



An
Bord
Pleanála

Inspector's Report

ABP-307553-20

Development	Construction of 2 no. Residential dwellings.
Location	Castlepark, Dunboyne Road, Maynooth
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	20/266
Applicant(s)	Mason Homes Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Refusal
Appellant(s)	Mason Homes Limited
Observer(s)	None
Date of Site Inspection	17 th September 2020
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The appeal site is located within the Castlepark housing estate, which comprises detached and semi-detached houses. The site is located approx. 600m north east of Maynooth town centre and approx. 1km from Maynooth train station. The site is bound to the north by the internal access road, Castlepark Square, to the south by an area of public open space, to the east by the internal access road Castlepark View and to the east by the gable end of houses in Lyreen Park, an adjoining residential estate.
- 1.2. The site is irregular in shape with a stated area of 0.148ha. It is bound by palisade fencing. During a site visit on the 17th September 2020 the site was being used as a construction compound, storing construction machinery and materials associated with the Castlepark residential estate.
- 1.3. Access to the site is from within the Castlepark housing estate via the Dunboyne Road.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 2 no. 2-storey, 3-bed, semi-detached houses (1 no. pair). The 2 no. houses are a similar design to existing dwellings with the estate. They have a gable ended pitched roofs with a maximum height of 8.7m.
- 2.2. House type 1 has a gross floor area of 145sqm and includes a single storey element to the rear. House type 2 has a gross floor area of 162sqm and includes a single storey element to the side. Both houses are provided with off-street car parking, driveways are accessed from the east of the site (Castlepark View) and private open space to the rear and side. Pedestrian access is also proposed to the rear (west) of the dwellings from Castlepark Square.
- 2.3. The southern portion of the site would accommodate public open space and would extend the existing area of public open space.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons:

1. Having regard to the planning history of the overall development site, which required the provision of a childcare facility (Planning Reference 06/1925), it is considered that to permit the replacement of the permitted creche with 2 no. dwellings, would set an undesirable precedent for similar residential developments, would be contrary to the provisions of Sections 11.13 and 17.5 of the Childcare Facilities Guidelines 2001 as issued as Ministerial Guidelines under Section 28 of the Planning and Development Act 2000 (as amended), for its failure to provide a childcare facility within the new housing area. The proposed development would therefore materially contravene Objective CPFO1, requiring compliance with the ministerial guidance, and Objective CPFO2 encouraging the provision of childcare facilities at appropriate locations, and as such would be contrary to the proper planning and sustainable development of the area.
2. The layout of the proposed development is substandard in that it results in rear garden boundaries facing directly onto the public road resulting in poor standard of public realm and creating a negative residential outlook for residents of existing properties in the vicinity. The proposed development would therefore seriously injure the residential amenities and depreciate the value of properties in the vicinity and consequently would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The Area Planners report raised concerns regarding the proposed development and recommended that permission be refused for the reasons outlined above.

3.2.2. **Other Technical Reports**

Area Office Maynooth: No objection subject to conditions

Water Services: No objection subject to conditions

Transportation Department: No objection subject to conditions

Chief Fire Officer: No objection

Environment Section: No objection subject to conditions

Housing Section: Report referenced in the planner's report is not on file.

3.3. **Prescribed Bodies**

Irish Water: No objection subject to conditions.

3.4. **Third Party Observations**

2 no. third party submissions were received from Tom McMahon and Cllr. Angela Feeney. The concerns raised are summarised below: -

- Permission was granted under the parent permission for a creche on this site. There is a demand within the estate for a childcare facility.
- There is a shortage of childcare spaces within Maynooth. Kildare Childcare Committee identified Maynooth as '*under-serviced, has continued population growth, with demand exceeding supply*'.
- The proposal to change the use of the site needs to be assessed.
- The provision of 2 no. additional houses in the Castlepark estate would exacerbate existing problems in the area including traffic congestion. No more houses should be built until the relief road is constructed.
- The proposed development would result in overlooking of the existing dwellings within the Lyreen housing estate to the west of the site.

4.0 Planning History

Reg. Ref. 06/1925: Permission was granted in 2007 for the construction of 143 no. residential units and a creche. **PL09.225882** –Section 139 appeal to revise and omit conditions 15, 22, 29 and 33 was approved in 2008.

Reg. Ref. 09/219: Permission was granted in 2009 for amendments to the development approved under Reg. Ref. 06/1925 which resulted in the provision of 7 no. additional dwellings.

Reg. Ref. 10/942: Permission was granted in 2010 for amendments to the development approved under Reg. Ref. 06/1925. The proposed development did not result in any changes to the number of units permitted.

