



An
Bord
Pleanála

Inspector's Report

ABP-309105-21

Development	Demolish single storey building and construction of five two-storey houses.
Location	Ballylynan, Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	19667
Applicant(s)	Oghill Properties Ltd
Type of Application	Planning permission
Planning Authority Decision	Grant permission
Type of Appeal	First Party v condition
Appellant(s)	Oghill Properties Ltd
Date of Site Inspection	16 th March 2021
Inspector	Fergal Ó Bric

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.0852 hectares and is located to the south-east of the village of Ballylynan, with access off a local county road just off the Main Street, the N78. The appeal site is a long narrow brownfield one. Immediately east of (to the rear) of the appeal site are five houses which are substantially complete externally (a pair of semi-detached and a terrace of three dwellings). The appeal site and the residential development to its east enjoy a shared access road and footpath along the southern boundary. There is a vacant single storey galvanised roof structure along the street frontage of the appeal site which would be demolished to provide for the development. There is a two-metre-wide footpath and street lighting along the street frontage of the site. Further south of the site are residential properties and to the north are residential and commercial properties which front onto the Main Street in Ballylynan. On the opposite side of the Main Street is a small pocket park area and a housing development (The Village) on the western side of the N78. The appeal site is located within the 50 kilometre per hour speed control zone.
- 1.2. There are two metre boundary walls constructed along the southern and eastern site boundaries and a tree lined boundary to the north of the site. Levels across the site are consistent with those on the Main Street and those within the development to its east. remain constant rise gradually in a southerly direction. The site has security fencing along the public road, preventing public access and represents an unfinished and underutilised brownfield town centre site.

2.0 Proposed Development

- 2.1. The development would comprise the construction of five two-storey dwellings, a pair of semi-detached dwellings facing onto the street frontage in place of the single storey galvanised roof structure to be demolished and a terrace of three dwellings facing south onto the internal service road.
- 2.2. The proposed dwellings would be accessed via the internal service road (carriageway width of 5.5 metres) that is in place on site. There is also a two-metre-wide footpath alongside the internal service road.

2.3. Further information was submitted in relation to: Access to the site; A reduced scale/density of development; Increased public and private open space provision and revised disposition of open space; Details of internal access road and footpath, including public lighting and ownership details; Details of water supply, foul water and surface water including the necessary consent to access the services; Details of the applicants' land holding including proposals for the completion of the development to the east (rear) of the site.

3.0 Planning Authority Decision

3.1. Decision

A Notification of a decision to grant planning permission for the development subject to 17 conditions was issued by the Planning Authority, order dated 3rd day of December 2020.

The following are considered to be the pertinent conditions to this appeal:

Condition number 1(b) This permission is for 2 no. dwellings only, namely the two dwellings numbered 01A and 02A at the eastern (street frontage) of the curtilage as indicated on the revised site layout plan received by the Planning Authority on the 9th of November 2020. The 2 no. houses numbered 3B and 4B indicated on drawing no. 01/02 received on the 9th of November 2020 shall be omitted from the development. Revised drawings shall be submitted for agreement within 8 weeks of grant of permission.

Conditions numbers 2 and 3: Agreements regarding connections to services with Irish Water.

Condition 10: Boundary treatment details.

Condition number 15: Cash deposit.

Condition 17: Development Contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning reports set out the following:

- The principle of the development is acceptable given its town centre location which is fully serviceable.
- The site is located outside the confines of the critical Flood Zones A and B indicated in the Strategic Flood Risk Assessment of the Plan.
- The applicants revised their proposals following a request for further information from 5 dwelling units to 4 dwelling units.
- The applicants have confirmed that the dwelling units to the east (rear) of the appeal site (outside of the red line application site boundary) are in third party ownership and that the applicants have control of the western part of the site only including approximately 60 metres of the access road and internal footpath and approximately 25 metres of street frontage.
- The applicants have confirmed that they do not have consent to carry out works for the completion of the development to the east of the appeal site and that those lands are in third party ownership.

The Planning Authority decision reflects the recommendation of the Planning Officer.

3.2.2. Other Technical Reports

Road Design Section: No objections subject to conditions.

Municipal District Office: No objections subject to adequate sightlines being demonstrated at entrance point.

Fire Officer: No objections subject to conditions.

Environment Section: No objections subject to conditions.

3.3. Prescribed Bodies

Irish Water: Correspondence submitted dated 27th day of October 2020 confirming that the proposed connection to the Irish Water network(s) can be facilitated.

Transport Infrastructure Ireland: No observations in relation to the proposal.

3.4. **Third Party Observations**

3.4.1. None received.

4.0 **Planning History**

On Site:

Planning Authority reference number 07/695. In 2007, planning permission was granted to demolish a single storey structure (Tom's food store) and construct two commercial units and four apartments within 2 no. two-storey buildings.

Planning Authority reference number 08/212. In 2008, planning permission was granted to amend 07/695 to convert a first-floor storage unit to a two bedroomed apartment.

