



An
Bord
Pleanála

Inspector's Report

ABP-305489-19

Development	Construct 1 no. four bed bungalow dwelling, 3 no. three bed bungalow dwellings and all associated site works.
Location	Rahin Towers Road, Ballylinan, Co.Laois.
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	19/253
Applicant	John Williams
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party v Grant
Appellant(s)	Rahin Towers Residents
Date of Site Inspection	28.11.2019
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The subject site is in a relatively central location within the town of Ballylinan which is in eastern Co. Laois. The site itself is located to the south side of the Rahin Towers housing development access road. It is a vacant site which does not appear to have been subject of previous building works.
- 1.2. The access roadway into Rahin Towers is approx. 220 metres long with dashed block walls to boundaries and with a footpath and public lighting on the opposite side to the subject site. There is a speed ramp just east of the existing vehicular entrance to the site, the entrance does not appear to be in frequent use; with a 30kph sign just west of the vehicular access. The site faces the rear elevations of semi-detached houses in 'The Village' development on the opposite side of the access road to the north. No. 1 Rahin Towers is immediately adjacent to the western site boundary with its side elevation addressing the site. This boundary comprises a block wall. To the southern boundary there is a strong leylandii/hedgerow/vegetation line with 4 no. detached single and 1 ½ storey houses on Linden Drive immediately adjacent served by a cul-de-sac avenue. To the south east there is an open field. The southern part of the subject site forms part of this field and there is an existing agricultural entrance from the N78. To the north east there is a single-storey house with rooflights which is also accessed off the N78, the main road through the town.
- 1.3. The subject site is a field area that is not in a maintained condition. There is a rise in ground levels from east to west. There are strong hedgerows and vegetation along most boundaries and also through the site. Internal boundaries indicate that the northern and southern sections of the site are separate fields.
- 1.4. The subject site has a stated area of 0.42 hectares.

2.0 Proposed Development

- 2.1. The planning application was lodged with the planning authority on 13.05.2019 with further plans and particulars received on 29.07.2019 and 13.08.2019. The proposed development is for 4 no. detached houses; 1 no. four-bed unit and 3 no. three-bed units.

- 2.2. The proposed four-bed unit has a stated floor area of 127sqm while the proposed three-bed units have a stated floor area of 119sqm. All houses have an indicated maximum height of 6.436 metres.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 16 no. conditions of a standard nature, including; provision of a footpath, relocation of the 30kph speed limit further east on the access road, surface water drainage, external finishes, construction practices, cash bond, naming and numbering and financial contributions.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports dated 26.06.2019, 06.08.2019 and 26.08.2019. Following receipt of further information the Planning Officer considered that the proposed development would comply with the provisions of the County Development Plan and would assimilate into the existing residential area without negatively impacting the amenity of the area.

3.2.2. Other Technical Reports

A/Chief Fire Officer – No objection subject to conditions/observations.

Road Design Office – Further information recommended.

3.3. Prescribed Bodies

Transport Infrastructure Ireland – No observation to make.

3.4. Third Party Submissions

2 no. third-party submissions were made on the planning application from Jeremy & Phyllis Heaven, No. 1 Rahin Towers and Trish Donohue, 21 Rahin Towers, countersigned by a number of residents of Rahin Towers. The main issues raised can be summarised as follows:

- Issue raised in relation to the development address.
- Concern over the removal of the boundary wall along the access road/the boundary walls of the access road is not owned by the applicant/Rahin Towers houses were specifically bought because the avenue was exclusive.
- The existing vehicular entrance was only approved for tractor access and it has never been utilised.
- Concern about encroaching of proposed fencing into the rear garden of No. 1/the wall to the front of No. 1 that it is proposed to shorten is not in the applicant's ownership.
- Concern in relation to a loss of privacy to No. 1.
- Inaccurate site layout.
- Dangerous to permit 4 no. additional entrances to Rahin Towers road.
- Existing water pressure is low and the main sewage drain has previously overflowed.
- Hedgerow removal is unnecessary and contrary to Council Policy NH27 because there are 3 no. alternative existing access points/there are alternative access points that can be used.
- Two trees have already been felled on site within the March 1-August 31 period/clarification is required in relation to maintaining the existing hedgerow.
- Conditions relating to hours of construction, staff parking etc. should be attached to any grant of permission.
- Concern in relation to parking.
- The development will change the character of the original Rahin Towers development.

