



An
Bord
Pleanála

Inspector's Report

ABP-306923-20

Development	Construction of 8 houses, demolition of existing detached domestic garage to the rear of the applicants existing house.
Location	Newtownforbes , Co. Longford
Planning Authority	Longford County Council
Planning Authority Reg. Ref.	19204
Applicant(s)	Francis McGrath.
Type of Application	Permission.
Planning Authority Decision	To grant.
Type of Appeal	Third Party
Appellant(s)	Rita McHale.
Observer(s)	None
Date of Site Inspection	8 th July 2020.
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The 0.504ha appeal site is situated in the town of Newtownforbes, County Longford. The site lies to the north of the public road, the L1005, which joins the Main Street (N4) approximately 47m west of the appeal site. The site comprises the applicant's residential property and detached garage, which lie to the south east of the site, and lands to the north and west of the property comprising undeveloped grassland. The site is bounded to the north and east by mature trees. There are also trees along the northern boundary of the applicant's rear garden and there is a single roadside tree to the south west of the applicant's property. To the east of the appeal site is the appellant's property comprising no. 1 Railway Court.

2.0 Proposed Development

- 2.1. The proposed development, as revised by way of further information (18th December 2019), clarification of further information (28th January 2020) and unsolicited further information (11th February 2020), comprises construction of 8 semi-detached houses to the west and north of the applicant's dwelling. As revised by the Site Layout Plan received by the planning authority on the 28th January 2020, indicates that the existing garage serving the applicant's dwelling will be retained.
- 2.2. Six of the proposed dwellings face the public road and two properties lie to the rear of the site and the applicant's dwelling. The six dwellings facing the public road are two-storey and will be finished in a mix of painted nap plaster, grey brick, zinc cladding and blue/black slates. The two dwellings to the rear of the site are single storey and will be finished in nap plaster, stone clad wall to entrance and blue/black roof tiles.
- 2.3. Access to the site is proposed from the public road, with a spur (and vehicle turning bay) off the internal access road to provide access to the rear of residential properties facing the public road. A public footpath is proposed along the frontage of the site, to connect to existing, and alongside internal roads within the development. Car parking spaces are provided on the access road to the rear of the dwellings facing the public road and to the front of the two semi-detached bungalows to the rear of the site.

2.4. Water supply is proposed from the public main and foul water and surface water will be disposed of via a new connection to the public sewer and public sewer/drain, respectively. An assessment of invasive species on the site identifies two locations in which Japanese Knotweed is present. The Invasive Species report states that the plant has been chemically treated over a three year period, with some regrowth evident on one location in 2019. It sets out a methodology for the on-going treatment of the species in conjunction with the development of the site.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 20th February 2020, the planning authority decided to grant permission for the development subject to 15 conditions including:

- C2 – Implementation of treatments and recommendations set out in Invasive Species Report.
- C3 – Governs details of external finishes.
- C4 – Governs boundary treatments.
- C5 – Requires the site to be landscaped in accordance with a scheme to be submitted to the planning authority for written agreement in advance of commencement.
- C6 – Sets out roads requirements (width of public road, provision of footpaths, drainage gully frequency, stormwater runoff, Construction Traffic Management Plan and public lighting).
- C7 – Irish Water condition.
- C10 – Requires that any surface water arising on site shall be disposed of within the site with surface water attenuation to be provided and constructed in accordance with 'Dublin Corporation Storm Management Policy Technical Guidelines'.
- C12 – Requires that existing road and land drainage in the area shall not be adversely affected by the development.

- C14 and 15 – Require payment of a bond and development charge, respectively.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 12th September 2019 – Considers the development to be acceptable in principle having regard to the location and zoning of the site. Raises concerns regarding overall design and layout of the development to take into account location and gradient of the site and provision of usable public open space, excessive density of development, need to decommission and divert the existing public sewer over third party lands, inadequate provision of car parking spaces and creation of new entrances onto the public road. Recommends further information in respect of the above matters, landscaping plan for the site, justification regarding under provision of private open space and presence of invasive species on the site.
- 14th January 2020 – Recommends further information in respect of the matters raised by Irish Water and in Road Design report and in observations that Japanese Knotweed is also present in the centre of the site (see below).
- 13 February 2020 – Recommends granting permission subject to conditions.

