



An
Bord
Pleanála

Inspector's Report

ABP-311761-21

Development	9 houses with associated site development works.
Location	Moorfield, Link Road between Green Road and Athgarvan Road, Newbridge, Co. Kildare. (Green Rd. end of link Rd.)
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	21545
Applicant(s)	Ronan Clarke
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Ronan Clarke
Date of Site Inspection	23 rd April 2022
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.26 hectares is located on the southern side of the link road (Curragh Grange) between Green Road and Athgarvan Road, in Newbridge. The appeal site is an undeveloped/greenfield site with no defined use. The site is triangular in shape with its boundaries defined by a hedgerow along its northern/roadside boundary, a palisade fence and hedgerow along its south eastern boundary and a block wall and hedgerow along its south western boundary. The appeal site adjoins an industrial estate to the south east with units belonging to Lily O'Briens Chocolates and Commerford Brothers adjoining site. To the south west the site adjoins a detached dwelling that fronts onto the Green Road. There is a single-storey garage/shed serving this dwelling located along the boundary with the appeal site.

2.0 Proposed Development

2.1. Permission sought for construction of 9 no. two-storey terrace dwellings consisting of 5 no. three bed and 4 no. two bedroom dwellings, new site entrance, connection to existing services and all ancillary sites works.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on one reason...

1. Policy HPO 2 of the Newbridge Local Area Plan 2013-2019 (extended to 2021) seeks "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". It is considered that the previously permitted scheme permitted on site which proposed the same staggered layout but with better separation distances and higher quality private amenity areas, is more appropriate than the proposed scheme under the subject application which proposes larger overbearing gables to form party/boundary walls adjacent to private open spaces. The proposed

development would negatively impact on the residential and visual amenity of adjoining residential property, by reason of its visually obtrusiveness and overbearing appearance, and it's potential for overshadowing. Accordingly, it is considered that the proposed development be contrary to HPO2 of the 2013-2019 (extended to 2021) and Development management standards outlined in the Kildare County development Plan 2017-2023, and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (11/06/21): Further information including revisions to deal with concerns regarding the staggered building lines and potential overshadowing of gardens within the scheme, a shadow analysis, demonstration of adequate internal storage and the details requested by the Transportation Section.

Planning report (29/09/21): Concerns were raised regarding the staggered layout in terms of visual impact of the gables, adverse impact on adjoining residential properties and potential overshadowing. The proposed development was considered to be contrary Development Plan policy and the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

Water Services (26/05/21): No objection subject to conditions.

Irish Water (27/05/21): No objection.

Environment Report (01/06/21): No objection subject to conditions.

Transportation (31/05/21): Further information including revised layout showing charging points, 2m wide footpaths, area to be taken in charge, demonstration of Adequate sight lines, compliance with DMURs, a swept path analysis and a lighting report and lighting scheme.

Transportation (27/09/21): No objection subject to conditions.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

None.

4.0 **Planning History**

17/989: Permission granted for the construction of 7 no. two-storey semi-detached/terraced dwellings and associated site works.

16/480: Permission granted for the construction of 2 no. two-storey houses and associated site works.

14/988: Permission granted for the construction of 2 no. two-storey dwelling and associated site works.

5.0 **Policy Context**

5.1. **Development Plan**

The relevant Development plan is the Kildare County Development Plan 2017-2023. The appeal site is located in the function area of Newbridge Local Area Plan 2013-2019 (extended to 2021).

The appeal site is zoned B-Existing Residential/Infill with a stated objective 'to protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services. This zoning principally covers existing residential areas'.

The zoning provides for infill development within these residential areas. The primary aim of this zoning objective is to preserve and improve residential amenity and to provide for further infill residential development at a density that is considered appropriate to the area.

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

Chapter 17 of the Kildare County Development Plan 2017-2023 contains the Development management standards for development including residential development.

5.2. Natural Heritage Designations

Pollardstown Fen SAC (site code 000396) 1.8km from the site.

5.3. EIA Screening

The proposal for 9 no. residential units on a site of 0.26 ha is below the mandatory threshold for EIA. The nature and the size of the proposed development is well below the applicable thresholds for EIA. I would note that the uses proposed are similar to predominant land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Ronan Clarke, Highland View Terrace, Fairgreen, Naas, Co. Kildare. The grounds of appeal are as follows...

