



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307822-20

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<b>Development</b>	Amendments to previously permitted development (RA191224). The development will comprise the replacement of 5 no. 4 bedroom houses with 5 no. 5 bedroom houses
<b>Location</b>	Lands Along the R149 & at Williamstown Stud, Clonee, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	RA200540
<b>Applicant(s)</b>	John Hughes.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	Judge Desmond Zaidan.
<b>Observer(s)</b>	Donncha Connolly.
<b>Date of Site Inspection</b>	23 <sup>rd</sup> October 2020.

**Inspector**

Elaine Sullivan

## 1.0 Site Location and Description

- 1.1. The subject site is located on undeveloped land within County Meath. It is approximately 1km to the south of Clonee village and the town of Dunboyne lies approximately 4km to the north-west of the site. Lands directly to the east of the site, and within the administrative boundary of County Dublin, have been substantially developed with residential developments, whilst the lands to the north and west are rural in character.
- 1.2. The site is bounded by the R149 Regional Road, which connects Lucan and Clonee to the north and south. The suburban rail line is located to the south and west of the site with Hansfield rail station approximately 2km to the south-east. Williamstown Stud is located to the south of the site.
- 1.3. The subject site is part of a wider development site where permission was granted in 2005 for 99 no. houses under DA40501. The developments of Holsteiner Park and Kribensis Manor to the south and south-east have been constructed on foot of the original permission and subsequent amendments. Planning permission to develop the remaining section of the wider site, including the subject site, was granted in February 2020 under RA/191224. The subject application is for an amendment to RA/191224.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the following development;
  - Amendments to development permitted under RA191224 to comprise the replacement of 5 detached 2 storey 4-bedroom houses of 193m<sup>2</sup> with 5 detached, 2 storey 5-bedroom houses of 224 & 226m<sup>2</sup>.

## 3.0 Planning Authority Decision

### 3.1. Decision

Planning permission was granted by the Planning Authority with 11 No. Conditions.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

The recommendation to grant permission in the Planning Officer's report, (July 2020), reflects the decision of the Planning Authority. The report concluded the following;

- The principle of development has already been established under Ref. RA191224.
- The 5 no. replacement dwellings all comply with the Quality Housing for Sustainable Communities Planning Guidelines 2007. The proposed design, layout and siting are considered to be acceptable.
- The proposed development is considered to be in accordance with the Meath County Development Plan 2013-2019 and would not negatively impact on the visual or residential amenities of the area.

### 3.2.2. Other Technical Reports

- Transportation Department – No changes are proposed to the internal road layout agreed under RA191224. There is no objection to the proposal subject to conditions.
- Water Services – No objection subject to conditions.
- Public Lighting – No objections.

## 3.3. **Prescribed Bodies**

- Irish Water – No objection

## 3.4. **Third Party Observations**

One third party objection is on file. It was submitted by various residents of Holsteiner Park and is summarised as follows;

- The parent application is invalid as applicants did not show all the adjacent lands in their ownership and land owners with lands within the red line boundary did not give consent for the application to be lodged.

- The current application is invalid as it is in the name of one landowner rather than three as per the parent application and lands are shown within the red line boundary that are within the ownership of third parties that did not consent to the application.
- The proposal does not provide a range of dwelling sizes as required by the Development Plan.

## 4.0 Planning History

4.1. There is an extensive planning history for the site. The following history is not comprehensive as minor permissions have been omitted;

**RA/191224** – Planning permission granted by the Planning Authority in February 2020 for the construction of 32 no. detached two storey dwellings, (12 no. 4 bedroom & 20 no. 5 bedroom), with all ancillary parking and works and a new vehicular entrance onto the L2223, Clonee to Clonsilla Road with associated footpath and cycle paths & the provision of a 4-arm roundabout at the L2223, (Clonee to Clonsilla Road) and the R149 (Lucan Road).

**ABP-306533-20, (PA Ref. RA/190406)** – Planning permission refused by An Bord Pleanála in July 2020 for the construction of 6 no. two storey, 5 bedroom dwellings with detached single storey garages.