3.2.2. Other Technical Reports

- Road Design (6th September 2019) – Proposed layout creates 7 no. new entrances onto the public road and gives rise to reversing manoeuvres onto or off the road. No consideration of proper development of the L-1005 in the plans for the development e.g. layout, section, provision of footpath. Recommends further information. Subsequent report, referred to in Planning Report (14th January 2020) recommends applicant provides details of public road showing proposed carriageway and public footpath.
- Irish Water (31st July 2019) – Require applicant to submit pre-connection enquiry form to determine feasibility of connection to IW network. Subsequent report (9th January 2020) recommends redesign of layout to omit small loop and comply with IW specification and submission of pre-

connection form. Final report (17th February 2020) confirms that the development can be accommodated and recommends a condition which requires applicant to adhere to IW standards and conditions.

- Fire Department (9th September 2019) – Refers to the requirements of the Building Control Act 1990 and Regulations 1997 and recommends design and construction in accordance with these.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

3.4.1. There are two third party observations on the proposed development. These are made by Rita McHale and Paul O’Flynn, residents of nos. 1 and 14 Railway Court, properties lying immediately south east and east of the appeal site. Matters raised are:

- **Non-disclosure.** Non-disclosure regarding planning history of the site under PA ref. 08327 and reasons for refusal which include overlapping site boundaries. Incorrect site layout plan. Non-disclosure and loss of mature trees on the site. Destruction of biodiversity and impact on endangered species (bats). Proposed boundary walls under foliage of significant trees.
- **Application form.** Application form does not refer to change of use which is proposed and omits details of owners address and interest in land.
- **Invasive species.** Presences of Japanese Knotweed on site. No evidence of treatment carried out. Three years insufficient to remove Japanese Knotweed completely.
- **Impact on surface water.** Development will exacerbate poor drainage of Railway Court Estate and Clonguish Court affecting the appellant’s property. On street drainage unable to cope as water accumulates at these manholes during heavy rain causing street flooding. Sewer system will be put under pressure by the development at old secondary school.

- **Traffic.** Limited parking on L1005 and National Road N4. Congestion on local roads during funerals and mass times. Development will be another parking ground for funeral goers. Haphazard parking will also create road blocks and traffic jams and can make entry onto the N4 from L1005 difficult (parked cars) and cause tailbacks. HGVs use L1005 as a short cut.
- **Amenity and landscape character.** Impact on Newtownforbes skyline with loss of mature trees on the site.
- **Impact on privacy.** Development is too close and intrusive. Impact on privacy. Development is less than 3m from boundary fence from 14 Railway Court and will impact on enjoyment of rear garden. Overlooking of kitchen and French doors.
- **Bats.** Bats dwell in the trees on the proposed development.
- **Services.** Local primary school is at capacity. Where will children attend.

4.0 Planning History

- PL08/327 – Permission refused for a dwelling on the appeal site, on land to the rear of the applicant’s property, on grounds of deficiency in public sewerage, overlooking and inadequate access (including overlap of boundaries of the site and permission granted under PA ref. PL04/529 in respect of the dwelling/scheme to the south east of the site).
- PL04/1149 – Permission granted in 2005 for 8 no. two storey houses on the appeal site, on land to the west of the applicant’s dwelling. The development was subject to 14 conditions.
- PL04/529 – Permission granted, following outline under PA ref. PL00/727, for a dormer dwelling on site no. 1 Lismoy, Newtownforbes (to the south east of the appeal site).

5.0 Policy Context

5.1. Development Plan

5.1.1. The appeal site lies within the development envelope of Newtownforbes. It is zoned in part for 'Residential', land facing the public road to the west of the applicant's property, and in part for 'Established Residential', land to the rear of the applicant's property.

5.1.2. The zonings provide for:

- Residential – To primarily provide for residential development; to preserve and improve residential amenity, dwellings and compatible uses including social and community facilities, open spaces and local shopping facilities.
- Established Residential – The zoning is intended primarily for established housing development but may include a range of other uses particularly those that have the potential to improve residential amenity of residential communities, including small scale residential, playing fields etc. It is stated that *'a balance must be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide infill development'*.

5.1.3. The Plan also recognises the importance of green infrastructure within the County and its role in assisting in halting the loss of biodiversity, providing recreational open space and landscape character and amenity.

5.2. Natural Heritage Designations

5.2.1. The appeal site is situated c.1.25km to the east of Lough Forbes which is designated as a Special Area of Conservation and proposed Natural Heritage Area, Lough Forbes Complex SAC and pNHA (site codes 001818) and as a Special Protection Area (site code 004101).

