



An
Bord
Pleanála

Inspector's Report

ABP-305048-19

Development	8 houses, access road and all ancillary works.
Location	St. Patrick's Court, Clos Naoimh Padraig, Shanmullagh, Ballinamuck, Co. Longford.
Planning Authority	Longford County Council
Planning Authority Reg. Ref.	1995
Applicant(s)	Frank McKenna
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Peter & Loraine McKenna Sally Budd & Derek Brophy & others Annette Donnelly & Grainne Hourican
Date of Site Inspection	19 th September 2019
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at St. Patrick's Court, Clos Naoimh Padraig, Shanmullagh, Ballinamuck, Co. Longford. Ballinamuck is a small settlement in the north west of County Longford near the Leitrim border. The Black River flows north of the village and a tributary flows northwards to the west of the site to join the main river to the north.
- 1.1.2. The subject site is located at the northern end of the built-up area on a greenfield site, which adjoins a small residential estate of recent origin. The established village is further south.
- 1.1.3. The L1017 forms the eastern site boundary. The land rises steeply east of the road and the slope continues downwards across the subject site to the river. The L1017 is several metres above the main site level, with the site sloping steeply downwards from immediately inside the roadside boundary.
- 1.1.4. Although neither the site location map nor the site layout plan submitted distinguishes between the development under construction and the proposed development, it can be seen that the proposed development comprises houses numbered 13 to 20, as an extension to a small residential development, so that the site occupies the area nearest to the road and the area where the most significant slopes occur. To the south of this area there is a large detached house fronting the L1017, where the ground level has been built up to road level, and which is in excess of 8m higher than areas within the subject site.
- 1.1.5. The proposed site access is via the existing residential estate to the south, where a small residential bungalow development is currently under construction. There is a construction road from the L1017, at the north eastern end of the site.
- 1.1.6. A waste water treatment plant operated by Irish Water is located near the river to the north west of the site and is accessed via the existing residential road.
- 1.1.7. The site is given as 2.023ha.

2.0 Proposed Development

- 2.1.1. The proposed development is the erection of 8 single storey two bedroom houses of 67 sq m each; 6 of which are semi-detached and 2 detached; provision of an access road and all ancillary site works at the existing housing estate.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided, (8th July 2019), to grant permission subject to 17 conditions, including:

2 - implementation of the flood risk assessment.

6 – a) to r) requirements in relation to the road and footpaths – c) the applicant has indicated in their Further Information submission (received by the planning authority on the 3rd July 2019) that retaining walls may be necessary on the site, around the turning bay. Should retaining walls be necessary, they shall be designed by an appropriately qualified and indemnified Engineer and full details of the retaining walls shall be provided to the Area Engineer of North Longford and shall be included with any application for taking in charge of the estate.

8 – connection consents from Irish Water (iii) Sluice valves shall be provided at junctions (adjacent to unit no 5) in accordance with IW standards. (iv) the access road to the wastewater treatment plant is to be completed before any further development; (v) the developer shall increase the gradient to 1/60 from FMH03 to FMH04 and 1/80 from FMH04 to FMH05.

9 – the attenuation system.

12 – undergrounding of services.

16 – bond €80,000.

17 - development charge €17,280.

- 3.1.1. The decision was in accordance with the planning recommendation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

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

- Part of the site is under construction for the provision of 12 no. semi-detached dwelling units permitted under PI Ref 17/174. The current application is for the provision of an additional 8 no. dwelling units to the east of this permitted extension to the overall housing scheme. The proposal is considered to be in accordance with the vast majority of the zoning of the subject site.
- The proposal represents an extension to an existing residential scheme which has previously established the principle of residential development in the area.
- Issues in relation to design, site layout and landscaping.
- Roads Design - issues in relation to surface water drainage, access road design, the inclusion of pedestrian crossing points as previously indicated in Ref 17-174, and additional section drawings required.
- Wastewater treatment plant and flooding issues – the wastewater treatment plant has a design capacity of 500pe and can comfortably cater for the additional loading. Re. the stream flowing along the western boundary; the zoning and flood map indicates that a section of the site, along the western periphery, is classified as flood zone A. A site specific FRA was requested as part of the assessment of 17-174. The findings remain valid and the proposed development is likely to have a negligible impact on flood storage in the area. The area classified as being within Flood zone A is proposed to accommodate green space for the overall development, in accordance with condition 2 of 17-174 and similar should be attached.
- Part V – the total number of dwellings proposed is 8, ie less than the minimum of 10 which would invoke part V obligations.