**RA/2008956** – Planning permission refused by the Planning Authority in September 2020 for the construction of 5 No. 2 storey 5 bedroom detached dwellings with garages on previously approved partially serviced sites 28 to 32 incl. Holsteiner Park, Clonee, Co. Meath and for the completion of internal access road and all associated services, landscaping and boundary treatments with vehicular and pedestrian access via the existing Holsteiner Park development and the provision of a temporary construction access to the R149.

**PL17.249904 – (RA/170511)** – Planning permission refused by An Bord Pleanála in March 2018 for the development of 32 no detached 2 storey houses comprising 16 no. 4 bedroom and 16 no. 5 bedroom dwellings together with ancillary parking and new vehicular entrance onto the Clonee to Clonsilla Road with associated works. The reasons for refusal are as follows;

1. Having regard to the fact that the lands that are the subject of the application for development are not zoned for residential development, and that the only basis for permitting residential development on these lands relates to Objective RES OBJ 6 of the Dunboyne/Clonee/Pace Local Area Plan 2009 – 2015, which stated “To facilitate the completion of the three number phases of the registered ‘Unfinished Estate’ residential development at Williamstown Stud as originally permitted under Meath County Council planning register reference DA/40501...”, and having regard to the fact that the proposed development is materially different to the layout authorised by that planning permission, and does not encompass the entire site of that development, it is considered that the proposed development would represent haphazard and uncoordinated residential development which is not justified by any statutory Development Plan zoning or objective and would, therefore, be contrary to the proper planning and development of the area.
2. The proposed development would give rise to additional vehicular, pedestrian and bicycle traffic on a road network which is substandard and deficient in the provision of footpaths, cycle paths, pedestrian crossings and public lighting. The proposed development would be without safe and convenient pedestrian and cycle access to community and social facilities in the nearby town centre of Clonee. Therefore, in the absence of definitive provision for the rectification of these deficiencies, the proposed development would be premature pending the determination by the planning authority of a road layout for the area and would endanger public safety by reason of traffic hazard. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

**PL17.247914, (RA161176)** – A First Party Appeal was lodged against Condition No. 15 of RA161176 which related to a financial contribution. The Board directed the Planning Authority to remove the condition as it was not in accordance with the provisions of Section 48 of the Planning and Development Act.

**RA/160665** – Planning permission granted by the Planning Authority on the 15<sup>th</sup> December 2016 for development at Kribensis Manor for the construction of 3 no. 2 storey 5 bed detached dwellings and 1 garage.

**DA/130515** – Extension of Duration granted by the Planning Authority in 2013 to extend the duration of the permission granted under Ref. DA/800769 to the 19<sup>th</sup> June 2018.

**RA160186** – Extension of duration for Ref. DA/40501 was granted by the Planning Authority until the 17<sup>th</sup> December 2018.

**DA/110054** – Planning permission granted by the Planning Authority in April 2011 to construct 9 no. 2 storey houses and for permission to retain and complete one dwelling along with ancillary works. This application related to 10 no. houses located within Kribensis Manor.

**DA/120904** – Extension of Duration granted by the Planning Authority for Ref. DA/70294 to extend the life of the permission to the 25/09/2015.

**DA40501** – Planning permission granted by the Planning Authority in 2005 for a development of 99 no. 4 and 5 bed houses, comprising 3 phases and with 3 vehicular access points off the Clonsilla, Dunboyne and Lucan roads respectively.

## 5.0 Policy Context

### 5.1. Development Plan

The Meath County Development Plan 2013/2019 is the relevant county development plan for the area.

**Chapter 11** - Development Management Guidelines and Standards, sets out the requirements for new residential development.

Reference is made in the appeal to the Dunboyne, Clonee and Pace Local Area Plan 2009-2015, which covers the area close to this site.

