



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305975-19

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<b>Development</b>	Demolition of house and construction of 7 no. houses.
<b>Location</b>	Tierney Street, Ardee, Co Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	19269
<b>Applicant(s)</b>	Amay Development Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission (16 no. conditions)
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Eileen Flannigan
<b>Date of Site Inspection</b>	28/01/2019
<b>Inspector</b>	Conor McGrath

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located off Tierney Street, on the eastern side of Ardee town centre. The site is irregular in shape and overgrown, comprising a stated area of 0.217 ha. There is a derelict house on the western side of the site.
- 1.2. A development of eight single-storey dwellings, Tierney Avenue, bounds the site to the east. Disused industrial lands and buildings bound the site to the north. A vacant cottage and a detached health facility / surgery bound the site to the south, with frontage to Tierney Street. To the west the site is bounded by commercial lands at the rear of the main street and has frontage to a lane, Barn Hill, which serves adjoining residential and commercial properties, including the health centre.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the development of seven houses on the site. The development was revised at further information stage and the proposal which was granted permission by the planning authority comprises two terraces of three no. two-storey houses, and a single storey detached bungalow on the southern part of the site. Access is to be provided through Tierney Avenue, across an area of existing open space.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant permission subject to 16 no. mainly standard conditions. Condition no. 16 requires archaeological monitoring of ground works.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The principle of residential development is acceptable. Ardee is a moderate sustainable growth town in the county settlement strategy. Phase 1 residential

development includes infill residential development. An exemption certificate was granted to the application from Part V agreement under ref. 2019/14.

The revised scheme respects adjoining properties, with no opportunity for through traffic through the estate. Tierney Avenue has never been taken in charge. The development is like an extension of Tierney avenue (394/95). There is some loss of open space but this is unusable and of limited value. The development will promote compact growth of the town. Permission recommended.

### 3.3. Other Technical Reports

- Infrastructure: FI sought originally on access arrangements and surface water drainage design. No objection subject to conditions.
- James Searson E-mail of 15/07/2019 (section unclear): Tierney avenue would not appear to be taken in charge. A survey of the existing Tierney Avenue sewer will be required as its condition is unclear.

### 3.4. Prescribed Bodies

Irish Water: No objection subject to standard conditions.

Development Applications Unit: The site is within a zone of archaeological potential. Archaeological monitoring conditions should be included in any grant of permission.

### 3.5. Third Party Observations

Issues raised in submissions to the planning authority reflect the third-party appeal submission and also raised issues of overlooking and overshadowing.

## 4.0 Planning History

**PA ref. 18/995:** Permission granted in April 2019 for demolition of the existing single storey dwelling fronting Tierney St. to the south of the appeal site, and

construction of 2 no. semi-detached two-bedroom single-storey dwellings and all associated site development works.

**PA ref 19/891:** Current application for permission for the construction of 2 no., dwelling houses and associated site works to the north / rear of the surgery, south of the appeal site. Further information has been sought including revisions to the layout to improve the relationship with the subject development.

## **5.0 Policy Context**

### **5.1. Louth County Development Plan 2015 – 2021**

- 5.1.1. Ardee is identified as a Moderate Sustainable Growth Town, in the second tier of the County Settlement Strategy. The importance of Ardee as the third largest settlement in the county is recognised. The Plan and the Core Strategy promote the development of Ardee as a medium size town for urban strengthening to serve the needs of the local community and drive development within the locality. The plan allocates an additional 48 houses to Ardee.
- 5.1.2. 2.16.5 Level 2: Ardee: The growth of the town will be managed in a manner that provides for gradual expansion, in line with provisions of additional employment opportunities, community facilities and services.

### **5.2. Ardee Local Area Plan 2010 - 2016**

The appeal site is zoned for residential use. Lands to the west are zoned for Town Centre uses while lands to the north are zoned Commercial / Residential and Light Industry.

The plan sets out a phasing strategy for residential development. Phase 1 includes infill housing development, defined as ‘the development of a relatively small gap between existing buildings’

The appeal site bounds the Architectural Conservation Area and is within the Zone of Archaeological Potential. There is one recorded monument to the south of the appeal site, and one protected structure on lands to the north.

### 5.3. **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)**

5.3.1. General advice for smaller towns and villages (400 to 5,000 persons) includes

- Development in smaller towns and villages must be plan led
- New development should contribute to compact towns and villages
- Higher densities are appropriate in certain locations
- Offer alternatives to urban generated housing
- The scale of new residential schemes for development should be in proportion to the pattern and grain of existing development.

Within centrally located sites, densities of 30-40+ dwellings per hectare for mainly residential schemes may be appropriate.

### 5.4. **Natural Heritage Designations**

There are no Natura 2000 sites in the vicinity of the appeal site. The nearest sites include Stabannon and Braganstown Special Protection Area (site 004091) situated 4.5km north east of Ardee and Dundalk Bay Special Protection Area (site 004026) and Dundalk Bay Special Area of Conservation (000455) approx. 13km away.