3.2.2. Other Technical Reports

- Roads Design – which includes: further information required:

- Stormwater design
- Cross section, between house nos 16 and 17 from proposed road to existing road L1017.
- Long section along the road centre from in front of house no. 12 to the end of the cul de sac.
- Details of road design.
- A revised site layout to include pedestrian crossing points as previously indicated in Ref 17-174.

3.2.3. A response to the further information request was received 12th June 2019.

3.2.4. Further Reports

3.2.5. Roads Design, which includes:

Turning bay – there appears to be a difference of 3.5 – 4m between the turning bay and the existing public road, both in close proximity to each. This is not acceptable and would cause instability to the public road and prevent any future improvements. The end of the turning bay or any other structure in this area shall be at least 11m from the existing stone wall on the opposite side of the public road or 6.5m from the centre of the public road whichever is greater. Reconsider the proposed turning bay / estate road. Full details of layout and cross sections to be submitted.

Access footpath – due to the nature and location of the proposed dwellings – 8 opds (old peoples dwellings) on a sloping site, the applicant is required to incorporate a 2m wide footpath with a maximum gradient of 1:20 in a suitable location linking the footpaths of the proposed development to the existing footpath on the public road which ends at the corner of McKenna's private dwelling. The footpath to be in accordance with Part M Building Regs. Full details to be submitted.

3.2.6. Unsolicited further information was received 3rd July 2019.

3.2.7. Further Reports post unsolicited further information:

3.2.8. Roads Design, which includes:

3.2.9. The following issues may be addressed as conditions:

- 1) Proposed footpath along the public road. As per the photo, the existing verge along the public road is lined with trees. Presumably planted by the tidy towns. Any proposed footpath along this road would have to be located on the applicant's land behind the line of trees, and the site levels, as evident from the photo, do not lend themselves easily to the construction of a footpath at this location. The applicant shall be required to liaise with the Area Engineer for North Longford and agree an appropriate location for a footpath, and all relevant details including public lighting drainage, retaining walls, boundaries.
- 2) Details of the proposed steps shall be agreed with the North Longford Area Engineer prior to commencing construction.
- 3) The applicant has indicated in their Further Information submission that retaining walls may be necessary on the site around the turning bay. Should retaining walls be necessary, they shall be designed by an appropriately qualified and indemnified Engineer and full details of the retaining walls shall be provided to the Area Engineer of North Longford and shall be included with any application for taking in charge of the estate.
- 4) removal of construction site entrance on completion.
- 5) maintenance of sight distances for construction site entrance until removal.
- 6) Footpaths to be provided either side of roads, of a minimum 2m width.
- 7) Dropped kerbs and tactile paving on all footpath crossing points per traffic management guidelines. All crossings to be shown on layout. A pedestrian crossing point located in front of house no's 9/10 and as previously indicated as part of PL 17/174 site layout shall be provided with this application.
- 8) The drainage gulley frequency shall be in accordance with the Recommendations for Site Development Works for Housing Areas.
- 9) Stormwater runoff design shall be in accordance with the specifications of Dublin Corporation Stormwater Management Policy Technical Guidelines. The applicant shall submit the stormwater drainage design including detailed attenuation drawings to include dimensions, invert levels and materials, for agreement with Longford County Council prior to commencement of any works on the site.

- 10) Where existing estate roads are opened or otherwise damaged by the construction, the full width of the road pavement shall be reconstructed by the applicant.
- 11) All roads in the development shall be designed in accordance with DMURS and the Recommendations for Site Development Works for Housing Areas.
- 12) The turning areas shall be designed in accordance the Recommendations for Site Development Works for Housing Areas (1998).
- 13) The applicant shall provide the Road Design Section of Longford County Council with full details of the road design and with details of the site investigations carried out on the foundations of the proposed roads before construction commences on site. The internal road construction shall provide a 20 year design life.
- 14) All public lighting for this development shall be designed by a competent lighting design engineer and shall fully comply with the requirements as stated within the current version of the Midland Counties Public Lighting Specification.
- 15) The applicant shall provide a Construction Traffic Management plan.
- 16) Public roads shall not be adversely affected by the works with regard to pavement, obstructions etc.
- 17) Taking in charge policy.
- 18) Any damage to the public road as a result of the works shall be the liability of the applicant.