4.0 Planning History

There has been no recent relevant planning application. The applicant was granted a Certificate of Exemption from Part V for the development.

5.0 Policy Context

5.1. Laois County Development Plan 2017-2023

- 5.1.1. The site is in an area zoned 'Residential 1. Established; To protect and enhance the amenity of developed residential communities'. A dwelling is indicated as normally being acceptable under 'Table 29 – Land Use Zoning Acceptability'.
- 5.1.2. Policy CS10 – Provide for active and efficient use of neglected lands or underused lands that are zoned and served by existing public infrastructure and facilities, to consolidate the urban form, support housing delivery as well as strengthen the vitality and vibrancy of urban areas.
- 5.1.3. Ballylinan is referenced in Section 2.5.2 (Designated Settlements) under 'Local Service Town'. It had a recorded population of 1,084 in Census 2011; an increase of 44% on Census 2006, putting it ahead of Durrow in the league of towns within the county settlement structure. It provides a lower range of services and facilities in the north eastern quadrant of the county for its population and that of its rural hinterland. A limiting factor in the growth of this town will be the availability of infrastructure, specifically wastewater treatment facilities.
- 5.1.4. Policy CS30 – Conserve, enhance and strengthen the local service town structure in County Laois ensuring that the appropriate scale of growth is supported.
- 5.1.5. Policy CS32 – Promote densities, relative to the scale of the settlement, located as near as is practical to the town centre area. Higher densities will be considered at appropriate locations.
- 5.1.6. Ballylinan is specifically referenced in Volume 2 (Settlement Plans) of the Plan. Objective BLN3 – Promote densities in the order of 12 dwelling units to the hectare.

5.2. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages), 2009

- 5.2.1. Chapter 6 (Small Towns and Villages) of the guidelines is relevant to the application under consideration.

5.3. Project Ireland 2040 National Planning Framework

- 5.3.1. National Policy Objective (NPO) 3c – Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprint.
- 5.3.2. NPO 18a – Support the proportionate growth of and appropriately designed development in rural towns that will contribute to their regeneration and renewal, including interventions in the public realm, the provision of amenities, the acquisition of sites and the provision of services.
- 5.3.3. NPO 33 – Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- 5.3.4. Section 6.6. (Housing) prioritises the location of new housing provision in existing settlements as a means to maximising a better quality of life for people through accessing services, ensuring a more efficient use of land and allowing for greater integration with existing infrastructure. The scale and nature of future housing provision should be tailored to the size and type of settlement.

5.4. Natural Heritage Designations

- 5.4.1. The closest area of natural heritage designation is the Ballylinan pNHA approx. 2.3km to the east.

5.5. EIA Screening

- 5.5.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced town 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 stage, and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

1 no. third party appeal was received from Rahin Towers Residents, c/o 21 Rahin Towers. The main issues raised can be summarised as follows:

- Concern about potential for car parking on the road/inadequate road width/road will be blocked by machinery/no turning point for emergency services.
- A condition restricting car parking on the road cannot be monitored.
- Increase in traffic volumes.
- Noise and disturbance.
- Impact on bats, shrews and birds from loss of trees and hedgerows.
- Residents of The Village were unaware the planning application was being made.
- Visual amenity and significant disturbance to residents of Rahin Towers and The Village; noise, dirt, traffic etc.
- Little confidence conditions of planning permission will be adhered to.
- If the number of units was reduced a different entrance could be used and a green area could be created.
- Rahin Towers residents were informed there would only be 25 houses in a secluded estate/proposed houses are different in design to existing houses.
- Negative impact to the value of houses.
- There are existing houses for sale in the neighbourhood/Rahin Towers remains unfinished.
- The existing waste system regularly backs up/water pressure is extremely low at times.
- An additional access or alteration of boundaries will negatively affect safety, security and exclusivity.

