



An
Bord
Pleanála

Inspector's Report

ABP-306080-19

Development	Demolition of a detached derelict shed and the construction of 11 no. dwellings
Location	Oliver Plunkett Road, Ballymore Eustace, Co. Kildare W91 KT38
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19/1029
Applicant	Bilbao Properties Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal
Appellant	Bilbao Properties Ltd.
Date of Site Inspection	19.02.2020
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located in the eastern area of Ballymore Eustace, on a brownfield site within the village boundary, with frontage to both Plunkett Road to the north west and Barrack Street/L2025 to the north/north east. Plunkett St. is a one-way system with traffic accessing Barrack Street/L2025.
- 1.2. There is a disused building on site. The hardstanding area around the building, which it is stated is a former car dealership, is relatively flat and overgrown. Grounds levels rise towards the east and this area is also largely overgrown and covered in grass and vegetation. There are a number of trees generally within the eastern section of the site. Where existing, roadside boundaries are low. The site is in a relatively prominent location at the edge of the village centre. Existing development in the vicinity is generally low-density residential. There is an area of public art/landscaping outside the site boundary at the junction of both roads.
- 1.3. The site has a stated area of 0.4964 hectares.

2.0 Proposed Development

- 2.1. Planning permission is sought for:
 - The demolition of a detached derelict shed,
 - The construction of 11 no. houses; 3 no. two-bed two-storey terraced houses, 3 no. three-bed two-storey terraced houses, 4 no. three-bed two-storey semi-detached houses and 1 no. four-bed single/two-storey house,
 - All associated roads, site services, boundaries, landscaping and site works.
- 2.2. The structure to be demolished has a stated floor area of 351sqm. The floor areas of the houses range from 102.44sqm to 184.42sqm and the heights range from 8.372 metres to 9.269 metres.
- 2.3. In addition to standard planning application plans and particulars the application was accompanied by a '12 Point Design Appraisal', a 'Transport Statement', a 'Roads & Services Report' and a 'Lighting Report'.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the following reasons:

1. The layout and design of the proposed development would be contrary to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of the Environment, Heritage and Local Government in May, 2009, which require new developments to respect the pattern and grain of existing development and also Policy VC 1 (Volume 2, Section 2.5.3) of the Kildare County Development Plan 2017-2023, where it is the policy of the Council to 'ensure that the design of any developments in the village centre are of high quality and do not impinge on the unique character of the village'. Accordingly it is considered that the proposed development by reason of its suburban layout and design which does not respect the established pattern and grain of development in Ballymore Eustace, would be contrary to these policies, would seriously injure the residential and visual amenities of the area, would set an undesirable precedent for similar residential developments in the village and therefore, would not be in accordance with the proper planning and sustainable development of the area.
2. It is considered that the proposed development by reason of the suburban scale, layout, design and character would seriously injure the character of the Protected Structure B29-37 (NIAH Ref. 11820025), Halfacre House and would therefore be contrary to Policy PS 2 of the Kildare County Development Plan 2017-2023 which seeks to protect the curtilage and special character of protected structures from inappropriate development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. Having regard to the proximity and orientation of the proposed development to the existing cottage at the western boundary of the subject site, the proposed development would seriously injure the residential amenity of that dwelling, by reason of visual dominance and overlooking, would depreciate the value of

property in the vicinity and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. The Planner's Report is the basis for the planning authority's decision. The Planning Officer considered that, while the principle of the development was in accordance with provisions and zoning objectives of the County Development Plan 2017-2023, there were serious concerns regarding the site layout and house design. The Report concluded that the development does not have regard to the unique character or setting of the village, does not enhance the streetscape or the public realm and it was considered that a refusal was the most appropriate decision.

3.2.2. **Other Technical Reports**

Environment Section – No objection subject to conditions.

Housing Section – Further information recommended but indicated no objection subject to a condition if it was decided to grant the application.

Kildare Fire Service – No objection subject to conditions.

Area Engineer – Further information recommended.

Roads, Transportation and Public Safety – Further information recommended.

Water Services – No objection subject to conditions.

3.3. **Prescribed Bodies**

Irish Water – No objection subject to conditions.

3.4. **Third Party Observations**

None received.

