



An
Bord
Pleanála

Inspector's Report ABP – 313188-22

Development	Fifty-Eight Houses and all associated site works.
Location	Maghara Townland, Ballymote, Co Sligo.
Planning Authority	Sligo County Council.
P. A. Reg. Ref.	22/13
Applicant	SDCH Properties Ltd.
Type of Application	Permission.
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Gary and Moira Maxwell
Date of Site Inspection	21 st June, 2022
Inspector	Jane Dennehy

Contents.

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Technical Reports	5
3.3. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.3. Applicant Response	7
6.4. Further Submission of the Planning Authority.	7
6.5. Further Submission of the Appellant.	8
7.0 Assessment.....	8
9.0 Recommendation.....	11
10.0 Reasons and Considerations	11
11.0 Conditions.	11

1.0 Site Location and Description

1.1. The application site has a stated area of 2.3525 hectares and is located on greenfield lands in use as grazing lands by livestock at the south west of Ballymote with frontage onto the R293. The ground level within the site is uneven but it rises towards the western edge. Access is at the north eastern end adjacent to the Corn Mill residential development of semi-detached houses. A two-storey house and a bungalow each with separate entrances onto the R293 are located to the south west of the site entrance. The site lands extend from the frontage at the southern end of the R293, and around to the rear of the two residential properties to the entrance at the north eastern end which is along a farm track with a farm gate off the R293. A creche/Montessori school premises adjoins the north eastern boundary. Along the western side boundary is the railway line and corridor and further to the north is the railway station. A commercial premises with agricultural goods and hardware. adjoins the southern boundary.

2.0 Proposed Development

- 2.1. The proposed fifty-eight dwelling development comprises: ten one bed apartments, two, two bed houses, eighteen, three bed houses and ten four bed houses and the total stated floor area is 6,014 square metres. Also included is provision for 110 car spaces in total to serve the development. The existing entrance serving the bungalow, one of the two existing dwellings located on the road frontage is to be widened and is to include a driveway for the existing dwelling. The agricultural entrance adjacent to Corn Mill, according to the site layout plan is to be maintained.
- 2.2. According to the application submission, there is sufficient capacity at the crèche in the adjoining development, 'Corn Mill' to cater for the proposed development and a statement by the operator, Claire Barden to this effect is included. A future application may be lodged for a direct access and footpath linkage between the proposed development and the creche facility.
- 2.3. An agricultural crossing on the rail line which adjoins the western site boundary is to be extinguished as part of the proposed development

2.4. The application is accompanied by a design statement, and it was lodged following extensive prior consultations with the planning authority.

3.0 **Planning Authority Decision**

3.1. **Decision**

By order dated, 10th March, 2022, the planning authority decided to grant permission for the proposed development subject to conditions which included the following requirements.

Condition No 2: Occupancy restricted to individual purchasers and or those eligible for social and affordable housing including cost rental housing.

Condition No 4 (a). Repositioning of a block (Block C) to provide for a two-metre separation distance from the western site boundary adjoining the railway corridor.

Condition No 5. A revised site boundary treatments plan to include provision for a 2.4 metres high capped block wall along the western boundary adjoining the railway corridor.

Condition No 6. A drainage design report to demonstrate preclusion of flooding of structures and the public road for a 1:100-year storm event, calculations, pipe sizing and provision for a minimum 300 mm headroom inclusive of a 20% climate change factor for the culvert section. proposed drainage layout and a maintenance schedule for storm management which is to be applicable over a twenty-year period for agreement it the planning authority prior to commencement of development.

Condition No 14. A site-specific Environmental Management Plan for the construction stage for agreement it the planning authority prior to commencement of development,

Condition No 18: Measures for protection of the railway corridor and public health.

3.2. Technical Reports

- 3.2.1. The Council's Area Engineer indicates no objection to the proposed development.
- 3.2.2. The Water Services Engineer indicates a recommendation for an additional information request regarding the proposed design for surface water collection and disposal and for an environmental management plan and construction and demolition resource water management plan. for the construction stage. potential flooding.
- 3.2.3. The submission of Irish Water indicates no objection to the proposed development.
- 3.2.4. The submission of Irish Rail indicates requirements in respect of boundary treatment at the western edge of the site, there being an obligation under the Railways Act, 2005, on all parties carrying out work in Design Construction and Operation of a development on or near a rail line to ensure no increased safety risk. In this regard minor modifications for the layout of Unit Nos 7-11 at the south west corner of the stie is required to ensure a minimum space for maintenance works without need for access to the railway line.
- 3.2.5. The planning officer having taken his review of the issues raised in the technical reports and the observer submissions above submissions concluded that the proposed development is acceptable, and a grant of permission is recommended with attachment of the conditions including the requirements of conditions referred to in para 3.1 above.

