



An
Bord
Pleanála

Inspector's Report 305700-19

Development	Construction of a house
Location	1 Old Balreask Wood, Navan, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	NA/181576
Applicant(s)	Mary Carpenter
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Aisling McMahon and Others
Observer(s)	
Date of Site Inspection	8 th December 2019
Inspector	Joanna Kelly

1.0 Site Location and Description

- 1.1. The appeal site is accessed via Old Balreask Woods off the Dublin Road, Navan, Co. Meath. The site has a stated site area of 0.06ha and is located behind an existing two-storey dwelling which is located at the end of a cul-de-sac on Old Balreask Woods.
- 1.2. The appeal site is located behind an existing house and incorporates trees/planted area that currently bisects a public open space area. The proposal is seeking an entrance from Old Balreask road. Cars were noted as travelling in excess of speeds suitable for an urban area at time of inspection. Oakleigh development is located to the north of the appeal site.

2.0 Proposed Development

The proposal is for the construction of a two-storey dwelling house. The proposed floor area of the dwelling is approximately 152sq.m. It is proposed to have a vehicular access from Balreask Old road, an internal road serving the estate.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission for the proposal subject to 13 no. conditions. Of note condition 4 requires the amendments in relation to the proposed entrance.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The first planning report makes reference to national and local policies. 3 no. submissions were noted on file raising concerns in respect of overlooking, loss of views, impacts on wildlife, reduction of light to neighbouring gardens.

The report recommended further information be sought in relation to inter alia design changes, revisions to layout, impact of development on woodland area to west of site, landscaping details.

The subsequent planning report considered the response to the further information request and recommends that permission be granted subject to conditions.

3.2.2. Other Technical Reports

Transportation 18/02/2019

Written consent should be submitted to carry out works on lands outside of applicant's ownership. New boundary should be 4 metres from edge of road.

Water services planning report 06/02/2019

Recommends conditions

Irish Water

No objection

4.0 **Planning History**

There does not appear to be any relevant recent planning history associated with the site other than a Part V Exemption Certificate ref. No. NAEX1903.

5.0 **Policy and Context**

5.1. **Development Plan**

The Navan Development Plan 2009-2015 remains the operational plan for the area. The site has a land use zoning A1 'Existing Residential' with the objective "to protect and enhance the amenity of developed residential communities". The area where the

proposed entrance is located is zoned 'F1 – Open Space with an objective 'to provide for and improve open spaces for active and passive recreational activities'.

Section 3.3 deals with land-use zonings. It is set out that "in A1 zones, Meath County Council will be primarily concerned with the protection of the amenities of established residents. 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 in new proposals."

In all residentially zoned lands, no residential development shall be permitted on lands that are subject of a deed of dedication or identified in a planning application as open space to ensure the availability of community and recreational facilities for the residents of the area.

F1 Open Space

Objective "To provide for and improve open spaces for active and passive recreational amenities."

Permitted Uses

Car Park for Recreational Purposes, Craft Centre / Craft Shop, Community Facility / Centre, Cultural Facility, Cycleways / Greenways / Trail Development, Leisure / Recreation / Sports Facilities, Playing Pitches, Water Services / Public Services.

Open for Consideration Uses

Allotments, Bring Banks, Childcare Facility, Place of Public Worship.

5.2. **Natural Heritage Designations**

The site is not located within or near any designated natural heritage areas.

5.3. **EIA Screening**

Having regard to the limited 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 salient planning grounds of appeal are summarised as follows:

- Positioning of the house on site interferes with privacy of houses at 39 Old Balreask Woods and 5 Oakleigh View.
- Proposal would have negative impacts to the existing view of 17 Oakleigh view.
- Removal of trees and hedgerow
- Applicant indicates this area is a dumping ground or used for anti-social behaviour, statements which are unfounded.
- The proposed access to the new development shall require removal of woodland belonging to Folio MH20520 and thus reduces the use of the land by the landowner.
- Style of house is not in keeping with developments at Oakleigh or Old Balreask Woods
- Applicant does not own trees and hedgerow to be removed.
- Proposal to incorporate land which currently holds a water well on the property to which the current owner retains right to use on his land.

6.2. Applicant Response

The salient points of the submission are summarised as follows:

- There is a substantial piece of woodland at the rear of 5 Oakleigh that is not subject to the planning permission and therefore no visual interference.

- The proposed driveway will have no negative impact on the surrounding neighbours.
- The development has been designed to ensure that the tree and hedgerow boundary can be successfully retained, without having a negative impact on the character or appearance of the surrounding landscape or wildlife in the area.
- The area has been used for a number of years as a dumping ground for grass and rubbish.
- It is requested that the Board look at the proximity of the objectors in particular no. 5 Oakleigh and see that the proposal does not touch any of the vegetation or the greenery to this dwelling. The only thing permitted by the local authority for removal is the hedging to the front boundary and entrance.
- This area is zoned residential.
- A number of photographs for reference have been enclosed and show that the trees to be removed are Leylandii.

6.3. Planning Authority Response

- The Planning Authority is satisfied that all matters outlined in the submission were considered in the course of its assessment of the planning application.
- The proposed development is considered consistent with the policies and objectives as outlined within the Meath County Development Plan 2013-2019, as varied.

6.4. Observations

Sean Curtis

- Proposal has been given permission to remove a dividing wall between his old residence and brother's property which was erected following negotiations with the builder of Balreask Woods estate.

- The wall protects the natural hedge dividing the properties. This area has thrived over the years and maintained some level of biodiversity in this area.
- Permission has been given to construct over a water well, which was established in conjunction with his family some 70 years ago. Bewildered the Council has overlooked this right to the amenity.

