



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307793-20

#### Development

For amendments to the previously approved development permitted under PI. Ref 17/1264 & 18/1615. The revisions consist of change to 2 house plans of dwelling type B, 12 house plans of dwelling type C, 10 house plans of dwelling type D, and 8 house plans of dwelling type F.

#### Location

Gort na Fuinse, Gortnamona, Co Galway

#### Planning Authority

Galway County Council

#### Planning Authority Reg. Ref.

20518

#### Applicant(s)

Sathel Limited

#### Type of Application

Permission

#### Planning Authority Decision

Grant

#### Type of Appeal

Third Party

#### Appellant(s)

- (1) Mary Byrne & Sheila Street
- (2) Sarah Padden
- (3) Stephen Connaire

**Date of Site Inspection**

09<sup>th</sup> December 2020

**Inspector**

Colin McBride

## 1.0 Site Location and Description

1.1 The appeal site, which has a stated area of 3.13 hectares, is located approximately 0.5km north of Headford town centre. It is accessed off an existing housing estate, which is in turn accessed off the N84 Road. The site has been partially hard surfaced with gravel. It is surrounding to the north-west and south-west by agricultural land and GAA sports grounds to the south-east.

## 2.0 Proposed Development

2.1. Permission is sought for amendments to the previously approved development permitted under PI.Ref. 17/1264 & 18/1615 at Gort na Fuinse, Gortnamona, Headford. The revisions consist of the change of 2 no. house plans of dwelling type B, 12 no. house plans of dwelling type C, 10 no. house plans of dwelling type D and 8 no. house plans of dwelling type F.

2.2. The changes are to 40 no. permitted dwellings out of scheme of 70 units. The breakdown of the existing units in the scheme are 14 no. four bed units, 48 no. three bed units and 8 no. two-bed units. The alterations will change the mix of units to 14 no. four bed unit, 16 no. three bed units and 40 no. two bed units.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission granted subject to 18 no. conditions. The conditions are standard in nature.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

Planning Report (07/07/20): The proposal was considered to be satisfactory in the context of Development Plan policy, the visual amenities of the area, the amenities of adjoining properties and traffic safety. The proposal was considered to be in

accordance with the proper planning and sustainable development of eth area. A grant of permission was recommended subject to the following conditions.

### 3.3. **Prescribed Bodies**

None.

### 3.4. **Third Party Observations**

#### 3.4.1 Three submission were received...

The issues raised concern provision of social housing and proportion of such, concerns regarding the nature of negotiations between the Local Authority and the developer regarding social housing, proposal should be assessed as a new application with issues such as traffic impact adjoining amenity, existing unfinished housing and traffic issues.

## 4.0 **Planning History**

- 4.1 PL07 .305371: Whether the change of house plans and revised site layout reducing density from 76 units to 70 units previously granted permission is or is not development or is or is not exempted development. Is development and is not exempted development.
- 4.2 PL07.303680 (18/1615): Permission granted for a change of house plans and revised site layout reducing density from 76 to 70 units and associated site works and services previously granted under permission ref no. 17/1264.
- 4.3 17/1264: Extension of duration of permission.
- 4.4 12/411: Extension of duration of permission.
- 4.5 07/518: Permission granted for extension of existing residential development consisting of 82 no. residential units and crèche facility together with associated site services.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant development Plan is the Galway County Development Plan 2015-2022.

The core strategy identifies Headford as 'Other Villages (<1500 Pop). Other Villages are at the 5th tier of the settlement strategy with populations <1,500. These are described within the plan as having strong settlement structures and have the potential to support additional growth, offering an alternative living option for those people who do not wish to reside in the larger key towns and do not meet the housing need requirements for the rural area.

The following development plan objectives apply

- Objective SS 6 – Development of Other Villages
- Objective UHO 7 – High Quality/Mix and Sensitive Design
- Objective UHO 8 – Urban Design
- Objective UHO 10 – Sequential Development
- Objective UHO 11 – Development Densities

Headford Local Area Plan 2015-2021

The majority of the appeal site is zoned R 'Residential' (Phase 2) save for the portion of the site to the north (where the access road is proposed), which is not zoned.

The key policies objectives of the LAP, as relates to this appeal, are as follows:

- Policy RD 2 – Phased Development on Residential Zoned Lands - general presumption against residential development on lands zoned R - Residential (Phase 2) within the lifetime of the Local Area Plan, subject to the exceptions provided for under the Residential Development Objective RD1.
- Objective RD 1- Support the development of lands designated as R - Residential (Phase 1) within the lifetime of the Local Area Plan, subject to normal planning, environmental, access and servicing requirements, and reserve the lands

designated as R - Residential (Phase 2) for the longer term growth needs of the town. Development on Residential-Phase 2 lands will normally only be considered where 50% of the lands in Residential-Phase 1 are committed to development.