5.3. EIA Screening

5.3.1. The proposed development is of a type that constitutes an EIA project (involving construction works and demolition). However, it is proposed on land within an

existing settlement and will be connected to existing services infrastructure and is not of a scale likely to give rise to significant environmental effects or to warrant environmental impact assessment (Class 10, Part 2, Schedule 5, P&D Regulations, 2001 (as amended), urban development, housing).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third party appeal is made by the occupier of no. 1 Railway Court, the property which lies to the east of the appeal site. The appellant sets out the following grounds of appeal. The appellant also refers the Board to observations made to the planning authority (summarised above). Grounds are:

- **Inadequate planning application.** PA did not pay due regard to the omission of material facts by the applicant in making the planning application.
- **Planning history.** The PA did not conduct appropriate diligence in making its decision to grant permission (history of site and its adjacent lands with refusal on a folio, now integrated with the permission granted).
- **Precedent.** Precedent that the above would set (inadequate planning application and disregard for planning history).
- **Impact on wildlife.** PA in making its decision must have carried out a survey of the site. No cognizance of mature trees, wildlife and bats on the site. PA did not act in best interests of the environment. Non-disclosure regarding wildlife, mature and endangered species.
- **Impact on residential amenity.** Permission has been granted contrary to local interest, especially nearby residents. Lack of natural surroundings for future residents. Impact on property values of adjacent housing.
- **Environmental Impact Assessment.** Permission in conflict with Directive 85/337/EEC.
- **Alternative sites.** A larger site is coming forward for development in the village which will not have an impact on wildlife and mature trees.

6.2. Applicant Response

6.2.1. The applicant responds to the appeal. In the interest of brevity the matters raised are referred to in my assessment.

6.3. Planning Authority Response/Observations/Further Responses

- None.

7.0 Assessment

7.1. Having regard to my inspection of the site, the zoning of the site for residential land uses and the information and submissions on file, I consider the key issues for this appeal relate to the following:

- Planning history, precedent and alternative locations.
- Impact on environment and views.
- Impact on residential amenity and property values.
- Surface water.
- Traffic.
- Environmental Impact Assessment.

7.2. The appellant also refers to a number of matters under 'omission of material facts' and 'absence of due diligence' in decision making by the planning authority. I comment on these matters below:

- *Absence of reference in planning application form to PA ref. PL08/327, now included in the appeal site.* I would accept that this planning application has not been referred to in the planning application (section 19). However, the planning application was validated by the planning authority and the history of the site, including PA ref. PL08/325, was referred to by the planning authority in their reports on the proposed development and I have had regard to it in this report. I consider, therefore, that the planning history of the appeal site has been adequately considered in the decision making process.
- *The exclusion of folio 15246F (the strip of land to the east of the appeal site separating it from the appellant's property - see page 2 of appellant's*

submission to the planning authority dated 27th August 2019) and concerns regarding the accuracy of the distance portrayed between the appellant's property at no. 1 Railway Court and the boundary of the appeal site. Plans for the proposed development indicate that folio 15246F is excluded from the appeal site and the overall landholding. In response to the appeal, the applicant confirms that the land is not within his ownership (see Appendix G of response to the appeal). Issues regarding the impact of the proposed development on the amenity of the appellant's property that might arise from proximity are discussed below.

- *The lack of clarity regarding the future intentions of the applicant in respect of folio 15246F, the exact size of the site and gross floor area of existing buildings (see 3-5 of appellant's submission to the planning authority dated 27th August 2019). The future use of folio 15246F is a matter which falls outside of the scope of this appeal. Any future development would be assessed on its merits at the time of application. Appendix G of the applicant's response to the appeal sets out the folio maps of the individual land parcels which make up the appeal site. These provide a total area of 0.45ha, with the balance likely to be made up from the strip of land alongside the frontage of the site, to the middle of the public road which is included in the application drawings (see Planning Pack Map received by the planning authority on the 31st July 2019). The planning application refers to 272 sqm of existing development, 730sqm of proposed works, 0sqm to be retained and 70sqm to be demolished. I would accept that the figures presented are incorrect as the applicant's dwelling and garage will be retained, with a marginal effect on densities achieved on site.*
- *Non-disclosure regarding the presence of mature trees on the appeal site. I deal with this matter below.*
- *No reference to material change of use of lands or evidence of ownership. There is no requirement for the applicant to indicate a change of use in the planning application form as an application is being made for permission for development, which by definition provides for a change of use. Evidence of ownership of lands is provided in Appendix G of the applicant's response to the appeal.*