7.0 **Assessment**

7.1. From my review of the file, all relevant documents, an inspection of the site and its environs, I consider that the main planning issues for consideration in the Board's de novo assessment of the appeal may be considered under the following broad headings:

- Principle of development including zoning considerations
- Impact on existing residential amenities
- Appropriate Assessment

7.2 **Principle of development including zoning considerations**

7.2.1 Having regard to the location of the appeal site and that the lands are subject to two land-use zoning objectives, consideration should be given to the appropriateness of developing a dwelling at this location. The proposed two-storey dwelling would appear to be wholly contained on the lands with the 'A1' zoning objective in that it is located within the rear amenity space currently associated with no. 1 Old Balreask Woods. The proposed entrance, however, is from Old Balreask Road to the west. The actual entrance from the road (it is not clear whether it is taken in charge however a map indicating a wayleave has been included in the documentation by the planning authority) is located on 'F1' open space lands. The Navan Development Plan is clear that any "in all residentially zoned lands, no residential development shall be permitted on lands that are subject of a deed of dedication or identified in a planning application as open space to ensure the availability of community and recreational facilities for the residents of the area." This provision is not expressly provided for under the F1 zoning objective. In this instance, I consider that due

regard should be given to the context of the site, in particular, the juxtaposition of the land-use zoning objectives and current functionality of the public open space at this location. On balance, I do not consider that the proposed entrance at this location would materially contravene the F1 zoning objective given that proposal does not erode the existing functionality of the public open space at this location but rather provides an independent access to a proposed dwelling that will be located on residentially zoned lands.

7.3 Impact on existing residential amenities

7.3.1 Concerns have been raised regarding the impact the proposed dwelling will have on the existing residential amenities of the area in particular overlooking and privacy and loss of trees/natural habitats. Section 3.6 of the Navan Development Plan refers to new residential development providing strong emphasis on layouts that facilitate streetscape and open spaces that have natural supervision. The current public open space is bisected by the triangular portion of lands which are in separate ownership (subject to this appeal). The proposal will require the removal of existing trees/plants on site. An Arboricultural Impact Assessment was submitted in response to further information. While the proposal will involve the removal of some trees/plants on site, I do not consider such to be detrimental to the amenities of the area. There are no protected trees on site, and a condition should be imposed so as to ensure the planting of more appropriately sized and species of trees for this urban area.

7.3.2 I note that the further information submitted did not include full drawings for all elevations. I note the layout of the dwelling and proposed window ope locations and do not consider that overlooking is an issue. However, a condition should be attached seeking full elevational plans in the interests of completeness and to avoid any ambiguities in the future. I consider that adequate private amenity space is provided to the rear of both the existing and proposed dwelling. I also do not consider that the proposed house type is at variance with the dwellings already permitted in this suburban area.

7.4 Other Issues

7.4.1 I note various references to removal of woodland on lands belonging to different folios. The applicant has indicated that she has sufficient legal interest in the lands to

make the application. Further I note a letter of consent from John Cusack regarding a portion of lands within his ownership. I consider that sufficient legal interest has been established to make the application and that where further issues remain regarding ownership of lands, these are a civil matter. I note that the planning authority appear to have also undertaken a land registry search in respect of the adjoining lands, Figure 1 of the planning report dated 19th September 2019 refers. I also refer the Board to Section 34(13) of the Planning and Development Act as amended which sets out that “A person shall not be entitled solely by reason of a permission under this section to carry out any development.”

7.4.2 With regard to the proposed entrance, it is noted that a condition was attached by the planning authority seeking the roadside boundary gate piers to be set back a minimum distance of 3 metres from the edge of the public road. I note that the site layout plan submitted in response to further information indicates the provision of a footpath to the site frontage, however, it is only c. 500mm. This is wholly inadequate and should be increased to at least 1.5m in width. While this may appear excessive, there is currently no footpath on this side of Old Balreask Road. Any development that gives rise to pedestrian movements to and from the site (within an existing housing estate) should ensure adequate and safe set-back from the road edge for pedestrians and vehicles to manoeuvre. I note that the planning authority conditioned that the proposed gate and inner piers shall be recessed a minimum of 7 metres. While I consider this excessive for an urban area, I consider that such details should be agreed with the planning authority.

7.5 Appropriate Assessment

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.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions

9.0 Reasons and Considerations

Having regard to the land use zoning of the site in the current Development Plan for the area, to the infill nature of the site, to the design and scale of the proposed development, and to the nature and pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would represent an appropriate residential density, would comply with the provisions of the Development Plan 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. The development shall be completed in accordance with the plans and particulars lodged with the application, as revised by the further information received by the planning authority on 26th 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.

Reason: In the interest of clarity.

2. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, the following:

- (a) A complete set of elevational plans for the proposed dwelling which corresponds with the layout plans submitted to the planning authority on 26th July 2019.
- (b) The provision of a footpath (minimum 1.5m) for the full site frontage and corresponding relocation of entrance gate and walls within the site
- (c) Details of proposed gates which shall not be permitted to open outwards.

Reason: In the interests of clarity and traffic and pedestrian safety.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority within three months of the date of this decision. This scheme shall include a plan to scale of not less than 1:500 showing –

- (a) Details of all boundary treatments.
- (b) Details of all new planting including species, variety, number, size and locations of all proposed trees and shrubs.
- (c) Details of all existing trees to be retained as per the Arboricultural Report submitted to the planning authority 26th July 2019.
- (d) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

4. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the dwelling without a prior grant of planning permission.

Reason: In the interest of residential amenity

5. 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.

Reason: In the interest of public health.

6. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

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

Reason: In the interest of visual amenity.

8. 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.

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

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

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

Reason: In the interests of visual and residential amenity.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Joanna Kelly
Senior Planning Inspector

8th December 2019