



An
Bord
Pleanála

Inspector's Report ABP – 306509 – 20.

Development	Construct 6 no. dwelling houses, new vehicular entrances and all associated site works and services.
Location	Cornageeha, Pearse Road, Sligo.
Planning Authority	Sligo County Council.
Planning Authority Reg. Ref.	19/447.
Applicant	Seafeld Securities Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant.
Types of Appeal	Third Party
Appellants	1. Cecilia McGuinness. 2. Tom McGuinness.
Observer	None.
Date of Site Inspection	26 th March 2020.
Inspector	Mairead Kenny.

1.0 Site Location and Description

The site is a green-field plot located adjacent the R287 (Pearse Road) in a suburban location in Sligo town. This area is characterised largely by low-density detached dwelling houses on fairly large plots of land and the presence of a large GAA facility. The site is fronted by a footpath the roadside boundary finished with a post and rail fence. There is a set of traffic lights at the regional road to the north.

The subject site is bounded to the north and south by residential development. The house to the south is separated from the site by a substation and a gated laneway which adjoins the western site boundary. To the north are two houses also separated by a private lane way. The house to the rear is a single storey house. Its gable wall faces towards the site and it also contains a projecting bay window at the front, the side panel of which faces towards the site. The other house is a two-storey house which is part of a terrace at Pearse Road. The former gable wall of that house has been altered and it is now the front façade containing the front windows and the main door into the property.

The stated site area is 0.18 hectares. The site survey drawings indicate that the site levels vary between a typical level of about 54 m OD at the roadside frontage and a typical level of about 52.5 m OD at the north-western corner. To the north-west of the site is a small strip of land which is in the applicant's ownership but which is not part of the application site. It is at this location that there is stated to be some growth of Japanese Knotweed.

Photographs which were taken by me at the time of my inspection are attached.

2.0 Proposed Development

Permission is sought for development of 6 no. dwelling houses, to comprise 3 no. terraced houses, a pair of semi-detached and a single detached house.

The application drawings indicate the following:

- Areas of open space adjacent the vehicular entrance and parking provide for a total of 320 m² public open space, indicated to be 18% of the site area, and indicative landscaping proposals including feature trees and soft landscaping.

- Within the applicants holding but outside of the site and not affected by the development is a separate area of open space to the rear of houses 5 and 6 and separated by a proposed boundary wall.
- Rear gardens range in size from 50 m² to 88 m².
- 2 no. vehicular entrances are proposed, one to serve houses 2-6 and a separate entrance to serve the detached dwelling house (House 1).
- 10 no. shared parking spaces positioned at the front of houses 2-6 and a separate paved area to the front of House 1.

Visibility splays and junction design indicated in accordance with DMURS.

- A surface water attenuation area located adjacent the site entrance.

The document entitled Engineering Planning Report describes wastewater, surface water and water mains details and layouts.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to conditions including:

- Agreement on boundary treatments and comprehensive landscaping scheme.
- Specifications and further agreement in relation to roads, footpaths, public lighting, site services and areas to be taken in charge.
- Site specific Construction/Demolition Waste Management and Environmental Management Plan to be agreed.
- Hours of construction to be between 08:00 hours and 18:00 hours Monday to Friday and between 08:00 hours and 16:00 hours on Saturdays.
- Written agreement in relation to an amended layout for the access point to house number 1.
- Submission for the written agreement of the planning authority of a combined stage 1 and stage 2 road safety audit and on completion, a stage 3 road safety audit.

- The space between houses 1 and 2 to be rationalised to reduce the large common square area at the rear of the houses.
- Japanese Knotweed management survey for the site and immediately adjoining lands to be completed and if the development is affected a species management plan shall be agreed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main points of the planner's report include:

