



An  
Bord  
Pleanála

## Inspector's Report ABP 305421-19

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<b>Development</b>	Construction of two number two storey detached houses and associated site works.
<b>Location</b>	Lands to rear of 4 Maudlin Road, Kells, Co. Meath.
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	KA190355
<b>Applicant</b>	Colette Lynch
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Stonebridge Residents Association
<b>Observers</b>	None
<b>Date of Site Inspection</b>	17 <sup>th</sup> January 2020
<b>Inspector</b>	Brendan Coyne



## 1.0 Site Location and Description

1.1. The site (0.06 Ha) is located on lands to the rear / east of dwelling No. 4 Maudlin Road, and on the southern side of an access road serving 'Stonebridge' housing estate. The site is rectangular in shape and is currently undeveloped and overgrown with vegetation. A wall c. 2m high separates the rear garden of No. 4 Maudlin Road from the application site. Lands adjoining the site to the south comprises the rear garden of dwelling No. 2 Maudlin Road. The northern roadside boundary is defined with a timber post and rail fence with a row of semi-mature deciduous trees planted behind it and a grass margin along the roadside of the fence. A terrace of 2-storey dwellings is located opposite the eastern boundary within Stonebridge estate. The ground level of the site is flat. A speed ramp is located on the Stonebridge road, near the north-western corner of the site.

## 2.0 Proposed Development

2.1.1. Application as lodged on the 29<sup>th</sup> March 2019 - Permission sought for the following;

- Construction of 2 no. detached two-storey dwellings.
- The stated floor area of the proposed dwellings are as follows;
  - Dwelling No. 1 (most western): 4 Bed – 162.1 sq.m.
  - Dwelling No. 2 (most eastern): 3 Bed – 113.5 sq.m.
- Construction of a new entrance road and footpaths opening onto Stonebridge estate road, to serve the proposed new dwellings.
- Provision of a permeable paved car parking area to the front of each dwelling,
- Provision of a 2m high rendered fence along the southern boundary and a 2m high brick wall and 1m high fence along the northern boundary.
- Connection to existing drainage infrastructure and associated site works.

2.1.2. Significant Further Information submitted on the 05<sup>th</sup> July 2019. Documentation submitted includes the following;

- Revised Site Layout Plan showing the following;
  - A new 2m wide footpath along the northern boundary.
  - The vehicle entrances of the proposed dwellings widened to 5 metres.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Louth County Council granted permission for the proposed development subject to 20 no. Conditions. Of these, Conditions of note include the following:

C.3 Prior to commencement of development the applicant shall obtain written consent from Meath County Council to open the proposed site access point onto the access roadway to Stonebridge Housing Estate.

C.4 The timber cladding shall not be permitted. Proposed external finishes to be submitted to the Planning Authority for written agreement, prior to commencement of development.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports (21<sup>st</sup> May 2019 and 20<sup>th</sup> August 2019)

Basis for Planning Authority's Decision. Include:

- The proposed development provides for the construction of a new 2m wide footpath along the southern side of Stonebridge estate access road, which is outside the applicant's ownership and in the charge of Meath County Council. Consent is required from the Council for the proposed footpath. This matter can be dealt with by way of Condition.
- Stonebridge housing estate is taken in charge by Meath County Council. The applicant will require consent from the Council for access onto this roadway. This matter can be dealt with by way of Condition.

- The proposed development is similar in layout to a development granted permission on the opposite side of the Stonebridge road under P.A. Ref. KA/171170.
- The layout of the proposed development will ensure access is available for the adjoining lands to the south to be developed.
- The proposal is considered an efficient use of zoned and serviced land at this location.
- The design and layout of the proposal is considered acceptable.
- The proposed development would not cause overlooking or overshadowing of neighbouring lands to the south or existing neighbouring property.

### 3.2.2. Other Technical Reports

#### ***Road Design Section Report:***

No objections.

#### ***Public Lighting Section Report:***

No objection subject to Conditions.

#### ***Water Services Report:***

No objection subject to Conditions.

#### ***Broadband Officer Report:***

No objection subject to Conditions.

#### ***Conservation Officer Report:***

No objections.

#### ***Irish Water:***

No objection subject to Conditions.

## 4.0 Planning History

### Subject Site

**P.A. Ref. KA170205** Permission refused in 2017 for the construction of 2 No. two storey dwellings on the site.

Reasons for Refusal referred to; serious injury to the amenities of future occupants and adjoining property; overdevelopment; and inadequate water services proposals.

**P.A. Ref. KAEX1712** Exemption Certificate granted pursuant to Section 97 of the Planning and Development Act 2000 (as amended).

### **Adjacent site to the north**

**P.A. Ref. KA171170 / ABP Ref. 301344-18** Permission granted in 2018 for the construction of 5 no. two storey houses.

## **5.0 Policy and Context**

### **5.1. Development Plan**

#### **5.1.1. Kells Development Plan 2013-2019 (as varied)**

**Zoning:** The site is zoned objective 'A1 – Existing Residential' which seeks '*To protect and enhance the amenity of developed residential communities*'.