- The proposal is designed to have regard to the triangular nature of the site and is compliant with development management standards including site coverage, plot ratio, separation distances and the scale of development has regard to adjoining existing development.
- The level of sunlight available in the proposed gardens accords with the BRE recommendation of at least two hours of sunlight on the 21st of March with no overshadowing of properties within the scheme or on adjoining sites.
- The development is compliant with all relevant Development Management Standards in terms of density, open space and car parking.
- The appellant refers to the fact that the development is fully compliant with all Development Management standards and notes that the design of the development/gables is satisfactory in terms of visual impact and adjoining amenity.

6.2. Planning Authority Response

6.2.1 The PA refer the Board to the planning report and technical assessment associated with this case.

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

Density, Development Control Standards

Visual Amenity/residential amenity

Residential Amenity/Adjoining Amenity

7.2. Principle of the proposed development:

7.2.1 The appeal site is zoned B-Existing Residential/Infill with a stated objective 'to protect and improve existing residential amenity, to provide for appropriate infill

residential development and to provide for new and improved ancillary services. This zoning principally covers existing residential areas under the Newbridge Local Area Plan 2013-2019 (2021). The appeal site is an infill site in a residential area and has been subject to a number of permitted permissions for multiple housing units (most recently for 7 no. units). The proposal would be consistent with the zoning objective of the site and the principle of the proposed development is acceptable. The proposal is acceptable subject to an acceptable, visual impact, physical impact on adjoining properties, adequate quality of design and layout and satisfactory traffic impact. These elements of the proposal are to be examined in the following sections.

7.3. Density, Development Control Standards:

7.3.1 The proposal is for 9 no. two-storey dwellings on a site with an area of 0.26 hectares yielding a density of 35 units per hectare. National policy on density is contained under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual'). Chapter 5 relates to Cities and Larger Towns. The application site is on the periphery of a large town (defined as population of 5,000 or more) and would constitute an Outer Suburban/Greenfield Site "defined as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities". The guidelines identify that "the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally". The proposed development provides for a density of 35 units per hectare, which in my view would be consistent with the recommendations of national policy and an appropriate density at this location. The refusal reason suggest that the previous proposal for 7 no. dwellings was a more appropriate proposal in terms of design, scale and layout. I would note that the proposed development in this case should be assessed on its merits and not refused because of how it compares to a previously permitted scheme. I would note that the density proposed of 9 units in this case is more in keeping with the density standards

recommended under national policy with the previously permitted scheme having a density of 26 units per hectare.

7.3.2 The first party appellant in their response has stated that the development proposed is compliant with all relevant Development Management Standards under the County development plan. The proposal meets development management standard such as site coverage (50%), plot ratio (0.35-05 in outer suburban areas), minimum private open space areas for dwellings (55sqm for two bed units and 60sqm for three bed units), communal open space (15% of site area) and car parking (2 spaces per unit. The appellant has included a summary of housing quality with the development benchmarked against the recommendation set out under the Quality Housing for Sustainable Communities guidelines.

7.3.3 I am satisfied that the proposed development provides for an appropriate density of development at this location and provides for a development that compliance with the minimum standards required under the Development Management Standards of the Development Plan and the recommendations of the Quality Housing for Sustainable Communities guidelines.

7.4 Visual Amenity/residential amenity/pattern of development:

7.4.1 The proposal was refused on this basis that the proposal provides for a layout that includes a staggered building line and visibility of the gables of many of the dwellings. The proposal was refused on the basis that it was considered the visibility of the gables would be obtrusive and detrimental to the visual amenities of the area. In addition permission was refused on the basis that the staggered layout of the proposal would cause overshadowing of the private amenity spaces associated with dwellings within the scheme.

7.4.2 Firstly in relation to visual amenity, the proposal is for an infill development of 9 no. two-storey dwellings. The dwellings are very much typical in design and scale of a suburban area such as this and are of a scale and design very much in keeping with the predominant scale and form of development already evident in the surrounding

area. I would disagree with the Planning Authority's assessment regarding visual impact and would consider that the overall development is satisfactory in terms of overall visual impact and is of a scale of development very much in keeping with the scale and character of existing development in the area. I do not consider that the visibility of the gables of the proposed dwellings is significant within the surrounding area or from the adjoining residential property to the south east.