- With a site area of 0.18 ha the proposed 6 no. houses would result in a density of 33 units per hectare on a site zoned for 35 – 50+ units per hectare.
- In the particular context of the site and having regard to 16.2.1 of the SEDP, the small size of the site and its configuration including the unusual pattern of development to the north, the proposed density is acceptable.
- The mix of units required under policy GP–HOU–3 is not feasible.
- As there is a multitude of existing entrances onto Pearse Road the development would not significantly alter traffic volumes and movements. Issues raised in the Area Engineer's report can be dealt with by condition.
- Provision of public open space exceeds the development plan requirement and is acceptable. Rear garden spaces are all in excess of the minimum standard of 48 m² which may be acceptable under the SEDP.
- The proposed development will not result in significant overlooking or overshadowing. To the north of the site house no. 6 has a relatively blank side elevation and no significant overlooking will therefore occur. There is no direct overlooking of windows and adequate separation distance is provided. Having regard to site levels, separation distance and relationship between proposed development and existing development significant overshadowing would not occur. No. 8 Cairns View is significantly separated. The dwelling to the rear includes a southern gable facing onto the proposed development and only two small windows.

- There is no record on the SCC mapped records of Japanese Knotweed on the site. There may be Japanese knotweed within the applicant's ownership but not within the actual site boundary. It would not appear to encroach on the development. This should be clarified however prior to commencement.
- As the site is on the vacant sites levy a reduction in the development contribution payable.

3.2.2. Other Technical Reports

Environment Section

No objection subject to conditions relating to waste, maintenance of clean roads, hours of construction, foul and surface water arrangements.

Area Engineer's Roads Report

This sets out requirements relating to entrances, public lighting, surveys and road construction and design details requiring further agreement prior to commencement.

3.3. Prescribed Bodies

Irish Water – no objection subject to conditions.

3.4. Third Party Observations

The observations received reflect the issues raised in the appeals.

4.0 Planning History

Under PP4527 a pre-planning consultation meeting was held in 2018. The record indicates that the subject development under discussion was for a development of 6 to 7 houses. The proposed development was considered to be acceptable in principle and with regard to density.

In the subsequent meeting in 2019 recorded under reference PP 4015, there is no objection in principle to the design and layout subject to detailed assessment at application stage. This layout replicates the existing proposal before the Board

Details of procedures in relation to the Vacant Site Levy under SL–PS–20 are on file.

Two invalid appeals relate to this application – ABP-306450 and ABP-306451.

PD 4726 related to the proposed construction of 2 no. houses at the rear of 8 Cairns View, Pearse Road, Sligo. The reason for refusal by the Board referred to overdevelopment. The date of decision is 14 February 2000.

5.0 Policy Context

5.1. Development Plan

The relevant plan is the Sligo County Development Plan 2017 – 2023.

Section 3.5.1 of this plan incorporates the zoning and objectives of the Sligo and Environs Development Plan 2010 – 2016 until the adoption of a Local Area Plan for Sligo and environs. This is pending.

The subject site is zoned R3 Medium/High Density Residential Development, the objective of which is to promote development of housing with a gross density varying between 35 and 50 (or more) dwellings per hectare. R3 zones are stated to be of particular importance being generally located close to the city centre, employment sources, transport corridors and neighbourhood centres. Innovative layout and design will be required in these areas with high quality landscaping and pedestrian/cycle connections with surrounding areas.

GP–HOU–2 is to require high quality and innovation in layout and design of new residential developments particularly with regard to environmental sustainability and energy efficiency, site layouts and internal layouts.

GP–HOU–3 is to ensure provision of a suitable range of house types and sizes to facilitate changing demographic structure and increasing trend towards smaller houses and the mix of house types should generally provide for 30% one – two bedrooms, 30% three bedrooms and 20% for bedrooms.

PIC–HOU–3 is to ensure a balance between the reasonable protection of existing residential amenities, the character of the area and the need to provide for sustainable residential development.

5.2. Natural Heritage Designations

The nearest Natura sites are approximately 2 km from the application site.

5.3. EIA screening

It is considered that the requirement for EIA can be excluded based on a preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeals

The two appeals by Cecilia McGuinness and Tom McGuinness who reside in the two houses to the north of the site raise similar issues, which are summarised below.