- Objective RD 3 – Housing Options - Require that a suitable variety and mix of dwelling types and sizes are provided in developments to meet different needs.
- Objective RD 5 – Open Space in Residential Areas

## 5.2. Natural Heritage Designations

5.2.1 None in the vicinity.

## 5.3. EIA Screening

5.3.1 Having regard to the nature and scale of the development which consists of amendment of house types concerning an authorised residential development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by Mary Byrne & Sheila Street, 23 Ashthorn Avenue, Headford, Co. Galway. The grounds of appeal are as follows...

- The appellant notes that full consideration was not given to their submission during assessment of the application with no points raised addressed in the assessment.
- The submission relates to concerns about the lack of details of social housing portion of the proposed development and that the fact that the existing development features a high proportion of social housing and such will be

increased by the proposed development providing an inappropriate imbalance.

6.1.2 A third party appeal has been lodged by the Ashthorn Avenue Residents. The grounds of appeal are as follows...

- The appellant noted that the proposal would be significant change of the nature of the permitted development with an increase in the number of smaller units (two bedroom) with negative impact on the mix of units and a disproportionate level of social housing in one estate. It is also noted that the Council have a conflict of interest in supporting the proposal with their intention to purchase a portion of the units proposed.
- There are existing issues concern unfinished works within Ashthorn Avenue and the proposal should not permitted before such issues are resolved.
- The proposal deviates significantly from the development permitted under the parent permission in 2007 and the extension of development granted in 2017 and is a new proposal and should be assessed based on all current national local planning policies. The design of the proposal is out of character with existing residential development bears no relationship to the parent permission (07/518).
- It is noted that the existing entrance is inadequate in sightlines and the proposal to provide for a significant increase in the number of dwellings served by it without any improvement is inappropriate. The appellant notes that the proposal is for a new housing development and should be provided with separate access off the N84.
- The proposal has no regard to the fact that planning policy has changed and the site is zoned Residential (Phase 2) with a general presumption against residential development on lands zoned R - Residential (Phase 2) within the lifetime of the Local Area Plan.
- The submission relates to concerns about the lack of details of social housing portion of the proposed development and that the fact that the existing development features a high proportion of social housing and such will be

increased by the proposed development providing an inappropriate imbalance.

6.1.3 A third party appeal has been lodged by Stephen Connaire, 20 Ashthorn Avenue, Headford, Co. Galway. The grounds of appeal are as follows...

- There is a failure to assess the traffic impact of the proposal with the development using existing traffic infrastructure which is inadequate to serve the existing residential development at this location. It is noted that the existing access road is narrow in width and that there is an issue regarding safety in relation to the existing junction on to the N84, which inadequate in signage.
- The Headford LAP favours development closer to the village centre. It is noted that although the site is within the residential zone it is specifically excluded from further development in favour of development closer to the village centre.

## 6.2. Applicant Response

6.2.1 Response by MKO Planning and Environmental Consultants on behalf of the applicant Sathel Limited.

- It is noted that public notices and sites are compliant with the requirements of the Planning and Development regulations.
- Negations regarding social housing are commonplace and there is no issues in this regard that should preclude a grant of permission.
- It is noted that Objective RD 6 of the LAP requires a minimum of 12% off all new residential site to be set aside for social and specialist housing units in accordance with the Council's Housing Strategy. It is noted that there is no upper limit on such and that it is determined by housing need with the possibility some settlements will have a higher level of social and affordable housing than others. The provision of social and affordable housing within new housing development is in line with Development Plan policy.



- The proposal is for amendments to house types under permission granted under ref no. 17/1264 and 18/1615 and the issues relate to house types and a reassessment of the proposal in the context of traffic impact and existing traffic infrastructure is not justified.

### 6.3. Planning Authority Response

6.3.1 No response.

## 7.0 Assessment

7.1 Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Principle of the proposed development

House type, design, scale

Traffic

Other issues

7.2 Principle of the proposed development:

7.2.1 The proposal is for a change of house type with amendments to the previously approved development permitted under PI.Ref. 17/1264 & 18/1615/ABP-303680-19 at Gort na Fuinse, Gortnamona, Headford. The revisions consist of the change of 2 no. house plans of dwelling type B, 12 no. house plans of dwelling type C, 10 no. house plans of dwelling type D and 8 no. house plans of dwelling type F. The changes are to 40 no. permitted dwellings out of scheme of 70 units. The breakdown of the existing units in the scheme are 14 no. four bed units, 48 no. three bed units and 8 no. two-bed units. The alterations will change the mix of units to 14 no. four bed unit, 16 no. three bed units and 40 no. two bed units.