6.2. Applicant's Response

The main points can be summarised as follows:

- Car spaces are side by side and can be manoeuvred to enter and exit the sites without disturbing the other car or reversing onto the road.
- Rahin Towers road is of sufficient width to comply with design standards and a footpath is now also provided for.
- The site is of adequate size to accommodate all machinery. A Preliminary Health and Safety Plan will be put in place. Project supervisors will be in place.
- These houses will not exacerbate any icy weather issues.
- The road has been taken-in-charge and adequate on-site parking has been provided to avoid parking on the road.
- Rahin Towers is a low-density scheme and 4 no. houses will not result in additional traffic. Vehicle turning does not arise.
- Restricted working hours will address noise and disturbance.
- Tree cutting was carried out on the adjacent property. Bats would not have lived in trees. The presence of shrews indicates that no bats are in the vicinity.
- Site notices were erected to the satisfaction of the planning authority.
- The planning authority recommended applying for 4 no. houses at a pre-planning meeting and indicated the existing green area in the estate was adequate to cater for the proposed units.
- House designs are sympathetic to the area/they provide a mix of housing to the area.
- The applicant is aware of the blockage of the waste water system and he brought it to the attention of the local authority. An application to Irish Water has been granted.

6.3. Planning Authority Response

None received.

7.0 Assessment

The main issues are those raised in the grounds of appeal and I also consider that the issue of density must be addressed. This is a new issue. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of the Proposed Development
- Road Network/Car Parking
- Impact on Adjacent Residential Amenity
- Ecology
- Drainage
- Density
- Appropriate Assessment

7.1. Principle of the Proposed Development

- 7.1.1. The site is in an area zoned 'Residential 1. Established' on Map 2.11-Ballynan of the Laois County Development Plan 2017-2023. Dwellings are indicated as normally being acceptable under Table 31 (Land use Zoning Matrix) of the Plan. The existing pattern of development in the immediate vicinity of the site is that of housing and I consider that residential development is acceptable in principle at this location.

7.2. Road Network/Car Parking

- 7.2.1. The appeal documentation makes multiple references to a perceived deficiency in the development in terms of inadequate car parking provision, inadequate road width, concern about parking on the Rahin Towers access road, machinery blocking the access road, the absence of a turning point for emergency vehicles, concern about the road in icy weather and an increase in traffic volumes.
- 7.2.2. With regard to car parking provision, the submitted site layout plan shows that there is more than adequate space within the front curtilage of each individual site to easily accommodate two spaces per house and there is ample space for additional visitor

parking. There will likely be no requirement for any car parking along the access road given the space provided.

7.2.3. The width of the Rahin Towers access road is indicated as being 6 metres excluding the proposed new footpath across the subject site frontage. This width is more than adequate. There is more than adequate space on site to accommodate any machinery associated with construction and no machinery will need to be parked or positioned on the road. There is no issue with emergency vehicles. There is no reason for the road to be blocked during construction. The provision of the houses will have no impact on the condition of the road in icy weather. With regard to traffic volumes, four additional houses closer to the junction with the N78 will have no significant impact for Rahin Towers.

7.2.4. I consider that the development will have no adverse car parking implications or have any impact on the normal operation of the access road.

7.3. Impact on Adjacent Residential Amenity

7.3.1. There is concern expressed about noise, disturbance and visual impact.

7.3.2. It is assumed that the reference to noise and disturbance is with regard to the construction phase. It is inevitable and unavoidable that any construction activity will have a degree of nuisance to the receiving environment. However, conditions placing restrictions on working hours and requiring the preparation of a Construction Management Plan that would include mitigation measures to reduce impact from noise, dust etc. could be applied to limit these issues as much as possible.

7.3.3. It is noted that the houses in Rahin Towers are very similar in design, scale and external finish. The proposed houses have a different design style though the 4 no. units are themselves similar in being detached, single-storey houses with similar footprints and similar external finishes of render and stone. I do not consider that the differences in design between the existing and proposed houses is a significant issue. This is a built-up area and a degree of visual variation is to be expected. Both the existing estate and the proposed houses would read as separate developments with no resulting visual incongruity or obtrusiveness.

7.3.4. I do not consider that there would be any undue impact on the residential amenity of adjacent property from the construction, occupation or design of the proposed houses.