- By careful choice of words the planner avoids having to apply certain standards and ignored the Development Management Guidelines.
- The planning authority fails to take into account the position of the front elevation of the two existing houses and the requirement for 35 m separation.
- The side view from the bay window at the front of my property will give a direct line of vision to the front of the development at a distance less than the recommended 22 m.
- The 9.5 m gable height of the development, 9 m from my south facing property will result in significant overshadowing and overlooking of my front door, living room, bedroom and back garden.
- Green areas are close to the development plan threshold of 15%.
- Orientation of the semi-detached and terrace should relate to the road.
- The car park to the front is not in keeping and is unattractive.
- The entry point as close to the entry point of all houses and may give rise to safety issues and in particular will impact drivers and occupants from Cairns View. The area is very busy at peak commuting times and during events.

- Other potential concerns include presence of Japanese Knotweed, potential sewage smells, surface water run-off from car park which could impact my property, noise and light pollution, impact on boundary features.
- Site is overdeveloped. Permission was previously refused for two houses for reasons relevant to the current case - reference PD 4726.

6.2. Applicant Response

The applicant's response includes the following points:

- The boundary treatments at the northern end of the site would consist of a 1.8 m high wall, which would militate against perceived overlooking/privacy concerns and at the area facing 8 Cairns View, would comprise a low wall and a beech hedge. These will ensure no overlooking and would mitigate views from the appellant's house to the car park. The provision of a high mature beech hedge would also mitigate against perceived light pollution concerns.
- Overshadowing will be minimal and uninterrupted sunlight will be maintained at Cecilia McGuinness's house, which is primarily east facing. The proposed block to the south of her property will have minimal overshadowing on habitable rooms. The setting back of the building line obviates any overshadowing issues relating to Tom McGuinness's house.
- The development is acceptable in terms of traffic safety and in accordance with DMURS requirements. There is no conflict with the laneway to the north.
- External finishes can be agreed. The brick finish is considered suitable.
- Stormwater drainage has been comprehensively considered. Any assertion relating to sewage and smells is unfounded.
- Preparation of a Japanese Knotweed Management Plan would be acceptable.
- The planning policy context has dramatically changed since February 2000.

6.3. **Planning Authority Response**

The planning authority response notes the grounds of appeals, which relate largely to impacts on residential amenity by reason of overlooking and/or overshadowing, which issues have been addressed in the planner's report.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

The issues arising in this appeal may be considered under the following headings:

- density and layout/building line
- impact on residential amenity
- other issues
- appropriate assessment.

7.1. **Density and Layout / Building Line**

The appeals raise issues relating to the building line and the proposed development is described as constituting overdevelopment.

Regarding the density of the site the planning authority noted that it is marginally below the minimum of 35 units per hectare under the SEDP and that it provides for 33 units per hectare equivalent. I agree with consideration of this matter by the planning authority. The site is not large (0.18 ha) and amongst the constraints to its development are the pattern of development at the sites to the north. By the setting back of the building line to align with the house to the rear, which effectively is what is proposed and the reservation of the area to the front for open space and parking, there has inevitably been some consequences in terms of reduction of development

density. The approach is also unusual in terms of the building line but the planting of feature trees as proposed in the open space close to the public road frontage will in my opinion ensure that there is adequate integration of the subject proposal with the low density character of this area. Further, as noted by the applicant the layout serves to avoid a multiplicity of vehicular entrances and to provide for supervised communal open spaces and car parking. Adequate parking (2 no. spaces per house) and 18% communal open space together with rear gardens all of which are in excess of the minimum of 48 m² are provided.

On balance, I consider that the overall layout and the building line, together with the density achieved are acceptable. The development will provide sufficient public and private open space for future occupants. Ample provision is made for parking in addition.

One of the conditions of the decision of the planning authority sets out a specific requirement relating to rationalisation of the space between houses 1 and 2 to reduce the common square area at the rear of the houses (condition 17). I take this to be a reference to the hard surfaced as opposed to the green areas. However this area is gated and in this regard I do not see a need for the condition.

All other details are appropriate for consideration under a landscape plan.

7.2. Impact on residential amenity

The appeals raise issues relating to overlooking, overshadowing, visual amenity, light pollution, noise and odours.

I consider that it is not unreasonable to describe aspects of the design and layout of the houses to the north as unusual and impacting the potential development of the site. As addressed above I consider that the design and layout respond well to the presence of these houses and the design of the buildings including the fact that the front façade of one house is orientated perpendicular to Pearse Road.