### 5.5. **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 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The third-party appellants raise the following points in their appeal against the decision to grant permission for the proposed development:

- There is existing congestion at the junction of Tierney Street with Castle Street (main street).
- The application site extends into the estate and green spaces.
- Residents of Tierney Avenue have maintained that development including open spaces themselves.
- The same developers have obtained permission on the site of the adjoining cottages to the south which has not been implemented (18/995).
- The same applicants have also sought permission for two houses with frontage onto the laneway to the west (Barn Hill), to the rear of the surgery (19/891).
- The proposed entrance will impact on the entrance and parking space of the adjoining dwelling to the east (no. 8).
- The development should be revised such that it is accessed from Barn Hill lane to the west and not through Tierney Avenue.

### 6.2. Planning Authority Response

The revised design submitted at further information stage creates a better urban form of development. Infrastructure and Irish Water were satisfied with the revised layout and pedestrian connection to Tierney Street. The development will not represent a traffic hazard. Potential conflicts with adjoining residential amenity have been reduced and the revised layout avoids north facing back gardens. The development brings a redundant plot back into residential use. The submission notes the positive aspects of the scheme.

A separate site to the west proposes to use Barn Hill lane for access, as part of a separate application (19/891). There is no dependency on the subject appeal.

## 7.0 Assessment

7.1. It is proposed to consider the appeal under the following broad headings:

- Land use and Development Principle
- Design and Layout
- Access and Transportation
- Drainage

### 7.2. Land use and Development Principle

7.2.1. The subject site is zoned for residential use and is located adjacent to the town centre. The lands are currently vacant and their redevelopment for residential purposes is regarded as an appropriate and positive development. I note the relatively low levels of growth provided for in Ardee in the County Development Plan Settlement Strategy, however, the subject infill development by reason of its location and scale is considered to be in line with the overall settlement objectives of the plan.

Under S.97 of the act, as amended by the Urban Regeneration and Housing Act 2015, Section 96 does not apply to development consisting of 9 or fewer houses. The planning authority have confirmed that a certification of exemption was issued to the applicants in this regard (ref. EC 2019/14).

### 7.3. Design and Layout

7.3.1. This backland site is bounded by low intensity uses on all sides, notwithstanding its central location. The proposal is effectively an extension to the existing Tierney Avenue estate, albeit introducing two-storey houses at this location. The proposed densities would generally be in accordance with the guidelines for Sustainable Residential Development in Urban Area and are acceptable for this location.

7.3.2. The development provides three no. 3-bed terraced units and two no. 2-bed terraced units. One 3-bed detached bungalow is also provided. Terraced units are provided with satisfactory levels private open space. Extensive front paved areas are also proposed, with building set-back of up to 12m from the front boundaries. I consider



that the southern terrace of House Type 1, should be brought forward to improve enclosure of the space and reduce the extent of hard landscaping on the site. Having regard to separation and orientation, I do not consider that undue impacts on existing adjoining residential properties will arise in terms of overlooking or overshadowing.

- 7.3.3. The design of the detached bungalow is in keeping with existing housing in Tierney Avenue. While it is provided with lower levels of private amenity space, this would not be significantly different to existing houses in the estate. I note that the southern elevation of this dwelling is incorrectly shown on the drawings submitted. I also consider that additional windows should be provided on the western elevation serving the kitchen of this dwelling. Revised plans should be submitted in this regard.
- 7.3.4. There will be some loss of open space / green space within Tierney Avenue of approx. 110-sq.m.. This grassed space is well maintained, although it would not appear to be actively used. I do not consider that the loss of this space would constitute a significant impact on adjoining residential amenity. I note that the planning authority indicate that the estate is not taken in charge.

#### **7.4. Access and Transportation**

- 7.4.1. The appeal site has frontage to the estate road of Tierney Avenue to the east and also to the laneway at Barn Hill to the west. The lane to the west serves the adjoining surgery, an existing dwelling and commercial parking at the rear of the main street. There are no footpaths or public lighting along the laneway. The Tierney Avenue estate road serves six houses and is constructed to a good standard, with capacity to serve the proposed development. I would regard this as the preferred access to the subject site.
- 7.4.2. The proposed entrance from Tierney Avenue adjoins an existing dwelling and appellants have raised an issue with regard to conflicts between the proposed access road and the vehicular access to that property. I note that the existing dwelling is provided with an off-street car parking space. Having regard to the layout of proposed development and the number of houses to be served, I do not consider that the development will give rise to the creation of a traffic hazard or conflicting

vehicle movements. There is adequate scope within the existing estate to accommodate visitor car parking, while the proposed development provides five additional off-street car parking spaces.

## 7.5. **Drainage**

I note reports on the file with regard to the existing foul sewer in Tierney Avenue to which it is proposed to connect. I would recommend that the identified surveys be undertaken pre and post development to ensure that the integrity of this sewer line is maintained and not compromised by the proposed development.