The LAP has not been extended or reviewed but was amended in March 2015 to insert the following: “RES OBJ 6 - To facilitate the completion of 3 phases of the registered ‘unfinished estate’ residential development at Williamstown Stud as originally permitted under Meath County Council planning register reference number D4/40501. The 99 residential units at Williamstown Stud were included in the ‘committed unbuilt units -Rural Houses in table 2.4 and table 2.5 of the core strategy of the Meath County Development Plan 2103 – 2019, as varied. No extension of the

duration of any planning permission shall extend beyond the lifetime of the existing County Development Plan, that being 16th December 2018'.

## 5.2. **Natural Heritage Designations**

No designations apply to the site.

The Rye Water Valley / Carton SAC is approximately 5km to the south west of the site.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The grounds of appeal, as raised in the submission from the third party appellant can be summarised as follows;

- The parent permission is Ref. RA191224. This permission should have been declared invalid as the site includes a portion of land that is within the ownership of the Holsteiner Management Company CLG and a portion that is within the ownership of Glenveagh Homes Ltd. Neither of which furnished letters of consent with the application. The applicant did not show all lands within their ownership which are adjacent to the site in the blue line boundary as required by the Planning and Development Regulations.
- The current application should have been declared invalid as the current application is in one name only, whereas the parent application was in the name of three applicants, all of which had interest in the lands. This could cause difficulty in any future planning enforcement issues.
- As the site of the current application is an amendment to a previously permitted application, it should include the entire site to maintain integrity.
- The applicant also owns a large portion of the unfinished common areas of the nearby development of Kribensis Manor. This land is not included in the blue line boundary of the subject application as required by Article 23 of the Planning and Development Regulations 2001.



- The County Development Plan (3.6.6) seeks to have a range of dwelling sizes to meet the needs of the community. The replacement of five 4-bed dwellings with five 5-bed dwellings does not meet that requirement.

## 6.2. Applicant Response

A response was received from the applicant and is summarised as follows;

- The proposed development is an amendment of a permission for 32 dwelling units and proposed to amend 5 of the permitted dwelling types. The red line application boundary is correctly and appropriately confined to the area which the amendments relate.
- The subject appeal fails to state any substantive grounds of appeal that are relevant to the development to which the decision relates, and as such is without substance or foundation.
- The appeal raised issues regarding the validity of the parent permission that are of no relevance to the subject application. Matters raised regarding land ownership and title are legal matters and are not planning matters.
- Issues regarding the phasing of the development are also raised which are beyond the scope of the application to amend the house types of 5 previously permitted units.
- The validity of the appeal is questioned as it is without substance or foundation. It also includes the names of parties that did not give their consent to be included.

## 6.3. Planning Authority Response

A response was received by the Planning Authority on the 4<sup>th</sup> September 2020 and is summarised as follows;

- The proposed development as presented is considered to be consistent with the proper planning and development of the area and therefore permission should be granted.

- In relation to the issue raised regarding the postal address, the onus is on the applicant to provide such details. The postal address is considered to comply with the requirements of the Form, No. 2, Schedule 3 (Planning Application Form), Planning and Development Regulations, 2001 to 2019.
- With regard to the Legal Interest of the applicant, as per question 10 of the application form, the applicant is indicated to be the owner of the site. However, any grant of permission issued is subject to Section 34, (13) of the Planning and Development Act 2000 & subsequent amendments.
- Regardless of the extent of the land ownership/blue line boundary the application was deemed to be valid by the Planning Authority based on the information provided and the requirements of Article 22, (2), (b), (ii) of the Planning and Development Regulations.
- The application is deemed to be valid by the Planning Authority.

#### 6.4. **Observations**

- A submission was received from Mr. Donncha Connolly stating that his name was added to the appeal without his permission and that he does not support the appeal and wishes his name to be removed.

#### 6.5. **Further Responses**

A further response was received from the appellants on the 14th October and is summarised as follows;

- The owners/residents of 17 of the 18 built and occupied dwellings in Holsteiner Park support this objection.
- A commencement notice was lodged on the 9th September 2020 for development granted under RA191224, (which was granted permission in February 2020). On the commencement notice the owner of the site is different than the owner as stated in the planning application.