On neighbouring site to east of appeal site:

Planning Authority reference number 05/1516, in 2005 planning permission was granted for the construction of dwelling units, comprising a mix of two storey semi-detached and terraced units

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. The appeal site of the proposed development is located within an area zoned 'Town Centre' in the Ballylynan settlement plan set out within Volume No. 2 of the Laois County Development Plan 2017-2023 where the objective is "To protect and enhance the special physical and social character of the existing town centre and to provide for and improve retailing and commercial activities". The purpose of the zoning is stated as being "To enhance the vitality and viability of town and village centres through the development of under-utilised land and brownfield sites and by encouraging a mix of uses to make the town and village centres an attractive place

to visit, shop and live in". The Council will encourage the full use of buildings and backlands.

5.1.2. The site is included within the derelict sites register, under reference number DS ref 15/05.

5.1.3. The following specific policies are set out within the plan.

BLN3: Promote densities in the order of 12 units to the hectare.

BLN4: Consolidate the village centre by way of infill development, backland development and redevelopment as appropriate and enhance the public realm.

5.2. **National Policy**

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- Urban Design Manual, A Best Practice (DOEHLG, 2009).

5.3. **Natural Heritage Designations**

5.3.1. The River Barrow and River Nore Special Area of Conservation (SAC) (Site Code 002162) is located approximately 6 kilometres east of the appeal site.

5.4. **EIA Screening – Preliminary Examination**

5.4.1. Having regard to the existing pattern of development in the vicinity of this brownfield town centre site, the modest nature and scale of the proposed development and the location of the site on serviced lands, 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.

A first-party appeal against the Planning Authority's condition number 1(b) only was received from the applicants. The issues raised within the appeal are as follows:

- The applicant welcomes the decision of the Planning Authority to grant planning permission but strongly objects to the reduction in the number of dwelling units permitted on site, from five to two.
- The development as permitted by the Planning authority would not be economically viable to develop.
- The development as permitted would not be in compliance with The Guidelines for Planning Authorities for Sustainable Residential Development, in Urban Areas (SRDUA) 2009, in terms of representing a sustainable land use at an appropriate residential density on a backland, infill and brownfield site.
- No objections to the scale of development were raised at pre-planning consultation stage.
- The previous permission on the site under planning reference number 07/695 provided for two commercial units and 4 apartments.
- There are a number of specific policies for local service towns, which include Ballylynan, within the Laois County Development Plan, such as CS32 where the policy is "To promote densities relative to the scale of the settlement, located as near as practicable to the town centre area".
- Specific policy BLN 3 within the Ballylynan Settlement Plan is "To promote densities in the order of 12 dwelling units to the hectare", would not be in accordance with the SRDUA Guidelines 2009, which recommends densities in excess of 20 residential units per hectare. The development of 4 units, which equates to a density of 27.5 units per hectare and a plot ration of 0.27 in accordance with the Density guidelines. Developments which do not achieve these densities are unsustainable.

- The proposal is compliant with policy BLN4 of the Ballylynan Settlement Plan in terms of consolidating the village centre by way of infill/backland development
- Section 1.3.4 of the SRDUA Guidelines, 2009 sets out that “Development Plan should give specific recognition to the importance of achieving higher residential density in appropriate areas such as brownfield sites and sites in proximity to town centres or public transport corridors in the interest of providing a more sustainable residential pattern”.
- Chapter 5 of the SRDUA Guidelines 2009, supports higher densities close to village centre facilities and that a mix of dwelling types is not required for sites of one hectare or less.
- The site is located within 230 metres of many town centre facilities and 785 metres by footpath to the local national school, therefore all facilities are located within a ten-minute walk of the site.
- The proposals were deemed acceptable by the Transportation Section of Laois County Council in terms of traffic and pedestrian safety.
- The public open space is south facing and accessed by the public footpath without the need to cross any roadways.
- The revised layout submitted as part of the further information response results in the public open space being directly overlooked by the two units within block B between the two blocks of development.
- The original terrace of three dwellings within Block B provided for rear garden depths of 6.5 metres, however none of the first-floor windows on the rear elevation are faced by opposing first floor windows. The revised Block B proposal provides for the 22 metres separation distances and fully complies with the Planning Authority Development Management standards.
- The potential new streetscape would be directly addressed by a terrace of three units which would not be possible to deliver with the reorientation of Block B, as set out within the further information response.
- The appellants request that the Board reject the Planning Authority’s decision to impose reduced densities and to permit the development of 5 dwellings in accordance with the proper planning and sustainable development of the area,

or alternatively the revised proposals for the development of 4 dwellings as submitted within the response to the request for further information.

6.2. **Planning Authority Response**

None received.