Reg. Ref. 11/518: Permission was granted in 2011 for amendments to the development approved under Reg. Ref. 06/1925 and reg. Ref. 10/942. The proposed development did not result in any changes to the number of units permitted.

Reg. Ref. 12/31: Permission was granted in 2012 for amendments to the development approved under Reg. Ref. 06/1925, which result in a reduction of 4 no. units within the overall site.

Reg. Ref.12/471: Permission was granted in 2012 for amendments to the development approved under Reg. Ref. 06/1925, which result in a reduction of 3 no. units within the overall site.

Reg. Ref.12/687: An extension of duration of Reg. Ref. 06/1925 was approved in 2012.

Reg. Ref. 13/229: Permission was granted in 2013 for amendments to the development approved under Reg. Ref. 06/1925, which result in a reduction of 4 no. units within the overall site.

Reg. Ref. 13/724: Permission was granted in 2014 for amendments to the development approved under Reg. Ref. 06/1925, which result in a reduction of 13 no. units within the overall site.

Enforcement UD7215: A warning letter was issued in December 2018 regarding non-compliance with Condition 1 of Reg. Ref. 06/1925 relating to the provision of a creche facility.

5.0 Policy Context

5.1. Maynooth Local Area Plan 2013 - 2019

The majority of the appeal site is located in an area zoned C – New Residential with the associated landuse objective *‘to provide for new residential areas. This zoning provides for new residential development areas and for associated local shopping and other services incidental to new residential development’*. The southern portion of the site is zoned F – Open Space Amenity with the associated land use objective *‘to protect and provide for recreation, open space and amenity provision’*.

The following policies are considered relevant: -

HPO 1: To promote a high standard of architecture in the design of new housing developments and to encourage a variety of house types, sizes and tenure to cater for the needs of the population and facilitate the creation of balanced communities.

HPO 2: To encourage the appropriate intensification of residential development in existing residential areas and the town centre, subject to compliance with relevant development management criteria and the protection of residential amenity of adjoining properties.

BAC 7: To ensure that new development proposals have regard to the residential amenity of adjoining developments

HP 7: To facilitate and co-operate in the provision of community facilities in tandem with residential development including, in particular, local services, schools, creches and other education and childcare facilities.

5.2. Kildare County Development Plan 2017 - 2023

5.3. Table 4.1 sets out guidance on appropriate locations for new residential developments. With regard to Inner suburban / infill sites it states that the provision of

additional dwellings can be provided either by infill or by sub-division. Infill residential development may range from small gap infill, unused or derelict land and backland areas.

- 5.4. Section 4.11: Residential Development in established Urban Areas – Infill, Backland Subdivision of Sites and Corner Sites notes the following regarding infill / backland development *the development of underutilised infill and backland sites in existing residential areas is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill.*
- 5.4.1. Section 11.13 states that the provision of childcare facilities, in its various forms is recognised as a key piece of social infrastructure required to enable people to participate more fully in society...central to this is the provision of good quality and accessible childcare and early education facilities at community level.
- 5.4.2. Section 17.5 states that all childcare facilities shall be provided in accordance with the Childcare Facilities: Guidelines for Planning Authorities (DEHLG)... one childcare facility is generally required to cater for 20 places in developments of 75 houses, including local authority and social housing schemes, in accordance with DEHLG Guidelines. This standard may be varied depending on local circumstances. The Council will consult with the Kildare County Childcare Committee in this regard.
- 5.4.3. The following are considered relevant: -

Policy CPF 2 *Facilitate and encourage the provision of childcare facilities, including community crèche facilities, of an appropriate type and scale, at appropriate locations throughout the county and to identify suitable locations through the Local Area Plan process, where appropriate.*

Objective CPO1: *Ensure provision of childcare facilities in accordance with the Childcare Facilities: Guidelines for Planning Authorities (DEHLG) and the Child Care (Pre-School Services) Regulations 1996 and 1997, 'Ready, Steady, Play! A National Play Policy' (2004) and any other relevant statutory guidelines which may issue during the period of this Plan.*

Objective CPFO 2: *Facilitate and encourage the provision of childcare facilities, including community crèche facilities, of an appropriate type and scale, at appropriate locations throughout the county.*

Chapter 15 Urban Design and Chapter 17: Development Management Standards are also considered relevant.

5.5. **National Planning Framework**

National Policy Objective 31: Prioritise the alignment of targeted and planning employment growth with investment in: The provision of childcare facilities and new and refurbished schools on well-located sites within or close to built-up areas, that meet the diverse needs of local populations

5.6. **National Guidance**

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- Childcare Facilities – Guidelines for Planning Authorities 2001
- Circular Letter PL 3/2016

5.7. **Natural Heritage Designations**

The appeal site is located approx. 650mkm south west of the Rye Water Valley/Carton SAC (001398).