7.4. Ecology

- 7.4.1. The appeal references loss of trees, hedgerows and impact on bats, shrews and birds.
- 7.4.2. The site currently comprises a field area. It is located centrally within the town and it is zoned for residential development. The loss of vegetation in these locations is an unavoidable consequence. Notwithstanding, the proposed site layout plan received by the planning authority on 13.08.2019 indicates that a substantial length of hedgerows along the rear and side boundaries will be retained and supplemented. No evidence of bat activity has been provided.
- 7.4.3. I do not consider that the proposed development will have any undue impact on the ecology of the area.

7.5. Drainage

- 7.5.1. Issues with regard to the capacity and operation of the waste system and the low water pressure have been raised.
- 7.5.2. Issues related to foul water and potable water are matters addressed by Irish Water and are subject to connection agreements between the developer and Irish Water. The applicant's response to the appeal states that an application to Irish Water has been granted.
- 7.5.3. As this is a matter for Irish Water, and in the absence of any concern raised by Irish Water, I do not consider this to be a material consideration.

7.6. Density

- 7.6.1. The site is in a central location within the town and is zoned 'Residential 1. Established'. It is a site which has no constraints and has a regular, rectangular shape. Objective BLN3 of 'Volume 2: Settlement Plans' of the Laois County Development Plan 2017-2023 states that it is an objective to promote densities in the order of 12 dwelling units to the hectare in Ballylinan. The proposed development comprises 4 no. houses on a site area of 0.42 hectares; a density of 9.52 units per hectare.
- 7.6.2. Increasing density in appropriate locations is a cornerstone of national policy. The 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages)', 2009, states in Chapter 6 (Small Towns and

Villages), inter alia, that new development should contribute to compact towns and villages and that the scale of new residential schemes should be in proportion to the pattern and grain of existing development. A scheme should be designed to make the most effective use of the site. In relation to density, in a centrally located site within a smaller town or village, the guidelines state that it is difficult to be prescriptive given the variety of contexts. Nonetheless, the guidelines provide a figure of 30-40+ dwellings per hectare for mainly residential schemes. With regard to edge-of-centre sites a range of 20-35 dwellings per hectare is considered appropriate. Therefore, it is clear that both density ranges are significantly higher than that achieved in the current proposal or identified in Objective BLN3 of the County Development Plan 2017-2023.

- 7.6.3. 'Project Ireland 2040 National Planning Framework' also envisages an increase in population in built-up areas and has set out a number of NPOs which are relevant to a development of the type subject of the current application. NPO 18a supports the proportionate growth of development in rural towns that will contribute to their regeneration and renewal. It is an objective (NPO 33) to prioritise the provision of new homes at locations that can support sustainable development at an appropriate scale of provision relative to location.
- 7.6.4. It is considered that the proposed provision of 4 no. houses at this location, a density of 9.52 units per hectare, is an inappropriate and inefficient use of a well-located site with no constraints, within the built-up urban area of the town. Both the Rahin Towers and The Village developments appear to pre-date the guidelines but The Village, immediately north of the subject site, contains almost exclusively semi-detached housing. Detached houses on Linden Drive adjacent to the south more closely resembles the layout pattern proposed. Each proposed site has an individual area of approx. 0.1 hectares with rear garden areas ranging from 298sqm-386sqm. There are also substantial front curtilages within the boundary of each individual property.
- 7.6.5. I consider that planning permission should be refused on the basis of an inadequate density within this urban area. I would draw the Board's attention to the fact that this is a new issue, and as such it may be appropriate to re-circulate prior to decision.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location remote from any 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. I recommend that planning permission be refused for the following reason and consideration.

9.0 Reason and Consideration

1. The subject site is located within the built-up area of Ballylinan and a density of 9.52 units per hectare is proposed. This is below the density figure of 12 units per hectare set out in Objective BLN3 of the Laois County Development Plan 2017-2023. It is significantly below both the density ranges of 30-40+ dwellings per hectare in a centrally located site and 20-35 units per hectare in an edge-of-centre site as set out in Chapter 6 (Small Towns and Villages) of the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages)', 2009. It is also considered that the low density would conflict with certain National Policy Objectives (NPO) set out in Project Ireland 2040 National Planning Framework such as NPO 18a and 33. Therefore, the proposed development would be contrary to both local and national policy and would be contrary to the proper planning and sustainable development of the area.

Anthony Kelly
Planning Inspector

18.12.2019