4.0 Planning History

The recent relevant planning history of the site is:

P.A. Reg. Ref. 17/796 – Permission refused in 2017 for the demolition of a garage and construction of 9 no. four-bedroom two-storey houses because (i) the layout and design would be contrary to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009, which requires new developments to respect the pattern and grain of existing development and Policy VC 1 of the County Development Plan 2017-2023 which also relates to development design, (ii) inadequate mix of house types, (iii) negative impact on a protected structure, Halfacre House and (iv) it was not demonstrated that the development would not endanger public safety by reason of traffic hazard and would not be prejudicial to public health.

5.0 Policy Context

5.1. Kildare County Development Plan 2017-2023

5.1.1. Chapter 4 (Housing), Chapter 12 (Architectural & Archaeological Heritage), Chapter 15 (Urban Design) and Chapter 17 (Development Management Standards) of Volume 1 are most relevant to this planning application.

5.1.2. Chapter 2.5.3 (Ballymore Eustace) of Volume 2 includes specific and detailed Village Plan Principles, Development Objectives and Zoning Objective maps among other information. The site is in an area zoned 'B: Existing Residential/Infill' and within an identified Zone of Archaeological Potential.

5.2. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) & Urban Design Manual – A Best Practice Guide (2009)

5.2.1. The Guidelines and Manual assist planning authorities in delivering quality residential development with an objective to produce high quality and sustainable developments. The documents are relevant to developments of the type subject of the application.

5.3. Natural Heritage Designations

- 5.3.1. The closest Natura 2000 site is Poulaphouca Reservoir SPA approx. 2.1km to the south east. The closest heritage area is Liffey Valley Meander Belt pNHA approx. 1km to the north west.

5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced suburban 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

The main issues raised in the appeal can be summarised as follows:

- All issues raised in the refused planning application were taken into account in the current planning application and no major issues were raised by the Local Authority in a pre-planning meeting.
- Contrary to the concern expressed by the Planning Officer the watermain has little or no bearing on the layout. The site shape and geography and the Council's observations in Planning Application 17/796 that established building lines should be respected predominantly dictate the layout. Any diversion of the watermain, if such diversion were possible from an engineering point of view, would, notwithstanding the Councils' Water Services Section report which stated that a substantial diversion operation was not recommended, make any proposal uneconomic.
- The terrace of three houses, Nos. 9-11, are not dissimilar in mass and height to the protected structure, Halfacre House, and they provide a hard edge to the

site representing the street edge of a village location. The terrace is set at an angle to the road similar to the angle set by Halfacre House. These angles have the effect of funnelling sightlines into the village from the L2025.

- There is adequate separation from the boundary and the terrace of houses takes into account the front and rear building lines of the house to the west, Rose Cottage.
- The site forms the link between one-off bungalows on large sites to the east and the village centre to the west. It is a transition point and the proposal for predominantly terrace and semi-detached houses allows a natural progression into the denser core of the village.
- The bulk of housing in the village is modern housing stock. The centre is comprised of older housing stock not suitable for modern living. The site is naturally separated from the core, created by Oliver Plunkett Road.
- There were no third-party objections. The majority of internal reports from the Council's own departments are supportive and had no serious issues.

6.2. Planning Authority Response

The main issues raised in the response can be summarised as follows:

- Due regard was given to the relevant policies and standards outlined in the County Development Plan 2017-2023, the land use zoning, planning history and all reports.
- The planning authority reiterates the concerns expressed in the Planning Report regarding layout, design, visual impact and impact on the public realm. The development is suburban in layout and design, visually dominated by car parking, unsympathetic to the established pattern of development in the village and would be contrary to Policy VC1 of the County Development Plan 2017-2023 which seeks to ensure the design of development in the village is of high quality and protects and enhances the unique character of the village.
- The Council requests the Board to uphold the decision to refuse.

7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Report and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Density
- Site Layout
- Impact on Protected Structure
- Impact on Adjacent Residential Amenity
- Appropriate Assessment

7.1. Principle of Development

- 7.1.1. The site is in an area zoned 'B: Existing Residential/Infill' within the village. The land-use zoning objective for areas zoned 'B' is to protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services. One of the primary aims of the zoning is to provide for further infill residential development at an appropriate density. Under Table 2.6 (Villages – Land Use Zoning Matrix Table) a dwelling is permitted in principle on 'B' zoned land.
- 7.1.2. Section 2.2 (Villages) of Volume 2 of the County Development Plan 2017-2023 states villages will continue to develop as local centres for services and the level of expansion will be controlled. Section 2.4 (Village Plans and Rural Settlement Policies) sets out policies which include facilitating sustainable population growth, density levels and mix of dwelling units. Ballymore Eustace is specifically considered under Section 2.5.3 of the Plan.
- 7.1.3. Having regard to the foregoing, I consider that residential development is acceptable in principle at this location.