OPW flood mapping indicates that the site is not within an area identified as being at risk of flooding. The proposed development incorporates SUDS design measures, including the use of permeable paving, provision of on-site soakaways and discharge to ground via a proprietary Aqua-Cell soakpit. The design is stated to be based on a 1:100 year event.

I note that the surface water drainage proposals set out in the engineering report was not updated to reflect the revised designs submitted at further information stage. In particular, driveway areas are significantly underestimated and the revised plans show no provision for soakpits in front gardens as specified. I note the Infrastructure report on the application and the conditions attaching to the planning authority decision to grant permission. In the event of a decision to grant permission I would recommend that the final design of surface water drainage network be agreed with the planning authority.

## 8.0 **AA Screening**

- 8.1. The appeal site is not located proximate to any European site and there are no direct connections to any such site. The closest site is Stabannon and Braganstown Special Protection Area (site 004091) situated 4.5km north east of the site. There is no connection to this site. Dundalk Bay Special Protection Area (site 004026) and Dundalk Bay Special Area of Conservation (000455) approx. 13km away.

- 8.2. The proposed development is to connect to mains sewerage services and discharge to the Ardee wastewater treatment plant. This plant was upgraded in 2018 and discharges to the River Dee. The plant is subject to licensing by the Environmental Protection Agency under Wastewater Discharge Regulations, which determine the discharge parameters, which itself is subject to the requirements of the Habitats Directive.
- 8.3. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Dundalk Bay Special Protection Area (004026) and Dundalk Bay Special Area of Conservation (000455), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.
- 8.4. In reaching this conclusion I took no account of any mitigation measures intended to avoid or reduce any potentially harmful effects on the objectives of any European Site.

## 9.0 Recommendation

- 9.1. That permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below.

## 10.0 Reasons and Considerations

Having regard to the scale and infill nature of the proposed development, the surrounding pattern of development and the provisions of the Ardee Local Area Plan 2010-2016 and the Louth County Development Plan 2016 – 2021, it is considered that subject to compliance with the following conditions, the proposed development would be an acceptable use of these lands, would contribute to the consolidation of the town, would not give rise to undue impacts on adjoining residential amenities, would not give rise to the creation of a traffic hazard and would be acceptable in

terms of public health. 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 7<sup>th</sup> day of October 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>The proposed development shall be amended as follows:</p> <p>(a) The front building line of the southern terrace of houses (House Type 1) shall be brought forward by approximately 3m.</p> <p>(b) The southern terrace of houses (House Type 1) should be provided with off-street parking and a landscaped front garden, with reduced extent of hard paving.</p> <p>(c) An additional window on the western elevation of House Type 2, serving the kitchen, shall be provided and revised drawings of all elevations of this house type shall submitted.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
3.	<p>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,</p>

	<p>the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>In particular, the design of the surface water drainage system shall be amended to reflect the revised site layout plans submitted to the planning authority on 7<sup>th</sup> October 2019 and the requirements of condition no. 2 above.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
6.	<p>(a) All foul sewage and soiled water shall be discharged to the public foul sewer.</p> <p>(b) Pre and post-construction surveys of the foul sewer in Tierney Avenue to which it is proposed to connect shall be undertaken in accordance with the requirements of the planning authority. In the event of any damage to this sewer being caused by the proposed development, this shall be remedied by the developer to the satisfaction of the planning authority.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, kerbs and pedestrian crossings shall comply with the detailed standards of the planning authority for such road works.</p> <p><b>Reason:</b> In the interest of amenity and of traffic and pedestrian safety.</p>
8.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located</p>

	<p>underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
9.	<p>All rear gardens shall be bounded with 1.8 metre high concrete block walls, suitably capped and rendered, on both sides, or by 1.8 metre high timber fences with concrete posts, to be agreed with the planning authority.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
10.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
11.	<p>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, parking and off-site disposal of construction / demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
12.	<p>a) The landscaping scheme shown on drg no. 1823-O-101-C, as submitted to the planning authority on the 7th day of October 2019 shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>b) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or</p>

	<p>diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>c) Prior to commencement of development, all trees and hedgerows which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
13.	<p>Proposals for an estate / street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</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>
14.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of</p>

	<p>development. The archaeologist shall assess the site and monitor all site development works.</p> <p>The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
15.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion, and maintenance until taken in charge by the local authority, of roads, sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The security to be lodged shall be as follows - (a) an approved insurance company bond in the sum of €23,100 (twenty three thousand, three hundred euros) or (b) a cash sum of €23,100 (twenty three thousand, three hundred euros) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or (c) such other security as may be accepted in writing by the planning authority.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>



16.	<p>The developer shall pay to the planning authority a financial contribution of €32,400 (Thirty two thousand, four hundred euro) 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. The application of any indexation required by this condition 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. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission</p>
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Conor McGrath  
Senior Planning Inspector

14/02/2019