- 7.2.2 The planning history of the site indicates that permission was granted under ref no. 07/518 for extension of existing residential development consisting of 82 no. residential units and crèche facility together with associated site services. The duration of this permission was extended on two occasions under ref no.s 12/411 and 17/1264 with an expiry date of (31<sup>st</sup> December 2021). Permission was granted under ref PL07.303680 (18/1615) for a change of house plans and revised site layout reducing density from 76 to 70 units and associated site works and services previously granted under permission ref no. 17/1264 with a condition requiring the same expiry date to that permitted under ref no. 17/1264.
- 7.2.3 The proposal is for a change of house types of a number of dwellings with the mix of units changing from 14 no. four bed units, 48 no. three bed units and 8 no. two-bed units to 14 no. four bed unit, 16 no. three bed units and 40 no. two bed units. There is no change to the number of dwellings approved under PL07.303680 (18/1615) or the layout, the alteration is to type of units with a change in the ratio of the number of two and three bed dwellings. I would consider that the principle of the proposed development is acceptable and that the proposal is amendments to an existing permission. The appropriateness of the design and mix of units is dealt with in a later section of this report.
- 7.2.4 In granting permission under ref no. PL07.303680 (18/1615) the Board attached a condition (no. 2) stipulating that the expiry date of the permission be tied to the expiry date of permission ref no. ref no. 17/1264, which is the 31<sup>st</sup> of December 2021. I would consider that it is appropriate in the event of a grant of permission to apply a similar condition as the proposal is an amendment of a permitted development. I would also note that the lands in question are zoned R 'Residential' (Phase 2) under the Headford Local Area Plan 2015-2021 and under Policy RD 2 – Phased Development on Residential Zoned Lands there is a general presumption against residential development on lands zoned R - Residential (Phase 2) within the lifetime of the Local Area Plan, subject to the exceptions provided for under the Residential Development Objective RD1.

### 7.3 House type, design, scale:

7.3.1 The proposed change in house type alters the mix of residential units with a change in the ratio of two and three bed properties. The level of two bed dwellings is increased from 8 to 40 units, the level of three bed dwellings is decreased from 48 to 16 and the level of four bed dwellings is to stay the same at 14 dwellings.

The appeal submissions state that this change is motivated by the desire of the Council to provide for a certain type of property that will be acquired for social housing and that the nature of negotiations and agreements between the developer and Local Authority is not a transparent process and unfair in nature with the proposal leading to a disproportionate level of social housing being provided within the overall housing development at this location.

7.3.2 The Board remit in assessing the proposal is whether it is consistent with the proper planning and sustainable development of the area. In this case the proposal is an amendment to the houses type of a number dwelling permitted (40 dwellings out of 70 approved). The overall layout of the development is not being altered, the scale and the design of the approved dwellings is not a deviation from that previous permitted with the changes being from three bed units to two bed units (both semi-detached and terraced). The physical impact of the proposed development in terms of traffic and adjoining amenity is unchanged in comparison to what is authorised on this site under the most recent permission (PL07.303680/8/1615). The proposal may have a lesser impact in due to the fact it would cater for a smaller population because of changes in the ratios of two to three bedroom dwellings. I would consider that physical alterations proposed would have no impact over and above the permitted development on site.

7.3.3 In relation to the issue of social housing the proposal is not for social housing but is a proposal for an amendment to a permitted housing development. Such housing developments based on size and number units have an obligation under Part V of the Planning and Development Act to (developments of 9 or more dwellings on sites of 0.1 hectares and above). Objective RD 6 of the LAP also requires a minimum of 12% off all new residential site to be set aside for social and specialist housing units in accordance with the Council's Housing Strategy. It is not within the Boards remit

to dictate or be involved in negotiations between developers and Local Authorities regarding Part V agreements. The proposal is for amendments to an existing permission with a change in house type. I would consider that the change in house type proposed is not unreasonable and there is no good reason to preclude the permission for the changes and the proposal does not represent a significant change to the nature of development permitted at this location.

