



An
Bord
Pleanála

Inspector's Report ABP-313292-22.

Development	99 Houses with childcare facility.
Location	Silverstream Road, Stamullen, County Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	2251
Applicant(s)	Alcove Ireland Eight Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse (three reasons)
Type of Appeal	First Party
Appellant(s)	Alcove Ireland Eight Ltd.
Observer(s)	Johnny & Anne Purfield Robert Purfield
Date of Site Inspection	3 rd January 2022
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by the applicants against the decision of the planning authority to refuse permission for a 99 unit housing development on the outskirts of the village of Stamullen. The grounds of refusal relate to the zoning designation of the lands (material contravention) and the Sustainable Rural Housing Guidelines. It is also considered premature pending an upgrade of the Stamullen Wastewater Treatment Plan.

2.0 Site Location and Description

2.1. Stamullen

The proposed development is located in the village of Stamullen in county Meath just north of the boundary with County Dublin. Stamullen is a village with a population of just over 3,500 located some 4 km from the coast at Gormanstown, 4 km northwest of Balbriggan and 10km east of Duleek. It is 1-km west of the M1 motorway. It is located in generally flat open land north of the valley of the Delvin River. The village consists of a Main Street to the north and parallel to the Delvin with a core that appears to be medieval in origin. The current Main Street has a scattering of small shops and pubs and one supermarket. The main settlement area of the village consists of relatively modern housing extending north-west along open fields in a series of suburban estates.

2.2. Appeal site

The appeal site is a flat irregularly shaped area of land approximately 700 metres directly north-west of the historic main street (around 1 km by road) on the northern fringe of the modern settlement. It is accessed via a third class road running north from the village towards Dardistown at a crossing of the River Nanny. The site is open land surrounded by high fences, and appears to have been used for overburden storage. Along the southern boundary is a suburban estate – there is a single bungalow dwelling and open fields to the north. The site area is given on the application form as 4.1443 hectares. The site has mostly been soil stripped with large storage bunds of uncertain origin and material scattered around the lands.

3.0 Proposed Development

The proposed development is for a housing development consisting of 99 residential units – a mix of 2, 3 and 5 bedroom houses, including a childcare facility and associated infrastructure. The proposed development also includes for a temporary wastewater treatment plant.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission for three reasons, which I summarise as follows:

- It is a material contravention of the 2021-2027 Development Plan (objectives CS OBJ 1 and SH OBJ 1) in terms of directing developments to existing settlements.
- It is contrary to national policy on locating development within existing settlements.
- It is premature pending an upgrade of the Stamullen Wastewater Treatment Plan.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The planning authority

- Notes overall policy context, with particular reference to policy to focus development on existing core areas. As the site is zoned as open countryside (zoning designation RA), rural settlement strategy applies.
- It is noted that the site was part of previous applications for housing (including the completed houses to the south) but was indicated as a future phase with no details provided.
- It is noted that the site has been subject to preparatory works and soil stripping – no permission is on file for these works.

- It is considered that it represents a material contravention of the development plan zoning.
- It is considered to be contrary to rural development policy as the houses are not restricted to those within the rural community.
- The proposed density of 32.2 units per hectare is considered to be in line with CDP requirements for a residential area. The proposed housing mix is also considered to be in accordance with policy.
- The overall design is considered acceptable and appropriate as is the provision of a childcare facility.
- It is considered that the proposed boundary treatment is inappropriate.
- The overall level of amenity and private/public open space is considered appropriate.
- A Traffic and Transport Assessment was submitted with the application – a number of issues are highlighted with this, further information is considered to be required.
- It is noted that Irish Water did not object to the proposed temporary wastewater treatment plant. Water Services noted the apparent high water table on the site and recommended further investigations to ensure there is adequate attenuation on the site.
- AA Screening report – it is considered appropriate to screen it out, so a Stage 2 AA is not required. Likewise, it is considered sub-threshold for EAR.
- Recommended for refusal for 3 no. stated reasons.

4.2.2. Other Technical Reports

Transportation: Further information requested.

Transportation (lighting). No objection subject to conditions.