**S. 2.3 Core Strategy** states that *Key challenges that need to be addressed for Kells to reach its full potential include... Reinforcing the town centre as the core of commercial, social and community activity in Kells through the re-use of existing underutilised or vacant buildings, promoting appropriate infill and backland development and setting out a clear development vision providing for the town centre's expansion which will address the significant retail leakage from the town.*

**S. 2.4.3 Development Management Standards** states the following;

*Chapter 11 of the Meath County Development Plan 2013– 2019 set outs Development Management standards for new planning applications in County Meath. For the purposes of the Kells Development Plan 2013 – 2019 and to ensure consistency with the county standards, please refer to Chapter 11 of the Meath County Development Plan 2013-19 for development management requirements.*

**S. 5.1 Key Housing Aim for Kells and Section 5.1.3 Housing Strategy** seeks to *Promote the consolidation of the existing built up areas by facilitating high quality appropriate infill development.*

**Core Strategy POL 8** seeks *To facilitate the provision of broad ranging uses and to continue to enhance and develop the urban fabric of the town centre whilst promoting the appropriate use and re-use of town centre backland and under-utilised sites to promote the regeneration of areas in need of renewal.*

#### 5.1.2. **Meath County Development Plan 2013-2019**

**S.11.2.2.1 Residential Design Criteria – General** requires that *Pedestrian and vehicular movement within housing areas should be convenient, safe and pleasant. Within larger housing areas, a clear hierarchy of spaces and roads should be apparent. Movement through estates should be guided by the principles of security, with opportunities for crime and anti-social behaviour minimised.*

**Table 11.9 Car Parking Standards** – 2 no. car spaces required per conventional residential dwelling.

#### 5.2. **National Guidelines**

Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).

Design Manual for Urban Roads and Streets (2013).

#### 5.3. **Natural Heritage Designations**

- 5.3.1. The site is located 0.5km to the south-west of the River Boyne and River Blackwater SPA (Site Code: 004232) and SAC (Site Code: 0002299).

#### 6.0 **Environmental Impact Assessment - Preliminary Examination**

- 6.1.1. Having regard to the limited nature and scale of the proposed development and 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.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. An appeal was received from Mr. Joseph Farrelly on behalf of Stonebridge Residents Association, against the decision made by the Planning Authority to grant permission for the proposed development. The following is a summary of the grounds of appeal.

#### 7.1.2. *Re. Land Ownership*

- By granting this planning application, it allows the breaking of a physical boundary into Stonebridge Estate.
- The grass verge along the northern boundary of the site belongs to Stonebridge Estate and does not belong to Meath County Council.
- Whilst Meath County Council has taken in charge the estate, the entrance and access road serving Stonebridge estate is a private right of way. Any access using the Stonebridge access road would be trespassing.

#### 7.1.3. *Re. Creation of Precedent for similar development*

- The proposed development, if permitted, would set a precedent to enable similar development in the rear gardens of dwellings that adjoin the site.

#### 7.1.4. *Re. Access / Parking*

- The entrance to Stonebridge Estate is very narrow and can barely accommodate the cars of the residents that live in the estate. The proposal would create traffic / parking issues.

### 7.2. Applicant Response

None

### 7.3. Planning Authority Response

7.3.1. The Planning Authority's response is as follows;



- All matters outlined in the appeal were considered in the course of its assessment of the planning application, as detailed in the Planning Officer's report.
- The proposed development is a similar layout to that granted permission on the opposite side of the road, as permitted under P.A. Ref. KA/171170 and the layout of the proposal will ensure access is available for the adjoining lands to the south to be developed.
- The proposal would be an efficient use of zoned and serviced lands at this location.
- Stonebridge housing estate is taken in charge by Meath County Council. The applicant will require consent from the Council for access onto this roadway, as per Condition No. 3 of its permission.
- The design and layout of the proposed development is considered acceptable.
- Owing to the path of the sun, the proposed dwellings would not overshadow the adjoining rear garden to the south.
- As there are no first-floor windows serving bedrooms on the southern side elevations, the proposal would not overlook adjoining property to the south.
- The first-floor windows on the rear elevation of the proposal maintain a minimum 22 metre separation distance from the first-floor windows of the dwelling which fronts onto Maudlin Street.
- The proposed development is consistent with the policies and objectives of the Kells Development Plan 2013-2019 and the Meath County Development Plan 2013-2019.

## 8.0 **Assessment**

8.1. The main issues for consideration in this appeal can be considered under the following headings;

- Land Ownership,
- Access / Parking Issues,
- Precedent for similar development,
- Appropriate Assessment.

These are addressed under the headings below.