7.2. Density

- 7.2.1. Table 4.2 (Indicative Density Levels) of Volume 1 of the County Development Plan 2017-2023 indicates that an edge of centre site in a village should be within the general density parameter of 20-35 units per hectare.
- 7.2.2. The development comprises 11 no. units on a 0.4964-hectare site; a density of approx. 22 no. units per hectare. As this is within the density parameter range the proposed density is acceptable.

7.3. Site Layout

- 7.3.1. The first reason for refusal in the planning authority decision stated that the layout and design of the development would be contrary to the Sustainable Residential Guidelines and Policy VC 1 of the County Development Plan 2017-2023. The Guidelines require new developments to respect the pattern and grain of existing development. The planning authority considered that the suburban layout and design of the development does not respect the established pattern and grain of the village.
- 7.3.2. I do not consider that Policy VC 1 is relevant to this application. Policy VC 1 states that it is an objective of the council to 'ensure that the design of any developments in the village centre are of high quality and do not impinge on the unique character of the village'. The Land Use Zoning Objectives map for the village clearly identifies the Village Centre area, zoned A. The site is in Zone B, 'Existing Residential/Infill'. As the zoned areas are separated by Plunkett Road at this location, I do not consider that the site can be considered as being within the village centre, and therefore Policy VC 1 is not applicable.
- 7.3.3. Development in the general vicinity comprises a variety of residential development types. A number of houses in the vicinity along Plunkett Road and Barrack Street are single-storey terraced houses or detached houses on relatively large sites. There is also more contemporary development such as housing on Barrack Street Close approx. 130 metres to the north and which is also located in a 'B' zoned area. I do not consider that any development on the subject site necessarily has to be designed in a pastiche manner to reflect the existing type of development within the village centre area. This is not a village centre site and I do not consider that a contemporary-type

development, such as the house types proposed, would negatively impact on the unique character of the village centre area.

- 7.3.4. Notwithstanding, I do not consider that the site layout as proposed is appropriate. The house footprints have an awkward relationship with each other, in particular the two blocks of terraced units, which have an angled footprint giving the impression that they are being shoehorned in at the edges of the site to increase the number of units. The terrace of units, Nos.1-3, are at the highest point of the site with a proposed finished floor level 2.75 metres higher than the terrace of units Nos. 9-11. Its footprint has a somewhat awkward juxtaposition with the existing house adjacent to the east. There is a significant vehicular circulation and car parking area to the front of this terrace. While the private open space areas to the rear of the houses exceed the minimum space required, the shapes of the rear garden areas to No. 1, in particular, but also No. 3, are poorly considered. House Nos. 4-8 are generally acceptable; however, the footprint of Nos. 1-3 means the detached house, No. 4, has an incongruous single-storey element because of overlooking potential to the terrace due to its location to the rear of the terrace. The terrace of units Nos. 9-11 has an awkward juxtaposition with the existing house to the west, Rose Cottage, and with the adjacent semi-detached house, No. 8. In addition, while the size of the rear garden areas exceeds minimum requirements their shapes are also poorly considered.
- 7.3.5. The main area of public open space is cited as 592sqm. This exceeds the minimum 10% rate for brownfield sites set out in Section 17.4.7 (Public Open Space for Residential Development) of the Plan. It is located between the public roads and the internal circulation roads. Car parking for the terrace of units Nos. 9-11 is provided adjacent to the open space area and a substantial turning head is also constructed into the open space area. Both the submitted 'Transport Statement' (Section C) and Page 12 of the '12 Point Design Appraisal' incorrectly state that all car parking is within the curtilage of each house. In conjunction with the parking area to the front of the terrace of units Nos. 1-3, I consider that the proposed layout is car dominated.
- 7.3.6. The grounds of appeal states that the watermain through the site has not dictated the layout. Public Open Space B, with a stated area of 141sqm, is proposed within the watermain wayleave. This area is relatively narrow, poorly located and would be subject of negligible passive surveillance. The south eastern corner of the site is a walled-off 'wildlife area'. The purpose of this is unclear. However, given its location to

the rear of the houses and with the presence of the watermain which means nothing can be built it appears this area is an area of the site left over, unusable as public open space as a result of the layout, and is referred to as a 'wildlife area'.