7.3. Planning history, precedent and alternative locations.

- 7.3.1. Planning permission has been sought previously for development on the appeal site, with permission granted for 8 no. two storey houses on the south-western part of the site under PA ref. PL04/1149 and permission refused for a dwelling on land to the rear of the appellant's property, under PA ref. PL08/327, comprising the rear of the appeal site.
- 7.3.2. Reasons for refusal under PL08/327 were deficiency in public sewerage, overlooking and inadequate access, including overlap of boundaries of the site and permission granted under PA ref. PL04/529 in respect of the dwelling to the south east of the site. These matters are addressed in the current planning application and appeal and therefore the decision made previously does not constitute a relevant precedent for the subject development. Specifically Irish Water has indicated that the proposed development can be accommodated in their sewerage network. Adequacy of access and impact on adjoining properties was addressed by the planning authority and has been addressed in this report (see below). Finally, as stated previously, there is no confusion regarding the boundaries of the appeal site, or overlap with adjoining sites.
- 7.3.3. The appellant refers to another planning application for residential development in the town and states that this is located within 200m of the development and would not affect wildlife or mature trees on the appeal site and is a more appropriate location for the development. I address the matter of impacts on wildlife and mature trees below. However, as the appeal site is zoned for residential development and lies within close proximity to the town centre, I would consider its development for residential purposes to be inappropriate in principle, regardless of development coming forward elsewhere, and subject to compliance with environmental and amenity safeguards.

7.4. Impact on environment and views

- 7.4.1. The appellant argues that the development will result in the loss of unquantified mature trees on the site, biodiversity and bats. It is argued that the trees, which are widely visible within the town, contribute to the skyline of Newtownforbes and should be safeguarded.

- 7.4.2. The appeal site contains mature trees along its northern and eastern boundaries and along the border of the applicant's rear garden. Having regard to my inspection of the site, I would accept that trees on it are visible from St. Mary's Church, Main Street and the public road network surrounding the site. They also contribute to the setting of residential development to the east and north of the site, including Railway Court and Clonguish Court (see photographs). Whilst the trees on the site are not protected, they do contribute to the townscape of Newtownforbes and urban biodiversity and substantially to the setting of adjoining residential estates. I consider that the effect of the development on these views therefore merits consideration. In this regard I am mindful of the policies of the County Development Plan in respect of the zoning of the north eastern portion of the appeal site 'Established Residential' and the balance that must be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide infill development.
- 7.4.3. In response to the appeal the applicant states that the position of all trees is shown in Drawing No. 1 'Boundary Treatment Layout', the 6 no. two storey units facing the public road are not in proximity to any tree and the two single storey units can be moved west within the site to increase the depth of rear gardens (see revised Boundary Treatment Layout in Appendix H of response to appeal).
- 7.4.4. Drawing No. 1 clearly indicates the location of trees on site. However, the drawing is not based on a detailed survey and there is no information on the number, location, species, condition, height etc. of trees that are on site. Further, there is no information on which to determine the proximity of the proposed works to the root structure or details of protective works in proximity to trees. There is therefore no definitive information on likely tree loss/retention. Similarly, there is an absence of information on the visual effect of tree loss on views from the town and adjoining housing areas. In this regard, there is no technical information to support the photomontages submitted by the applicant and given the proximity of works to mature trees on site I would consider that indicated tree loss/retention may have been underestimated. With regard to bat species, there is no evidence by either party to demonstrate either presence or absence of bats on the site.
- 7.4.5. Having regard to the foregoing, I would have concerns that in contrast to policies of the County Development Plan, the proposed development will result in a significant

impact on green infrastructure in the vicinity of the site which contributes the setting of a number of residential estates in the vicinity of the site and to a lesser extent, the wider townscape. I would consider, therefore, that further information is required in order to properly adjudicate on the proposed development and the Board may wish to pursue this. For example, with a detailed tree survey identifying and assessing of the contribution these make individually and collectively to the townscape and adjoining housing estates, properly informing the nature and extent of development on the site. Further information should also address the presence of bat species on the site. In the absence of further information I would recommend that permission for the development be refused. In coming to this conclusion, I have considered the possibility of a split decision i.e. granting permission for the dwellings which face the public road. However, I do not consider that this would allow for a comprehensive approach to the development of the site, for example, to provide for access to the lands as a whole, the provision of public open space and the possibility of an increase in density of development on the site, in line with current government policy.