5.8. **EIA Screening**

Having regard to the limited nature and scale of the proposed development 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the Planning Authority's decision to refuse permission. The submission addresses the reasons for refusal and is summarised below: -

Childcare Provision

- The first reason for refusal relates to a material contravention of Objectives CPF 01 and CPF 02 of the development plan. The Board can grant permission under section 37(2)(b)(iii) and (iv) of the Planning and Development Act 2000 (as amended).
- The site is a brownfield infill site, which is zoned for residential development. The provision of 2 no. dwellings would be in accordance with national and regional policy and objectives.
- Permission was granted under parent permission 06/1925 for a 254sqm creche on the subject site with capacity of 39-48 no. children. To date the permitted 123 no. residential units have been constructed and sold. The creche has not been constructed to date due to the inability to secure an operator.
- Permission expired in 2018 for the creche. Therefore, there is no permission to construct the creche.
- A review of childcare capacity in the area was undertaken in February and July 2020. This study indicated that there are 35 no. available childcare spaces available within Maynooth. It was noted that permission was also granted for a creche with capacity for 75 no. childcare spaces as part of the Carton Woods development and a creche with capacity for 100 no. childcare spaces was granted as part of the Mariavilla residential development, with the environs of Maynooth.
- Having regard to the CSO population cohort for Maynooth and applying the average national household size to the Castlepark development, it is considered that the development generates a conservative demand for 4 no. childcare spaces.

- Having regard to the Childcare Guidelines it is considered that the development generates demand for 33 no. childcare spaces.
- The CSO's Quarterly National Household Survey for Q3 of 2016 indicates that a creche is the preferred type of childcare for 14% of families in the mid-east, compared to the national average of 19%. This would further reduce the demand for a creche place generated by the Castlepark development.
- It is considered that there is more than adequate capacity within existing facilities to cater for the demand generated by the Castlepark development.

Design and Layout

- With regard to the second reason for refusal revised drawings have been submitted. These alterations include the relocation of the driveway and orientation of the access to the western dwelling; revised elevational treatment; reduction in the length of the rear garden boundary wall for the western dwelling; and additional planting along the cul-de-sac.
- The revised drawings also clearly indicate storage space, which is in excess of 9sqm.
- It is noted that the creche previously permitted on this site included 2m high boundary walls, similar to the extent of those proposed.
- The proposed development represents a significant improvement to the previously permitted boundary treatment. It provides a high level of appropriate activation to the side elevation, adequately sized rear gardens and represents a limited extent of 2m boundary wall along the cul-de-sac. The development would not adversely affect the existing residential amenities.
- The proposed infill residential development is within an established residential area, in close proximity to public transport and services and facilities within Maynooth town centre. The development is consistent with national and regional policy and the provisions of the development plan.

6.2. **Planning Authority Response**

The amendments to the layout are noted. It is recommended that the planning authority's decision to refuse permission be upheld.

6.3. **Observations**

None

7.0 **Assessment**

7.1. The appeal refers to the layout and design of the houses as submitted with the appeal to address the planning authority's second reason for refusal. The following assessment, therefore, focuses on that proposal with reference to the original proposal, where appropriate.

7.2. The main issues relate to the principle of development and visual amenity. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Visual Amenity
- Appropriate Assessment

7.3. ***Principle of Development***

7.3.1. It is proposed to construct 2 no. houses on a site that was previously approved planning permission for a creche facility (Reg. Ref. 06/1925). This development site formed part of a larger residential scheme 'Castlepark'. The residential element of the scheme comprised 123 no. units and has been completed. The applicant notes in the appeal that the permission for a creche facility on this site expired in 2018.

7.3.2. Permission was refused on the basis that the proposed development would contravene the provisions of the Childcare Facilities Guidelines 2001 for its failure to provide a childcare facility within the new housing area and would materially

contravene Objectives CPF01 and CPF02 of the Kildare County Development Plan, which require compliance with ministerial guidelines and support the provision of childcare facilities at appropriate locations.