- 7.3.7. Policy HD 1 of the Plan states that it is a policy of the Council to ensure that all new residential development within the county is of high-quality design and complies with Government guidance on the design of sustainable residential development and urban streets. Having regard to the awkward positioning of the two terraced blocks; their relationship with both the existing and proposed houses and the public roads, the extent of car parking and circulation space and the position of Public Open Space B, I consider that the proposed layout would be contrary to the Sustainable Residential Development in Urban Areas Guidelines, 2009, in particular Chapter 6 (Small Towns and Villages), and the provisions of the Kildare County Development Plan 2017-2023, in particular those contained within Chapter 4 (Housing), Chapter 15 (Urban Design) and Chapter 17 (Development Management Standards).

7.4. Impact on Protected Structure

- 7.4.1. The second reason for refusal cited in the planning authority decision was that the development would, because of its suburban scale, layout, design and character, seriously injure the character of the protected structure, Halfacre House, and be contrary to Policy PS 2 of the County Development Plan 2017-2023. Halfacre House is located on the opposite side of Plunkett Road at the junction with Barrack Street. It is designated as protected structure B29-37. It is also contained within the National Inventory of Architectural Heritage, Reg. No. 11820025, where it is described as a detached four-bay two-storey house dating to c.1860.
- 7.4.2. Policy PS 2 seeks to protect the curtilages of protected structures and to refuse planning permission for inappropriate development within the curtilage or attendant grounds of a protected structure. I do not consider that Policy PS 2 is relevant to this application as the site is a brownfield site, separated by a public road from Halfacre House and the site is not within the curtilage of Halfacre House or within its attendant grounds.
- 7.4.3. Notwithstanding, Policy PS 3 states it is the policy of the Council to require that new works will not obscure views of principal elevations of protected structures. The site

subject of the application is a brownfield, edge-of-centre site that must be appropriately developed in a sustainable manner. A balance must be struck between retaining principal views of Halfacre House with an appropriate density of development on the subject site. It can be anticipated that the site will be developed in some form and it is unavoidable that any development would affect the visibility of Halfacre House to some degree. However, I do not consider that the proposed development would affect the visibility of Halfacre House to such a degree that it would contravene Policy PS 3 and I do not consider that the development can be deemed to have a significant undue adverse impact on the setting or character of Halfacre House.

7.5. Impact on Adjacent Residential Amenity

- 7.5.1. The third reason for refusal specifically relates to the impact on the existing house to the west, Rose Cottage, by reason of visual dominance and overlooking as a result of the proximity and orientation of the proposed development. Rose Cottage has a first-floor side elevation window and a conservatory to the rear.
- 7.5.2. As noted in Section 7.3, the proposed terrace of units Nos.9-11 have an awkward relationship with both Rose Cottage and the adjacent proposed semi-detached house, No. 8. The footprint is angled and does not continue the building line set by Rose Cottage apart from at its north western corner. No. 11 is approx. 2 metres from the site boundary and 3.6 metres from Rose Cottage. No. 11 has a first-floor rear elevation bedroom window which, it is considered, would result in undue overlooking impact to the rear area of Rose Cottage.
- 7.5.3. Therefore, I consider that the development would seriously injure the residential amenity of the adjacent house by reason of overlooking. However, given the urban location and the position of the proposed terrace largely to the side of Rose Cottage I do not consider that it would have a visually dominant or overbearing impact.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a fully serviced location remote from and with no hydrological pathway to 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

I recommend that the planning application be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' published by the Department of the Environment, Heritage and Local Government in May, 2009, require a high quality approach to the design of new housing. It is also the policy of the planning authority, as set out in the Kildare County Development Plan 2017-2023, to ensure that all new residential development is of high-quality design. Having regard to the proposed site layout it is considered that the development would constitute an unattractive and inappropriate housing scheme by reason of the awkward positioning of the two blocks of terraced housing, the car dominated layout and the location of Public Open Space B. It is considered that the proposed development would, therefore, conflict with provisions of the said guidelines and with the policies of the Development Plan, would seriously injure the amenities of the area and of property in the vicinity, and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the proximity and orientation of the proposed development to the existing house to the west, Rose Cottage, the proposed development would seriously injure the residential amenity of that house by reason of overlooking, would depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Anthony Kelly

Planning Inspector

04.03.2020