3.3. Third Party Observations

A submission was lodged by the Appellant Party, Gary and Mora Maxwell of Woodfield House in which concerns are raised about separation distances from boundaries, amenity and privacy implications for their property due to overlooking, visual impact and flooding risk along the entrance /driveway serving Woodfield over which access is to be provided.

4.0 Planning History

- 4.1.1. According to the planning officer report, there is no record of planning history for the site.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative development plan is the Sligo County Development Plan, 2017-2023 according to which the site is within an area zoned RES: for the protection and enhancement of existing residential amenity, promotion of infill back land development where appropriate and development of housing on greenfield lands. There are several policy objectives providing for a balanced supply, in accordance with the Core strategy and settlement strategy, a sequential development approach, prioritisation of lands close to settlement centres over those which are further out from the centre, but with each application considered on its own merits, promotion of higher density development as appropriate and high-quality layout and design having regard to statutory guidance.

5.1.2. In areas zoned for residential development, according to section 12.1 it is acceptable for areas further from the town core to have lower density, below twenty units per hectare.

5.1.3. Strategic Guidance.

5.1.4. The most relevant strategic guidance is

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009

Quality Housing for Sustainable Communities and design Standards for new Apartments

Design Manual for Urban Roads and Streets. 2012

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was lodged by Gary and Moira Maxwell of Woodfield House, Ballymote on their own behalf on 1st April, 2022 according to which there are serious issues of concern regarding the boundary with their property. Attached to the appeal is a drawing (P-003)

6.1.2. According to the appeal, there are two properties affected but at the boundary with one of them a 1.8 metres high boundary wall is to be erected whereas no similar provision for a 1.8 metres high boundary wall is made for the boundary with the adjoining property of the appellant party. It is therefore requested that this requirement should be conditioned. It is stated that this request had been made in the observer submission lodged at application stage, but the plans show a mix of a one-metre-high post and rail fencing and one-metre-high deciduous hedgerow. It is contended that while the existing boundary treatment is appropriate and acceptable for the adjoining agricultural use it is unsuitable if a residential development is on the lands from the perspective of protection of privacy and security.

6.2. Planning Authority Response.

6.2.1. In a submission dated, 25th April, 2022 it is stated that further to its review of the appeal, the planning authority is satisfied with the assessment and decision to grant permission and it is confirmed that it is considered that the development proposal accords with the zoning objective and CDP and is acceptable. It is requested that the decision to grant permission be upheld.

6.3. Applicant Response

6.3.1. A submission was received from the applicant's agent on 27th April, 2022 in which it is confirmed that the applicant is willing to provide a pointed 1800 mm high block wall in replacement of the 100 mm high post and rail fencing between Points R-S and Q-R at 1.8 metres in height, as shown on the copy of Drawing P-003 submitted with the appeal.

6.4. Further Submission of the Planning Authority.

6.4.1. A submission was received from the planning authority on 18th May, 2022 in which it is stated that there is no objection to the proposed replacement of the 1,000 mm high post and rail fence to a 1.8 m high wall, (between points S-R and R-Q on the copy of Drawing P-003 submitted with the appeal) as indicated in the applicant's submission dated, 26th April, 2022.

6.5. Further Submission of the Appellant.

- 6.5.1. A further submission was received from the appellant party on 24th May, 2022. In the submission it is stated that the proposed provision for the 1.8 metres high boundary wall as indicated in the applicant's response to the appeal meets the requirement of the appellant regarding boundary treatment but that it is requested that it be continued as far as the road.
- 6.5.2. It is stated that as the lane is to become a walkway/cycle path with access to the development, quantification as to the boundary treatment is essential for the purposes of clarity. The boundary for the walkway is thirty metres in length. At present there is a twelve metre long 1.2 m high wall, a four metres wide gateway opening with the rest of the length being taken up by deciduous hedging.
- 6.5.3. It is requested that the existing wall be increased in height to 1.8 metres. The 1.8 metres height affords protection for both the appellant party's property and the second property adjoining the proposed development and it is contended that the height is warranted in that the existing agricultural use is to be replaced by residential development.

7.0 Assessment

- 8.0 The concerns raised in the appeal relate to the proposed arrangements for boundary treatment between the site and the two residential properties enclosed on three sides by the proposed development have been substantively resolved and agreed between the parties. Further to review of the information provided in the applicant's response to the appeal and inspection of the site, it is considered that the revisions to the proposals for boundary treatment are clear, aesthetically acceptable and provide for an appropriate and satisfactory standards in terms of protection of the amenities and privacy of existing residential properties and the residential amenities of the future occupants of the proposed development and proposed residential

property on the file. A condition can be attached, to address this issue, should permission be granted.