## 8.2. Land Ownership

- 8.2.1. The third-party appellants object to the proposed development on the grounds that the proposal would break a physical boundary and open into Stonebridge Estate and would be accessed via the entrance and access road serving Stonebridge Estate, which is a private right of way. Furthermore, the appellants state that the grass verge along the northern boundary of the site belongs to Stonebridge Estate and not Meath County Council.
- 8.2.2. The Planning Authority confirm that Stonebridge Housing Estate is taken in charge by Meath County Council. Condition No. 3 of the grant of permission requires that prior to commencement of development, the applicant shall obtain written consent from the Council to open the site onto the Stonebridge access road.
- 8.2.3. The proposed development provides a footpath along the northern boundary of the site, linking with an existing footpath which currently ends at the side of No. 4 Maudlin Rd. This footpath is located outside the applicant's landholding as outlined. The proposed development would open into Stonebridge Estate and would be accessed via the entrance and road serving the estate.
- 8.2.4. In consideration of the issue of Title of Land, Section 5.13 of the *Development Management Guidelines (2007)* refers to 'Issues relating to title to land' and states that the planning system is not designed as a mechanism for resolving disputes about title to or rights over land and that these are ultimately matters for resolution in the Courts. The Guidelines advise that where there is doubt in relation to the legal title of the applicant, the Planning Authority may decide to grant permission, however a grant of permission is the subject of Section 34(13) of the *Planning and Development Act 2000 (as amended)*. Section 34(13) of the Act states that 'a person is not entitled solely by reason of permission to carry out any development'.

Having regard to the above and the dispute over the title of land and the applicant's sufficient legal interest to carry out the proposed development, I consider it inappropriate to refuse permission for the proposed development on these grounds.

## 8.3. Access / Parking Issues

- 8.3.1. The appellants express concern that the entrance to Stonebridge Estate is very narrow, does not have the capacity for additional traffic generated by the proposed development and the proposal would create traffic /parking issues.
- 8.3.2. The Council's Transportation Report outlines no objections to the proposed development, stating that the proposal provides adequate sightlines at the entrance to the site.
- 8.3.3. The driveways to the front of the proposed dwellings have the capacity to provide 2 no. car parking spaces. This complies with the requirements of Table 11.9 of the Meath County Development Plan which sets out car parking standards.
- 8.3.4. Stonebridge Estate is a relatively small residential estate comprising 36 no. houses, served by a cul-de-sac road. The estate entrance and road have a width of c. 6 metres. Permission was granted in Nov. 2018 for 5 no. houses opposite the site, on the northern side of the estate road, which will also open onto this road. The proposed development along with the adjacent permitted development and would bring the total no. of dwellings using the Stonebridge Housing Estate to 43 no. dwellings. At the time of site inspection, I found no vehicles parked along the estate road adjoining the site and low levels of traffic using the estate road. Having regard to the nature and scale of the proposed development which provides 2 no. additional dwellings, I consider that the proposal would not create a substantive increase in traffic volumes along the Stonebridge Estate such that it would not endanger public safety by reason of a traffic hazard. As such, I recommend that the proposed development should not be refused permission on these grounds.

#### **8.4. Precedent for similar development**

- 8.4.1. The appellants express concern that the proposed development would set a precedent to enable similar development in the rear gardens of dwellings that adjoin the appeal site.
- 8.4.2. The appeal site comprises lands to the rear of rear / east of No. 4 Maudlin Road. The site has a length of c.85m and is currently overgrown and undeveloped. Whilst the undeveloped greenfield nature of the site contributes to the setting of the access road serving Stonebridge estate, it is not an area of designated open space or used as open space by the local community. The estate has a large area of designated open space

further to the east. Given that the site would be accessed via Stonebridge estate access road, and having regard to the 'A1 – Existing Residential' zoning of the site, it is my view that the development of housing at this location would be consistent with a Housing Aims and Strategy of the Kells Development Plan which seeks to promote the consolidation of the existing built up areas by facilitating high quality appropriate infill development.

## **8.5. Appropriate Assessment**

- 8.5.1. Having regard to nature and scale of the proposed development to provide two additional houses in a fully serviced and zoned residential area and the 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.

## **9.0 Recommendation**

- 9.1. I recommend that permission be granted subject to conditions, for the reasons and considerations below.

## **10.0 Reasons and Considerations**

- 10.1. Having regard to the residential land use zoning of the site and its close proximity to the town centre and the established residential character of the area, it is considered that the proposed development would be consistent with the Housing Strategy of the Kells Development Plan which seeks to promote the consolidation of existing built up areas by facilitating high quality appropriate infill development. The layout, scale, form and design of the proposed development would not seriously injure the residential amenity of neighbouring property 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.

## 11.0 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 05th July 2019 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><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Prior to commencement of development, the applicant shall obtain written agreement from Meath County Council for the opening of the site access onto the road serving Stonebridge Housing Estate.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
3.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>(i) Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p>

	<p>(ii) All window opes on the southern side elevations of the proposed dwellings at first floor level shall be fitted with obscure glazing.</p> <p><b>Reason:</b> In the interest of visual and residential amenity.</p>
6.	<p>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. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
7.	<p>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. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
8.	<p>All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0800 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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
10.	<p>Proposals for a house name and/or numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning</p>

	<p>authority prior to commencement of development. Thereafter, all house names and/or numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.</p> <p><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
11.	<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><b>Reason:</b> 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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Brendan Coyne  
Planning Inspector  
20<sup>th</sup> February 2020