7.4.3 In relation to the issue of overshadowing the refusal reason and assessment suggest that the staggered layout would result in overshadowing of the private amenity space associated with some of the dwellings located within the scheme. The layout of the scheme is such that the main orientation of dwellings on site is north south. The dwellings have their front elevation facing north and rear elevation facing south with all private amenity space located south of the units they serve. The applicant in response to a further information request submitted a shadow analysis showing shadow impact on a number of days of the year (21st of March, 21st of June, 21st of September and 21st of December) and at various times on this days. In response to the appeal the first party appellant also submitted an assessment of assessment of sunlight to gardens and open spaces. The requirement under the BRE guidelines is that such spaces would provide for a minimum of 2 hours of sunlight over 50% of the amenity space on the 21st of March. This standard is met in the case of the gardens serving the proposed dwellings.

7.4.4 I would be of the view the overall layout of the proposal is acceptable in relation to overshadowing in terms of properties within the scheme. This is adequately demonstrated by the shadow analysis submitted and the development benefits hugely from a south facing main orientation. I am satisfied that having regard to the two-storey scale of the proposal and its separation relative to adjoining residential properties to the south east and north, the proposed development would have no adverse impact on any of the existing residential properties in the vicinity.

7.5. Traffic:

7.5.1 The proposal is for 9 no. dwellings on the southern side of a public road linking Green Road and Athgarvan Road (Curragh Grange). The proposal entails provision of a new vehicular entrance. The alignment of the public road is of a good standard with the existing road featuring a 6m wide carriageway and footpaths along both sides. The level of sightlines available at the entrance point appears to be sufficient to cater for the traffic movement likely to be generated. As noted above the level of car parking proposed is consistent with the requirement under the County Development Plan of two spaces per dwelling. Subject to the provision of a layout consistent with the recommendation of the Design Manual for Urban Streets and Roads, the proposed development is satisfactory in the context of traffic safety.

8.0 **Appropriate Assessment**

8.1 Having regard to the nature and scale of the proposed development and its proximity 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.

9.0 **Recommendation**

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

10.0 **Reasons and Considerations**

Having regard to the following:

(a) the provisions of the Kildare County Development Plan 2017-2023 and the Newbridge Local Area Plan 2013-2019 (extended to 2021), including the zoning objectives for the site',

(b) the Housing for All-A New Housing Plan for Ireland (September 2021),

(c) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013

(d) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009

(e) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020,

(f) the nature, scale and design of the proposed development,

(g) the availability in the area of a wide range of social, community and transport infrastructure,

(h) the pattern of existing and permitted development in the area,

(i) the planning history within the area,

(j) the report of the Inspector and the submissions and observations received,

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development 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.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the revised plans submitted on the 03rd day September 2021, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Prior to the commencement of any house unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

4. 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. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

5. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any dwelling unit. Reason: In the interests of amenity and public safety

6.

(a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS.

Reason: In the interest of orderly development.

7. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries with no ransom strips remaining to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted and agreed with the planning authority.

Reason: In the interest of permeability and proper planning and sustainable development.

8. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider.

Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

10. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management

11. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interests of clarity and public health.

12. 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:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
- b) Location of areas for construction site offices and staff facilities.
- c) Details of site security fencing and hoardings.
- d) Details of on-site car parking facilities for site workers during the course of construction.
- e) A Construction Traffic Management Plan providing details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- f) Measures to obviate queuing of construction traffic on the adjoining road network.
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any footpath, cyclepath or public road during the course of site development works.

i) Details of appropriate mitigation measures for noise, dust and vibration, and the location and frequency of monitoring of such levels.

j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.

k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil. Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health, and safety.

13. 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 provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

14. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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 22. Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority, drawings showing all development works to be taken in charge designed to meet the standards of the Planning Authority.

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

15. 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.

16. 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 and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or 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 determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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

Colin McBride
Planning Inspector

24th April 2022