- 9.0 A brief over of the proposed development in other respects taking into account statutory and local policy, objectives and standards follows.
- 9.1.1. Dwelling mix is broad and caters for households of varying household composition, Size and the different stages of the life cycle. It is consistent with development plan provisions discouraging blanket developments of three- and four-bedroom houses. The dwelling mix is seventeen per cent one bed units (10 No), 35 per cent two bed units (20 No) 31 per cent three bed units (31%) and 17 per cent four bed units (10 No) with an overall density of 24.7 units per hectare as submitted in the application. Although relatively low, this density exceeds development plan standards which allows for densities below twenty units per hectare at locations furthest from the town centre.
- 9.1.2. The site location is on zoned lands at the south western edge of the town core and is considered reasonable and appropriate having regard the Sligo Housing Strategy to the settlement hierarchy and inclusion of Ballymote as a small settlement of Ballymote. Although at the edge of Ballymote, the location is within a short walking distance of the town centre, sufficiently close to services and facilities and to the railway station. A public footpath is located along the site frontage and beyond along the R293
- 9.1.3. The reliance on the existing creche facility at the entrance to the Corn Mill the adjoining residential development, as proposed and agreed by the operator appropriate and reasonable. Inclusion of an additional facility within the development which is usually required for developments in excess of seventy-five units having regard to the statutory guidance in *Childcare: Guidelines for Planning authorities* is unwarranted.
- 9.1.4. The proposed entrance, internal access road and carparking layout provides for an identifiable hierarchy of open space provision for the scheme and includes play facilities and some paved surfaces and tree retention and there is good visual integration and connectivity with the front elevation of the dwellings with the larger central open spaces. The site layout plan does include proposals for retention of

some trees within the site lands but it is noted that there is no tree survey or condition study included with the application and there are no observations in this regard within the planning officer report. The applicant's proposals are also unclear other than proposals for retention of trees at the south western boundary. A condition can be included to this end of permission is to be granted.

9.1.5. However, it is noted that it is intended to maintain the existing entrance and route to the site adjacent to the Corn Mill residential development. It is recommended that it be clarified that this entrance be confined to use only for cycle and pedestrian use and that arrangements be put in place to preclude its use for vehicular access. This can be confirmed by condition with a compliance condition being required whereby the applicant could consult with the planning authority prior to submission for agreement. Elsewhere, a satisfactory level of permeability is achieved and good pedestrian and cycle access along with possible direct access at the south east to the creche facility in the adjoining Corn Mill development which would be welcome should it be realised. It is noted that there is no communal cycle parking provision included in the site layout. Some provision could be made, and in particular to cater for visitor cycle parking needs in consultation with the planning authority. An appropriate condition can be attached.

9.1.6. Minor adjustments to footprint position, if required to allow for sufficient separation distances from the western boundary and the railway corridor appear to be feasible without negative impact on the overall development. This can be clarified by condition. There are no concerns as to undue overlooking or overshadowing.

9.1.7. The unit sizes, internal layouts for both the houses and the ten one bed apartments and aspects are all satisfactory and in excess of or in accordance the minimum requirements provided for in statutory guidance.

9.1.8. **Environmental Impact Assessment Screening**

Having regard to the nature of the proposed development and its location in a serviced urban area removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

9.1.9. **Appropriate Assessment Screening.**

The nearest Site s Cloonachleigha and Templehouse Lough SAC which is 4.3 km to the west of the site to which there are no direct or indirect source pathway linkages. Having regard to the location and to the nature of the proposed development in a serviced inner suburban area in the city, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 **Recommendation**

10.1. Given the foregoing, it is recommended that the planning authority decision to grant permission be upheld, based on the following reasons and considerations and conditions.

11.0 **Reasons and Considerations**

Having regard to the Sligo County Development Plan, 2017-2023 according to which the lands are zoned for residential 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 adjoining properties and the residential, visual and natural amenities of the area, would be acceptable in terms of pedestrian and traffic safety and convenience, would not be prejudicial to public health and, would be in accordance with the proper planning and sustainable development of the area.

12.0 **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. The 1000 mm high post and rail fencing located along the north western, rear boundary with the adjoining property facing the public road and along the south western boundary of the proposed access road from the entrance as far as the northern corner of the boundary with the adjoining property shown on the 'site boundary treatments plan' (Drawing P-003) shall be replaced with a 1.8 metres high fully capped block wall. Full details in plan and elevation drawings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interest of clarity and the protection of residential amenities.