- 7.4.6. From the information on file, it is evident that Japanese Knotweed was present on site and has been treated. I noted no evidence of the species at the time of site inspection and I consider that subject to the ongoing management of the site for eradication of the species, as set out in the Site Assessment for Invasive Alien Plan Species report received by the planning authority on the 8th December 2019, the species can be eradicated on the site and the development progress without risk of spread to elsewhere.

7.5. Impact on residential amenity and property values.

- 7.5.1. The proposed development is generally removed from nearby residential property. The 6 no. two storey properties located to the south of the site, lie alongside the public road and would be removed from properties to the north of the site (>15m). The two single storey dwellings to the north of the site would be orientated side on to nearest properties, reasonably removed from these (14+m) and would have a ground floor outlook only. I do not consider therefore that the proposed development would be likely to detract from the amenity of residential properties in the vicinity by virtue of proximity or overlooking. However, as stated above I would have concerns that the potential loss of mature trees on the site would detract from the setting of a

number of housing developments to the east, north and west of the site. Potential impacts are most likely to affect existing residents but are unlikely to significantly affect property values.

7.6. Surface Water

7.6.1. Surface water arising on the appeal site will be discharged via an attenuation area to the existing surface water pipe to the south of the site (see Drawing 03, Surface Water Layout). The arrangements have been deemed to be acceptable by the planning authority's Roads Department, the responsible body, with no issues raised regarding capacity. I would consider, therefore, that the arrangements are satisfactory and would prevent surface water from the site discharging to adjoining lands and the public road.

7.7. Traffic

7.7.1. The appellant raises concerns regarding the additional effects the proposed development would have on traffic congestion during mass times, funerals and other events at St. Mary's Church opposite the site, with difficulty accessing the N4 from the L1005.

7.7.2. The appeal site lies to the east of the Church grounds. Currently there is no access to the site from the public road and it does not, therefore, function as an informal parking area during mass/events at the Church. Further, the proposed development is modest in scale, with 8 no. residential units, and parking is provided within the development for each unit. Having regard to the foregoing, I do not consider that the proposed development will add significantly to the traffic congestion at mass times or other events in the Church or, therefore, give rise to traffic hazard.

7.8. Environmental Impact Assessment.

7.8.1. The applicant argues that the permission granted is in conflict with Directive 85/337/EEC. This European Directive requires the assessment of the effects of certain public and private projects on the environment. It has been updated since adoption in 1985 and has been implemented in Ireland through amendments to the Planning and Development Act 2000 (as amended) and its associated Regulations

2001 (as amended). In essence these require environmental impact assessment (EIA) of prescribed projects set out in Part 1 and Part 2 of Schedule 5 of the Regulations. The proposed development is of a type that falls within Class 10, Part 2 of the Schedule 5, construction of dwelling units. However, it falls well below the threshold value for development that would trigger EIA (500 units) and, by virtue of the type of land use proposed, will not involve the use of significant natural resources or the production of significant waste, pollution or nuisances. Furthermore, the development would be located within an existing settlement and integrated with existing services. Having regard to the above, I consider that there is therefore no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded.

8.0 Appropriate Assessment

8.1. The appeal site is situated c.1.25km to the east of Lough Forbes designated Special Area of Conservation and Special Protection Area. The proposed development, comprising 8 no. residential units, is modest in scale, situated within an existing urban environment and will be connected to the existing services within the town. No issues have been raised by the planning authority or Irish Water regarding the capacity of surface water or foul water sewerage system to accommodate waste from the development. Further, the EPA's most recent Waste Water Discharge Licence Audit Report for the Newtownforbes wastewater treatment plant (2019) indicates that it was compliant with the requirements of the discharge licence (see attachments).

8.2. Having regard to the foregoing, no Appropriate Assessment issues therefore are likely to 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.

9.0 Recommendation

9.1.1. I recommend that permission for the proposed development be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the presence of a substantial number of mature trees on the site, the contribution these make to the visual amenity of the area and the setting of residential development in the vicinity of the site and policies in respect of the zoning of the site which seek to provide an appropriate balance between the protection of established character and the need to provide infill development, which is considered reasonable, the Board is not satisfied that adequate information has been provided on the impact of the proposed development on tree loss or in respect of the implications of this for visual and residential amenity. It is considered that the proposed development, therefore, would be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann

Planning Inspector

12th August 2020