7.0 **Assessment**

- 7.1. This is a first-party appeal against condition number 1(b) only attached to the Planning Authority's decision to grant planning permission. This condition specifies that only two units are permitted at the western (street front) part of the site within the planning decision
- 7.2. Having regard to the nature and scale of the proposed development and the nature of condition number 1(b), it is considered that the determination by the Board of the application, as if it had been made to it in the first instance, would not be warranted. Therefore, the Board should determine the matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000, as amended.
- 7.3. The site is zoned town centre and residential uses are open for consideration on town centre zoned lands. The site represents an under-utilised, brownfield serviced site and therefore, the principle of the proposal is considered acceptable in this instance. The site is included on the Derelicts sites register by the Local Authority.
- 7.4. Planning permission was originally granted on this site in 2007 by the Planning Authority, under planning reference number 07/695 for the demolition of the single storey former retail unit to the west of the site and for the construction of two retail units and 4 apartment units in 2 two-storey blocks.
- 7.5. I note the provisions of the current Laois County Development Plan 2017-2023 where the following is set out in relation to town and village centres within local service towns, (including Ballylynan) within CS32 "To promote densities relative to the scale of the settlement, located as near as practicable to the town centre area". The appeal site has the benefit of a town centre zoning, just south-west of the Main Street. A density of 13.75 units per hectare would arise from the development as

permitted by the Planning Authority for the development of two units. A greater density of development would be more appropriate and sustainable on this brownfield, under-utilised town centre site.

- 7.6. I note the provisions of specific policy objective BLN3 within the Ballylynan Settlement Plan in terms of promoting densities in the order of 12 units per hectare. This density may be appropriate on the edge of a development boundary within a local service town; However, I do not consider this density would be sustainable for a town centre site on lands that are fully serviced. Specific policy objective BLN4 conflicts with BLN 3 as it promotes consolidating the village centre by way of infill/backland development, which the current proposals would comply with.
- 7.7. In terms of National Policy, SRDUA Guidelines 2009, set out guidance regarding appropriate locations for residential development and densities of development within town/village centres. Section 1.3.4 of the Guidelines sets out that “Development Plan should give specific recognition to the importance of achieving higher residential density in appropriate areas such as brownfield sites, sites in proximity to town centres or public transport corridors in the interest of providing a more sustainable residential pattern”. The appeal site is designated a town centre site within the Development Plan and is also a brownfield one (as acknowledged within the Planners report) and therefore, would accord with this specific provision of the 2009 Guidelines. Chapter 5 of the 2009 Guidelines supports higher densities close to village centre facilities and that a mix of dwelling types is not required for sites of one hectare or less. The appeal site has an area of .0852 hectares and is zoned town centre and therefore accords with the provisions of Chapter 5 of the 2009 Guidelines.
- 7.8. In terms of compliance with the Development Management Standards, the applicants originally submitted plans for a block of 3 units within Block B and within the revised plans submitted a part of the further information response a block of two units within Block B. The three terraced units faced onto the internal service road with a gable end facing onto the centrally located public open space and had rear garden depths of 6.5 metres with a northerly facing orientation. These rear garden depths would be below best practice standards, although I acknowledge that there are no directly opposing first floor windows further north of the appeal site at present. The block of two units within block B, provides for both units having a direct aspect

onto the central area of public open space and a minimum first floor separation distance of 12.1 metres to the pair of two storey three bedroomed dwellings east of the appeal site. The public open space would measure at 126 square metres (sq. m.) which is approximately 10.7% of the total site area and would accord with the Development Plan standards. The omission of the Block B units (as set out within the Planning Authority decision) to the east of the appeal site would result in that section of the appeal site remaining under-utilised and undeveloped which would not accord with the provisions of the Laois County Development Plan nor the SRDUA Guidelines, 2009. These two units within Block B would have floor areas of 107 sq. m. approximately and have private rear gardens paces ranging from 75 sq. m. to 90 sq. m. which would accord with Development Plan standards.

7.9. The Planning Authority's reason for attaching condition number 1(b) to their notification of a decision to grant permission is stated as 'in the interests of proper planning and sustainable development of the area. I consider that the proper planning and sustainable development of the areas would be best served by permitting residential development on the eastern part of the appeal site, rather than leaving it undeveloped and underutilised. The proposal to permit the two units within Block B would represent the optimal solution in terms of complying with the Development Management standards of the Development Plan and yet achieving an appropriate density that would accord with the Development Plan standards and the 2009 Residential Density Guidelines standards. I note that the Transportation Section of the Local Authority and Irish Water raised no objections to the development subject to conditions.

7.10. In conclusion, I am satisfied that condition Number 1(b), specifying that only two units be permitted is not sustainable nor appropriate on a fully serviced brownfield site having regard to the town centre zoning and the derelict status of the site, and therefore, I consider that condition 1 (b) would not be appropriate and should be modified to permit 4 units on site.

8.0 Recommendation

8.1. It is recommended that the Planning Authority be directed to amend condition number 1(b) for the reasons and considerations hereunder.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the existing pattern of development in the area and the provisions of the Laois Development Plan 2017 and the Guidelines for Sustainable Residential development 2009, it is considered that the modification to the proposed development, as required by the planning authority in its imposition of condition number 1(b), was not warranted, and that the proposed development, with the modification of condition number 1(b), to permit 4 units , 01 to 04 as submitted to the Planning Authority on the 9th day of November 2020, on Site Layout Plan drawing number 01/02 would not detract from the amenities of the area, would be acceptable on a fully serviced brownfield site with a town centre zoning and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Fergal O'Bric
Planning Inspector

23rd June 2021