- 7.3.3. The applicant stated in the appeal that the creche has not been built to date as it has proved difficult to secure an operator for the facility. It is noted that the planning authority has initiated enforcement proceedings regarding the provision of the facility and that the applicant intends to regularise the development.
- 7.3.4. The applicant has provided a breakdown of the existing available creche spaces within the Maynooth area. It is stated that there is a combined spare capacity of 35 no. spaces in the area. It is also noted that permission has recently been granted for 2 no. facilities within the Maynooth environs, in this regard a creche with capacity for 75 no. childcare spaces as part of the Carton Woods development and a creche with capacity for 100 no. childcare spaces as part of the Mariavilla residential development.
- 7.3.5. The applicant has stated that having regard to the requirements of the Childcare Guidelines there is a requirement for 33 no. childcare spaces. It is also stated that having regard to the CSO population cohort for Maynooth and the national average household size that the Castlepark development, would generate a conservative demand for approx. 4 no. spaces. The applicant considers that there is sufficient capacity within Maynooth to accommodate the childcare demand generated by the Castlepark development.
- 7.3.6. Having regard to the housing mix provided within Castlepark, which is predominately 3-4 bed detached and semi-detached houses and the relatively recent construction of the estate it is my view that it would generate a demand for more than 4 no. childcare places.
- 7.3.7. The information submitted by the applicant is noted however having regard to the provisions of the Childcare Facilities, Guidelines for Planning Authorities, June 2001, which require that a childcare facility be provided as part of the social infrastructure for residential schemes including more than the 75-dwellings and having regard to the provision of the Kildare County Development Plan to facilitate and encourage the provision of childcare facilities it is my view that the provision of 2 no. dwellings on a site previously identified as a suitable location for a childcare facility to serve the new

residential development would result in a poorly integrated new residential community, which would not be supported by local or national policy. It is my view that permission should be refused on this basis.

7.4. **Visual Amenity**

- 7.4.1. The majority of the appeal site is located in an area zoned C – New Residential with the associated landuse objective '*to provide for new residential areas. This zoning provides for new residential development areas and for associated local shopping and other services incidental to new residential development*'. The southern portion of the site is zoned F – Open Space Amenity with the associated land use objective '*to protect and provide for recreation, open space and amenity provision*'. The residential element of the development would be provided on lands zoned New Residential and an area of public open space is proposed on the lands zoned 'Open Space Amenity'. This area of public open space would adjoin an existing area of public open space within the Castlepark residential estate. The proposed residential use is, therefore, compatible with the zoning objective for the site.
- 7.4.2. Permission was refused on the basis that the layout of the proposed development would result in a poor standard of public realm and would have a negative visual impact on the existing residential properties as the rear garden boundary walls front directly onto the public road.
- 7.4.3. The proposed development comprises the construction of 2 no. 2-storey, 3-bed, semi-detached houses (1 no. pair). The 2 no. houses are a similar design to existing dwellings with the estate. They have a gable ended pitched roofs with a maximum height of 8.7m. House type 1 is located on the eastern portion of the site, adjacent to the area of public open space. It has a gross floor area of 145sqm and includes a single storey element to the rear. House type 2 is located on the western portion of the site. It has a gross floor area of 162sqm and includes a single storey element to the side. The revised drawings submitted with the appeal indicate that House type 2 on the western portion provides a frontage onto both Castlepark View (front) and Castlepark square (side). It is noted that the room sizes and floor areas reach and exceed the standards set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).

- 7.4.4. It is noted that that the revised drawings also indicate a reduction in the length of the 2m high rear boundary wall by approx. 1.5m along the western boundary. Drawing no. 602 indicates that this boundary wall would be rendered and capped.
- 7.4.5. It is noted that permission was previously granted on this site for a creche. The creche development included a 2m high boundary wall fronting onto Castletown View (side elevation), which enclosed the play space associated with the creche.
- 7.4.6. The planning authority's concerns are noted regarding the potential negative impact of the 2m high rear boundary wall on the visual amenities of the estate are noted. However, having regard to the planning history and the irregular shape of the site, it is my view that the proposed design and layout of the houses provides a sufficient level of frontage onto the front and side elevations of the houses and the high quality of the proposed 2m high boundary wall would not have an undue impact on the visual amenities of the estate.

7.5. ***Appropriate Assessment***

Having regard to the nature and small scale of the proposed development and the distance from the nearest 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**

It is recommended that permission be refused for the reasons stated in the attached schedule.

9.0 **Reasons and Considerations**

1. Permission was previously granted on lands containing the appeal site for 123 no. residential units and a crèche facility. The crèche facility was to be provided as part of the social infrastructure on the basis of the residential scheme including more than the 75-dwelling threshold, as set out under the provisions of the Childcare Facilities, Guidelines for Planning Authorities, June 2001.

Having regard to the relevant provisions of the Kildare County Development Plan 2017-2023 to facilitate and encourage the provision of childcare facilities, and to Circular Letter PL3/2016 (March 2016) regarding Childcare Facilities operating under the Early Childhood Care Education (ECCE) Scheme (Planning System support for childcare post September 2016 – Implementation of the Childcare Facility Guidelines for Planning Authorities 2001), it is considered that the proposed development, would result in an absence of a planned crèche facility to serve the new residential development. This would result in a poorly integrated new residential community, which would not be supported by local or national policy and accordingly would be contrary to proper planning and development for the area.

Elaine Power

Planning Inspector

15th December 2020