I consider that the potential for overlooking can be excluded based on the following:

- the fenestration of the existing single-storey house
- the provision of a 1.8 m high boundary wall close to that house
- the design of the gable wall of house 6

- the separation of the proposed houses from the two-storey house
- the provision of a high beech hedge or other agreed boundary in the vicinity of that house.

I consider that there is no likelihood of significant overshadowing of the existing houses taking into account the following:

- the fenestration of the existing single-storey house
- the separation of the proposed houses from the two-storey house.

The outlook from the front of one of the appellant's houses would be towards the car park and there would be views from the first floor of that house. However, this is an urban area and there is nothing intrinsically unacceptable in this regard. The design of the houses is suitable subject to agreement on the external finishes. I agree with the general thrust of the proposed external finishes but consider that it is reasonable to allow for some agreement with the planning authority in terms of the detail. I consider that the development is acceptable in terms of visual amenity.

Regarding light pollution, subject to agreement on an appropriate boundary detail between the site and the appellant's houses, no issues would arise.

As noted by the first party, this is a relatively heavily trafficked area and I do not consider that there would be additional significant noise related to vehicular or any other activities at the site. Subject to a condition relating to hours of construction and the implementation of a CEMP, I consider there would be no significant impacts on nearby residents related to noise.

I agree with the comment in the first party response document that there is no basis for any concerns relating to odours.

My comments above referred to the appellant's houses but I have also considered any potential impacts on other nearby residential properties.

In conclusion I am satisfied that the proposed development would not adversely impact on the residential amenities of the area.

7.3. Other issues

I consider that the development is acceptable in terms of traffic safety having regard to the location of the site within the 50 kph zone. Details of the roads and footpaths can be addressed by condition.

I note the reference in the appeals to the Development Management Guidelines but consider that the relevant policy considerations are those set down in the development plan. I consider that the proposed development is substantially in compliance with the guiding policies and is in accordance with proper planning and sustainable development of the area.

Regarding the planning history to which the appellant refers the planning context has changed considerably since that case was decided.

The possible presence of Japanese knotweed at the portion of land to the west of the site, which is in the applicant's ownership but not part of the site, has been identified including in reports of planning authority officials. The latter reports indicate that the species does not appear to impact on the application site. I recommend the attachment of a condition relating to preparation and implementation of an Invasive Species Management Plan.

There is a Certificate of Exemption under Part V of the Planning and Development Act on file.

7.4. Appropriate assessment

Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the likely emissions arising from the proposed development, the availability of public water and sewerage in the area, and distance to the nearest European sites, I am satisfied that 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 permission be granted for the reasons and considerations and subject to the conditions below.

9.0 Reasons and Considerations

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity 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 carried out and completed in accordance with the plans and particulars lodged with the application, 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 the commencement of any work on site and overall landholding, the developer shall commission and implement an Invasive Species Management Plan. The Plan shall be prepared by a suitably qualified and experienced specialist.

All areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority.

This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to identify and treat any invasive species which may be present on and adjacent the site and to ensure the satisfactory development of the public open space areas and their continued use for this purpose.

3. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, detailed specification for the boundary finishes.

Reason: In the interest of residential amenity.

4. The internal road network and access including the junction with the public road shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interest of amenities and public safety.

5. Parking spaces shall be clearly marked to each unit within the scheme and the spaces shall not be sold or let independently of the residential units. Parking spaces for visitors and disabled parking shall also be clearly marked as such. All parking spaces shall be constructed to be capable of accommodating future charging points for electrically operated vehicles.

Reason: In the interest of traffic safety and convenience.

6. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

7. Prior to commencement of development, proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to the planning authority for written agreement.

Reason: In the interest of orderly development.

8. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

9. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

10. Prior to commencement of construction of the houses, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to the planning authority for written agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

11. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

12. Prior to commencement of development, a Construction Management Plan shall be submitted to the planning authority for written agreement. 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 interest of amenities and public safety.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and

amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

14. 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 the 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.

Mairead Kenny
Planning Inspector

12th May 2020