- Two recent planning permissions are referenced, (ABP-306533-20/RA190406 & RA/200895), both of which were refused permission and are located within the wider development site.
- The original parent permission for the wider site, DA40501, was granted in 2005 was partially implemented and is not expired leaving a legacy of unfinished estates including roads and open spaces.
- Increasing the size of the units from 4 to 5 bedrooms does not honour Development Plan policy for a mix of dwelling types and social inclusion.

A response was received from Meath County Council on the 19th October and states that the Planning Authority has no further comments to make at this stage of the appeal.

## 7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Legal & Procedural Issues
- Amenity & Impact of Development
- Appropriate Assessment

7.2. Legal & Procedural Issues.

7.3. The appellant has queried the validity of the parent permission for the site, which was approved by the Planning Authority on the 28th February 2020. A decision on this application was issued on the 17th January 2020 and this decision was not appealed or challenged through the courts. The validity of this permission is not open to challenge at this stage. As such, there is now an extant permission for the development of 32 houses on the site and the principle of development has been established. Recent planning history for development in a different location within

the extended site, as referenced in the further response by the appellant, (dated 9th October 2020), has no bearing on this extant permission.

The validity of the subject application is also queried based on the details submitted with regard to the address, the applicant, and the inclusion of adjacent lands within the 'blue line' of the application. I note that the Planning Authority deemed the application to be acceptable. In terms of the procedural matters regarding the applicant, the address of the site and lands within the blue line, I am satisfied that the information submitted was sufficient to fully inform third parties of the nature and location of the development and that this was not prejudicial to third party participation in the planning process.

The applicant has requested that the Board dismiss the appeal under Section 138 of the Planning and Development Act on the basis that it is without substance or foundation. However, I consider the appeal to be valid, given its consideration of planning issues relating to the proposed development and can therefore be assessed.

#### 7.4. Amenity & Impact of Development

The proposed amendment is minor in nature and would not result in any significant additional impacts on the amenity of the adjoining lands or the future residential amenity of the proposed development.

The application seeks to change the house type of 5 houses from 4 bedroom detached dwellings to 5 bedroom detached dwellings. The gross floor area of each unit would increase from 193m<sup>2</sup> to 224-226m<sup>2</sup> and floor plan layouts would be altered to provide a traditional uniform square floor plan with a centrally positioned main entrance. The overall provision of houses on the site would be altered from 12 x 4 bed houses and 20 x 5 bed houses to 25 x 5 bed and 7 x 4 bed.

Section 11.2.2.1 of the Meath County Development Plan states that 'In housing developments of 15 or more units, a mix of house types and sizes should generally be provided'. In my opinion the overall development is targeted at a specific market and the provision of 5 bedroom houses instead of 4 bedroom houses will not have a material impact on the overall nature of the development and as such is acceptable.

All units would be large in scale with a provision of private open space in excess of the Development Plan standards. Each of the units would provide a good standard of residential accommodation and would be in keeping with the character and architectural expression of the remainder of the proposed development.

#### 7.5. Appropriate Assessment

Having regard to the nature and scale of the proposed development, which is an amendment to an existing permission, the surrounding area and separation distance to 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

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

### 9.0 Reasons and Considerations

- 9.1. Having regard to the nature and scale of the proposed development for the change of house type to 5 no. previously approved houses, from 5 bedroom to 4 bedroom, it is considered that subject to compliance with the conditions set out below, the proposed development would be in accordance with the policies and objectives of the Meath County Development Plan 2013-2019, and would not seriously injure the visual or residential amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>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 on 28th February 2020 under planning register reference number RA/191224, and any agreements entered into thereunder.</p> <p><b>Reason:</b> In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.</p>
3.	<p>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.</p>

	<p><b>Reason:</b> 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.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>

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Deputy Planning Inspector

November 2020