3.2.10. The Planning Report recommending permission, includes:

- Response to the further information request:
- 1 - acceptable.
- 2 & 3 - a revised site layout submitted including additional open space. Further report from Roads Design in which further concerns were noted. Unsolicited further information addressing those concerns, including alterations to location of proposed turning bay and proposed 2m wide extension to the existing footpath along the

boundary of the subject site as well as a link via proposed concrete steps from the extended footpath into the proposed development.

- 4 - revised details of house design including in unsolicited further information; 4 house types, acceptable.
- 5 - lighting layout acceptable.
- 6 & 7 - re. minimum rear gardens, proposal is for OPDs and per HOU DS 7(h) a reduction in open space for OPDs is allowed. Acceptable.
- 8 – various items under no. 8 followed a report from the Road Design Section. Following the further information request response, the Road Design Section recommended further clarification as a result of changes and level difference between the turning bay and the public road and the provision of a linkage between the proposed footpath and the existing public footpath along the public road (which ends at the former of the private dwelling); following which unsolicited further information was submitted. The unsolicited further information includes revisions to the layout including a greater separation distance between the turning bay and the public road, and proposing a 2m wide extension to the existing footpath and a link via concrete steps between the extended footpath and the proposed development.

3.3. Prescribed Bodies

IW – 1 Where the applicant proposes to connect directly or indirectly to a public water/wastewater network operated by Irish Water, the applicant must sign a connection agreement with Irish Water prior to the commencement of the development and adhere to the standards and conditions set out in that agreement.2). In the interest of Public Health and Environmental Sustainability, Irish Water Infrastructure capacity requirements and proposed connections to the Water and Waste Water Infrastructure will be subject to the constraints of the Irish Water Capital Investment Programme. Provide sluice valves at junctions (adjacent hse no. 5) in accordance with IW standards. 3) The access road to the wastewater treatment plant is to be completed before any further development; 4) Increase gradient to 1/60 from FMH03 to FMH04 and 1/80 from FMH04 to FMH05.

IW – second report post FI 1-4 as previous; 5) The proposed watermain is to be extended from unit No 20 to connect to the public watermain located in the adjacent public road. Details, valve arrangements, etc, are to be agreed with IW/LCC before work commences.

3.4. Third Party Observations

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

4.0 Planning History

17-174 - application for the construction of 14 no units: 4 no two storey, three bed semi-detached and 8 no. two bed bungalow semi-detached. Infrastructure previously granted under PI04/165. Permission granted for a 12 no. unit scheme.

04/165 - application for the construction of 25 no units: 10 no two-storey detached, 10 no. single storey semi-detached, and 5 no. two storey, semi-detached, granted.

5.0 Policy Context

5.1. Development Plan

5.1.1. Longford County Development Plan 2015-2021 is the operative plan, relevant provisions include:

Ballinamuck is a tier 5 settlement; which settlements are defined in terms of the infrastructure they possess; to accommodate development of an appropriate scale.

The population target for County Longford for 2022 per the Regional Planning Guidelines is 41,392 and per the Regional Technical Working Group is 44, 603.

The core strategy table states that in serviced settlements (i.e. tier 5) there is a requirement for 11 hectares of land to meet housing need; 32.5 hectares are zoned for residential development.

Policies

IMP-CS 3: The Planning Authority shall monitor and maintain a record of residential development permitted in settlements designated under the Settlement Hierarchy in order to ensure compliance with the population allocations defined by the Core Strategy Table.

IMP-CS 4: The Planning Authority shall apply the Settlement Hierarchy to determine the scale, rate and location of proposed developments and apply appropriate development management measures to ensure compliance with the Settlement Hierarchy and Strategy, including the population targets for the County as prescribed in the Core Strategy Table.

Appendix 1 to the plan - Zonings - Zoned residential.

5.2. Project Ireland 2040 National Planning Framework

- 5.2.1. The Government's long-term strategic planning framework which will guide national, regional and local planning and investment decisions over the next 25 years, and which includes emphasis on brown field development and compact development.

National Policy Objective 1b - Eastern and Midland Region: 490,000 - 540,000 additional people i.e. a population of around 2.85 million;

National Policy Objective 2a - A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.

National Policy Objective 2b - The regional roles of Athlone in the Midlands, Sligo and Letterkenny in the North-West and the Letterkenny-Derry and Drogheda-Dundalk-Newry cross-border networks will be identified and supported in the relevant Regional Spatial and Economic Strategy.