#### 7.4 Traffic:

7.4.1 The appeal submission raise concerns regarding the suitability of the existing service road and access off the N84 to cater for the additional traffic associated with the housing subject to this application. The appellants consider that the proposal should assessed as a new housing development and not as an amended to an authorised permission. As stated above the proposal is for an amendment to an authorised and extant permission. The authorised development has been considered in the context of traffic safety, existing road infrastructure and vehicular access and permission was granted on the appeal site. The proposal is for a change in the type of units with a change in the ratio of two and three bed units on site. There is no change to the permitted access arrangement and the proposal would not have a different traffic impact over and above the authorised development. In this regard no additional assessment is required regarding traffic impact.

#### 7.5 Other Issues:

7.5.1 The appellants raise issues concerning the public notices including the provision of site notice and the description of the proposed development. I am satisfied that description of the proposed development is accurate. On the issue of whether the site notice was in place for the required period, this is not a matter that can be established by myself as it is after the fact. I would note that the appellants have not been disenfranchised in terms making a submission during the application stage or submitting a third party appeal.

7.5.2 The appeal submission raise concerns regard the unfinished nature of the existing housing development through (Ashford) which the site is accessed and links into. As

noted above the proposal is for amendments to an authorised development and extant permission.

## 8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions...

## 9.0 Reasons and Considerations

Having regard to the relevant provisions of the Galway County Development Plan 2015-2021 and the Headford Local Area Plan 2015-2021, to the existing pattern of development in the vicinity, to the planning history of the site and the extant permission for residential development at the site, and having regard to the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity, would be acceptable in terms of visual amenity, would not be prejudicial to public health and would be acceptable in terms of pedestrian and traffic safety. 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. This grant of permission shall expire on the expiry date of the parent permission under planning register reference numbers, 07/518, 12/411, 17/1264 and ABP-

303680-19. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted under planning register reference numbers 07/518, 12/411, 17/1264 and ABP-303680-19.

Reason: In the interest of clarity.

3. Details of the materials, colours and textures of all external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All roofs, including ridge tiles, shall be blue-black, slate grey or brown in colour only. Reason: In the interest of visual amenity.

4. Public lighting shall be provided in accordance with a scheme 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 by the developer for occupation, of any house.

Reason: in the interests of amenity and public safety.

5. All water management measures, as set out in the Flood Risk Assessment dated October 2018 and submitted with the planning application (ref no. ABP-303680-19), shall be implemented in full.

Reason: in the interest of the proper planning and sustainable development of the area.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing overhead cables bounding or crossing the site shall be undergrounded at the developer's expense, and to the detailed requirements of the relevant utility provider.

Reason: in the interests of visual and residential amenity.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works. The developer shall agree the full details of foul sewerage and surface water provisions in writing with the planning authority, prior to the commencement of development.

Reason: In the interest of public health.

8. The site shall be landscaped in accordance with the landscaping drawings submitted with the application. Final details of a landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified landscape architect throughout the duration of the site development works. The developer's landscape architect shall certify to the planning authority in writing his/her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development hereby permitted.

Reason: in the interests of residential and visual amenity.

9. Sight distance triangles shall be maintained and kept free from vegetation or other obstructions, that would reduce the minimum visibility required.

Reason: In the interest of traffic safety.

10. The development shall be carried out and completed in accordance with the 'taking-in-charge' standards of the planning authority. The entire development shall be maintained by the developer until such time as it is taken in charge by the planning authority. No private management company shall be established to maintain the estate.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity, until taken in charge, and to comply with national policy in relation to the taking in charge of residential estates.

11. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscape plan submitted. This work shall be completed before any of the dwellings are made available by the developer for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority. At the time of taking in charge, the open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

12. All rear gardens of houses shall be bounded with brick or concrete block walls, which shall be a minimum of 1.8 metres high (maximum two metres), except where bounding public open spaces or roads, when the walls shall be two metres in height, rendered and capped, or by concrete post and concrete panel fences.

Reason: In the interest of residential amenity and to ensure the use of durable boundary treatment.

13. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. Reason: In the interest of urban legibility. 14. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of



development. This plan shall be prepared in accordance with the 'Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects', published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provisions of the Waste Management Plan for the Region in which the site is located.

Reason: In the interest of sustainable waste management.

15. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, off-site disposal of construction/demolition waste and details of proposed parking/storage areas for construction vehicles/machinery.

Reason: In the interests of public safety and residential amenity.

16. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination. Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area. 18. 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 satisfactory completion and maintenance until taken in charge by the local authority of services required in connection with the proposed development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion and 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 agreement.

Reason: To ensure the satisfactory completion of the development.

17. 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 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.

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Colin McBride  
Planning Inspector

21<sup>st</sup> December 2020