3. The applicant shall provide for and adhere to the following requirements.
The existing entrance at the north eastern end of the site frontage adjacent to the creche facility and Corn Mill development, shall be used as a cycle and pedestrian route and entrance only. It shall not be used for vehicular access. Prior to the commencement of the development the applicant shall submit and agree in writing with planning authority, full details of the proposed access and boundary treatment along the site frontage.

Reason: In the interest of clarity, amenity and public safety.

4. A tree and vegetation survey of the site, which shall be carried out by an arborist or landscape architect, shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The survey shall show the location of each tree on the site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which it is proposed to be felled and those which it is proposed to be retained.
The submission shall include details of measures for the protection of those trees which it is proposed to be retained.

Reason: In the interest of clarity and the protection of natural and visual amenities of the area.

5. 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 construction traffic routing and management, construction parking, materials storage, noise management measures and off-site disposal of construction/demolition waste.

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

6. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours to 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.

7. The following requirements of Iarnrod Eireann Infrastructure shall be strictly adhered to in accordance with the requirements of the planning authority:

a) The Railway Safety Act 2005 places an obligation on all persons carrying out any works on or near the railway to ensure that there is no increase in risk to the railway as a consequence of these works. Because of the proximity of the site to the Railway, the Developer must take into account this obligation in Design, Construction and Operation of the scheme.

b) Provision shall be made for maintenance of security of the railway boundary during the course of the works with all boundary treatment completed before commencement of construction.

c) Railway mounds, ditches and drains shall be remain undisturbed without the prior written agreement of Iarnrod Eireann. The

integrity of the railway embankment/ cutting which is maintained by Iarnród Éireann. shall not be undermined.

- d) No additional liquid, either surface water or effluent shall be discharged to, or allow to seep onto, the railway property or into railway drains / ditches.
- e) If stormwater is to be discharged through an existing culvert or new culvert a Way Leave Agreement with Iarnród Éireann shall be required
- f) No building shall be constructed within 4m of the Boundary Treatment on the applicants' side. This is to allow for the applicant to maintain his / her building, without the need to enter Iarnród Éireann property.
- g) Should the development require the use of a crane that could swing over the railway property, then the developer must enter into an agreement with Iarnród Éireann / C.I.E. regarding this issue.
- h) No trees are to be planted directly along the railway boundary as they can impair the vision of train drivers or their views of signals, etc. Furthermore, falling leaves and / or leaf litter on rails can adversely affect the operation of trains by causing poor wheel / rail adhesion.
- i) If it is intended to cut down trees close to the Railway Corridor an agreement for safe system of work shall be obtained from Iarnród Éireann.
- j) Lights from the proposed development, either during the construction phase or when the development is completed, should not cause glare or in any way impair the vision of train driver or personnel operating on track machines.
- k) Should the applicant intend to cut down trees that are in proximity of the railway line such that if they were to fall towards the line they

would block it, you must arrange with the Infrastructure Manager, Iarnród Éireann, for a safe system of work to be established to undertake this work, preferable at night during night time possessions.

- l) The applicant should be made aware of the normal vibrations and noise emanating from railway operations and maintenance. These developments including the boundary treatment should be so designed to withstand such vibrations and noise. Applicants in this regard should be aware that the railway has the capacity to operate 24 hours a day, 7 days a week.

- m) For development of residential units in areas adjoining the railway corridor, The Applicant and / or his agents should conduct quantified noise assessment to ensure noise levels at the proposed residential units do not equal or exceed undesirable noise levels, as specified in the Local Authority's Noise Action Plan. It shall be responsibility of The Applicant and / or his agent to specify necessary mitigation measures where specified noise levels are exceeded. The noise assessment should consider a number of scenarios when predicting noise levels, including the following:
 - i. within development with windows closed;
 - ii. within development with open windows; and
 - iii. exterior of development within private or communal gardens.be expected due to such railway operations and maintenance.

Reason: In the interests of protecting Iarnród Éireann assets, public health and clarity.

- 8. 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.

9. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

10. Prior to the commencement of the development, the applicant shall submit and agree with the planning authority, a fully detailed landscaping scheme to include full details of size, species and location for all trees to be planted and full details of the proposed arrangements for hard and soft landscaping and boundary treatment. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenities.

11. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in

the basement area, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

10 The developer shall enter into water supply and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

11. Proposals for a name and numbering scheme and associated signage for the proposed development shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

12. A plan containing details for the management of waste, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, especially recyclable materials, in the interest of protecting the environment.

13. 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.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit in the amount of three hundred and thirty six thousand, four hundred Euro, a bond of an Insurance company or other security in the form acceptable to the planning authority to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 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 of the development.

15. 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.

Jane Dennehy

Senior Planning Inspector

25th June 2022.