National Policy Objective 3a - Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

5.3. Natural Heritage Designations

- 5.3.1. The nearest Natura sites are Ballykenny-Fisherstown Bog SPA (Site Code 004101) and Ballykenny-Fisherstown Bog SAC (Site Code 001818) which are in excess of 11km, straight line distance, from the subject site.

5.4. EIA Screening

- 5.4.1. 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

- 6.1.1. Three third party appeals against the decision to grant permission have been received.
- 6.1.2. David Mooney Town Planning Consultant has submitted a third party appeal on behalf of Peter & Loraine McKenna, which includes:
- The number of social houses offered by Longford Co Co in recently permitted residential developments in Ballinamuck is greater than what was stated in the associated planning application documents. This is creating an imbalance in the tenure mix in the village.
 - The practice of agreeing the level of provision of social units during the planning process in relation to the wider site has not been adhered to on completion of development, contrary to housing circular 36/2015.
 - The level of provision on social housing units in Ballinamuck is not in accordance with the housing strategy.
 - The practice of acquiring housing developments for social housing post completion is not in accordance with the settlement strategy or regional population projections, in terms of balanced community development in accordance with regionally allocated capacity and distribution of population increase.
 - The assessment of this application accepted the Flood Risk Assessment for the previous adjacent development, it is requested that this be reviewed.

- The appellants are not happy with the boundary treatment proposed. They request the boundary along the adjoining two storey detached dwelling to the south to be: a wall from point A to point B as set out in a layout extract provided in the grounds, and a concrete post plinth and panel boundary from point B to point C (i.e. a point at the roadside).

The grounds sets out the argument for each of the foregoing in some detail.

6.1.3. Sally Budd & Derek Brophy 12 St Patricks Court, and Stephen Percival and Tara Percival 11 St Patricks Court, have submitted a third party appeal, which includes:

- Similar arguments to the foregoing with the exception of the boundary treatment issue.
- They live in St Patrick Court and the composition of the tenure mix in the estate has changed over recent years from 20% social housing to 50% social housing. They are requesting that the level of social housing provision on permission Reg Ref 19/95 be restricted in order that the aggregate provision of social housing for the three phases of the estate (Reg. ref. 04/165, 17/174 and 19/95) will be more evenly balanced.

6.1.4. Annette Donnelly & Grainne Hourican have submitted a third party appeal, which includes:

- Similar arguments to the foregoing.
- There has been no increase in investment in social infrastructure in the village in recent years to cater for the newly granted residential development.

6.2. **Applicant Response**

- No response.

6.3. **Planning Authority Response**

- No response.

7.0 Assessment

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment; the principle of the development based on housing need and tenure; site constraints, site layout and residential amenity; and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

- 7.3. 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.

7.4. The principle of the development based on housing need and tenure.

- 7.4.1. The site is zoned residential.
- 7.4.2. Ballinamuck is a tier 5 settlement, which settlements are defined in terms of the infrastructure they possess, to accommodate development of an appropriate scale.
- 7.4.3. The population target for County Longford for 2022, per the Regional Planning Guidelines is 41,392 and per the Regional Technical Working Group is 44, 603. The revised figure is discussed in the Longford County Development Plan 2015-2021 which refers to the overprovision of housing and the need to be able to plan for future housing.
- 7.4.4. The development plan includes policies which state that the Planning Authority will monitor and maintain a record of residential development permitted in settlements designated under the Settlement Hierarchy in order to ensure compliance with the population allocations defined by the Core Strategy Table, and that the Planning Authority will apply the Settlement Hierarchy to determine the scale, rate and location of proposed developments and apply appropriate development management measures to ensure compliance with the Settlement Hierarchy and Strategy, including the population targets for the County as prescribed in the Core Strategy.
- 7.4.5. There is no population allocation for Ballinamuck but it is a small settlement and for its size has experienced significant residential development in recent years. There is

no indication that the scale and rate of development has been monitored by the planning authority to ensure that it is appropriate for a settlement of this size. While the grounds of appeal states concerns in terms of the tenure of future occupancy, it is equally evident that the scale of the development is of concern. It appears to me that the scale of the proposed development, taking account of the residential development carried out in recent years, and currently under construction, is excessive in relation to the housing needs in the village.

