce the density of the development, which is currently appropriate.

7.5. Overlooking

- 7.5.1. Overlooking is a concern of the grounds of appeal. The concerns expressed include that the decision disregards the impact on the privacy of their front garden; that it is reasonable to assume that the dwellings will be extended into the attic and therefore overlooking from 2nd floor would occur; that additional blockwork on the boundary wall would be totally unacceptable; and that a timber screen would be obtrusive and overbearing, its maintenance would be problematic and the suitability of the existing wall to support the screen fence has not been proven.
- 7.5.2. The Board will note that the sightlines shown on drawing 15011-P-4040, submitted as part of the further information response, rely on the erection of a 1.200m timber screen above the boundary wall to ensure no possible overlooking of the side or rear of the adjoining property, which boundary is in excess of 12m from the rear of the proposed dwelling.
- 7.5.3. It should be noted that the overlooking of concern occurs from bedroom windows only and that overlooking from first floor bedroom windows already occurs from other houses in Meadowbank Hill. Nevertheless in light of the concerns expressed, and with the omission of the timber screen, it is considered that only oblique overlooking is acceptable. This is achievable if in house numbers 14 to 17 the two east facing bedrooms at first floor are provided with windows which are angled to avoid direct overlooking of the adjoining side/rear garden. It is considered appropriate that a restriction should also be applied on otherwise potentially exempted development in these houses such that no window opening may be created above first floor in the east facing elevation, except in accordance with a further grant of permission.
- 7.5.4. In relation to overlooking of the front of the house, a public road runs to the front of the house and overlooking from the proposed development should not therefore be of any particular concern.

7.6. Other Conditions

- 7.6.1. Other conditions of the decision have been referred to earlier, including the requirement to make provision for a bus stop and for various financial contributions to be applied.
- 7.6.2. In relation to the bus stop, this issue did not arise when the previous, existing permission was granted for the larger proportion of the development, the subject site does not abuts the northern or western boundary and it is considered inappropriate to apply such a condition to this permission.
- 7.6.3. In relation to the proposed charge for monitoring the development, the Board will note that no justification for the charge has been put forward by the planning authority. Since it does not comprise public infrastructure or facilities it does not come within the ambit of Section 48 of the Planning & Development Act. It is considered appropriate to omit this condition.
- 7.6.4. A single condition (no. 7), is recommended to replace conditios 13 to 15.

8.0 Recommendation

- 8.1.1. In the light of the above assessment I recommend that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

9.0 Reasons and Considerations

Having regard to the zoning of the site, the design, layout and scale of the proposed development and the pattern of development in the area including the site history, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 20th day of December, 2018, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be carried out as part of the overall development of these lands, permitted under PL 17.247993 (PA ref RA/160101).</p> <p>Reason: In the interest of clarity.</p>
3.	<p>The proposed timber fence above the blockwork boundary wall shall be omitted.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>The two east facing bedrooms at first floor, in house numbers 14 to 17, shall be provided with windows which are angled to avoid direct overlooking of the adjoining side/rear garden, and revised drawings to comply with this requirement shall be submitted for the written agreement of the planning authority prior to the commencement of development.</p>

	<p>Reason: To protect the residential amenities of adjoining property.</p>
5.	<p>No window opening may be created above first floor level in the east facing elevation of house numbers 14 to 17, except in accordance with a further grant of permission.</p> <p>Reason: To protect the residential amenities of adjoining property.</p>
6.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
7.	<p>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.</p>

	<p>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.</p>
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Planning Inspector

29 May 2019

Appendices

Appendix 1 Photographs

Appendix 2 Meath County Development Plan 2013-2019 extract.

Appendix 3 Ratoath Local Area Plan 2009-2015 extract.