- 7.4.6. The National Planning Framework envisages that most of the population growth will take place in the five cities and their suburbs and also that regional towns will accommodate growth. Very little population growth will filter down to a village of the size of Ballinamuck.
- 7.4.7. With reference to the need for transparency in relation to social housing provision, and the circular letter referred to, it would seem that the issues addressed in the circular letter seek to make the provision of social housing more straightforward post decision. This would be in the context of its provision being a requirement imposed on a developer. In the situation outlined in the grounds, the issue of concern is the developer's intended market for the houses, and the third parties' assessment that it is to be for social housing. Tenure is an issue which should be addressed in the Housing Strategy but which would be difficult and potentially inappropriate to address in the context of a planning application. The type of housing and its scale, such that the housing needs of the community are adequately provided for, is a suitable consideration for this assessment.
- 7.4.8. The housing is entirely made up of two-bedroom bungalows and there is reference in the Roads Design report to the proposed dwellings being 'opds' i.e. Older People's Dwellings. From the house designs, that description seems appropriate. In this regard the existing dwellings in the development nearing completion are entirely of a similar design and scale, and there are also similar dwellings in the earlier phase of the associated development. This level of provision of small, single storey dwellings has not been justified in terms of the needs of this area. Need has not been demonstrated in the application documents or the planning authority's assessment.
- 7.4.9. In my opinion, since the proposed development has not been shown to be justified in terms of the housing needs of this settlement and the immediately surrounding area,

as required by policies IMP-CS 3 and IMP-CS 4 of the Longford County Development Plan and the proposal appears to constitute excessive housing provision and excessive provision of a particular house size/type, which would not provide for a sustainable and stable community, this is a reason for refusal.

7.5. Site Constraints, Site Layout and Residential Amenity

- 7.5.1. During the course of this application the proposed development has been revised, including revisions to the site layout to alter its relationship with the adjoining public road and some minor revisions to the proposed houses. The revisions include those made in response to a further information request and as unsolicited further information in response to a Roads Design report.
- 7.5.2. Significant amounts of cut and fill are being proposed, as can be seen from the section drawings of the sewer layout. There will remain sharp changes in level, such as at the rear boundary of houses 15 to 18, and along the public road, where a run of c 30 steps is required to access the proposed roadside footpath.
- 7.5.3. The conditions attached to the decision seek to make further adjustments to the design of the development including:
- Details are required of the proposed footpath along the public road, taking cognisance of the existing line of trees along the public road at this location and that the topography of the site does not lend itself easily to the construction of a footpath at this location.
- Details of the steps from the development to the public road.
- Details regarding the retaining walls which may be necessary on the site around the turning bay.
- 7.5.4. In my opinion, as these conditions show, the design of the proposed development does not address the complexity of the site and the existing site levels. I am not satisfied that the development as proposed will provide the connectivity to the town which the provision of a footpath along the site indicates will be provided, due to the inaccessibility of the site to the footpath. Nor am I satisfied that the feasibility of the provision of a footpath along the site has been fully considered. The need to avoid impact on the street trees, and the sharp fall into the site from the roadside,

challenge the feasibility of providing this footpath, and this matter has not been adequately addressed in the application.

- 7.5.5. I note that Peter & Loraine McKenna's appeal includes concerns regarding the boundary treatment proposed along the adjoining two storey detached dwelling to the south, and they request a wall along part of the boundary and a concrete post plinth and panel boundary along the remainder, to a point at the roadside. It is not at all clear how any fence or wall could be provided along this boundary, having regard to the difference in level between the adjoining site, which is made/filled ground, at a much higher than the subject site.
- 7.5.6. In my opinion, the proposed layout and siting of the dwellings, which would entail an excessive amount of cut and fill, would provide dwellings with poor residential amenity and this is a reason to refuse permission.

8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that permission should be refused, for the following reasons and considerations.

9.0 Reasons and Considerations

1 The proposed site layout and design provides an inadequate response to the site constraints and the development as proposed would create a residential environment of inferior quality, would seriously injure the amenities of the area and of future residents and would therefore be contrary to the proper planning and sustainable development of the area.

2 Taken together with the existing development and that under construction at this location, the level of housing provision proposed is excessive in relation to the needs of the village and surrounding area and could prejudice the successful implementation of the Regional Guidelines and County Development Plan; and the proposed development would therefore not provide for a sustainable and stable community and would be contrary to the proper planning and sustainable development of the area.

Planning Inspector

4th October 2019

Appendices

Appendix 1 Photographs

Appendix 2 Longford County Development Plan 2015-2021, extracts.

Appendix 3 National Planning Framework

Appendix 4 Circular letter 36/2015