Water services: No objections subject to advice notes.

Broadband Officer: No objections subject to conditions.

Housing: Part V agreement received.

Environment: No objections subject to conditions.

4.3. Prescribed Bodies

Irish Water: No objection subject to conditions.

DAU (archaeology). Recommended conditions.

4.4. Third Party Observations

Thirteen submissions were made, all objecting to the proposed development or requested additional open space/playgrounds. All were from local residents and elected representatives.

5.0 Planning History

Appeal site

212411: Similar to current application, rejected as invalid.

004234/00689. Permission granted in 2001 for light industrial development on site (including area to the east). The former was developed (not part of the current application area), the latter was not constructed.

Adjoining site (including some or all of the appeal site:

Existing housing scheme to the south (30 no. 2-storey dwellings) granted in 2007 (**SA60317**). Later revisions increasing the number of dwellings granted in 2008 (**SA801852** and **SA70513**). This application included the appeal site, indicating it as a further phase of development.

SA40028: Permission refused in 2002 for 152 dwellings on the site.

6.0 Policy Context

6.1. Development Plan

The site is in unzoned lands indicated as within a 'Rural Area under Strong Urban Influence) in the 2021-2027 County Development Plan (this CDP took effect from 3 November 2021). It was zoned as A2 (new residential) in the previous 2013-2019 CDP.

6.2. Natural Heritage Designations

There are no designated habitats on the site or within the vicinity. The closest designated habitat is the **River Nanny and Shore SPA** (004158). This is some 4km to the north-east of the appeal site. The site is within the Delvin River catchment – this river discharges to the Irish Sea 1.5 km south of the nearest part of the SPA. The **River Boyne SAC** and **SPA** is 10 km to the north.

7.0 The Appeal

7.1. Grounds of Appeal

An outline of the overall development background is provided. The key grounds of appeal are as follows:

- It is noted that the site was zoned up to 2021 for residential use and that it was part of lands indicated as residential in a previous application – the applicant claims that it was purchased on the basis that it was part of an unfinished residential development.
- It is argued that the proposed development would be a logical consolidation of the town and would facilitate the overall completion of the Silverstream estate.
- It is acknowledged that the given reason for refusal is a material contravention – it is submitted that there is sufficient justification pursuant to Section 37(2)(b) for ABP to grant permission on the basis of the previous planning history and the overall context of the lands.
- It is argued that reason no.2 should not apply as the proposed development is functionally part of the town and would provide for a sustainable supply of additional dwellings to the immediate area and would not impinge upon rural amenities.
- With regard to wastewater, it is noted that Irish Water did not object to the proposed temporary wastewater treatment system.
- Additional information is submitted in support of the overall design and context of the application, arguing that it is a natural urban extension of the village and fully in line with national guidance and the development plan.

7.2. Planning Authority Response

The planning authority responded to the appeal by stating that all matters raised in the appeal had previously been addressed in the Executive Planners Report. The Board is requested to uphold the decision to refuse.

7.3. Observations

Robert Purfield of Mill close, Glasheen

- Supports the decision to refuse.
- Argues that the land was rezoned as the area is under excess pressure for facilities and services. As such it is argued that it is contrary to SH OBJ 24 with regard to the profusion of social and community facilities.
- It is noted that there is only a local private provider of bus services, and this does not operate before 9am.
- It is noted that vehicles from the proposed development would have to drive through the village to access the M1.

Johnny & Anne Purfield of Kilbrickstown

- Supports the decision to refuse permission.
- The observers live in the bungalow next to the site == they argue that it will result in their dwelling being overlooked and will result in a loss of privacy.
- Concerns expressed at the impact on their water supply (private well) and septic tank.
- It is argued that the proposed development would generate unacceptable levels of additional traffic on the local road.

7.4. Further Responses

No further correspondence on file.

8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that the proposed development can be assessed under the following general headings:

- Principle of development
- Design and amenity
- Traffic and Transport
- Wastewater
- Flooding
- Cultural heritage
- Appropriate Assessment
- Other issues

8.1. Principle of development

The proposed development is on disused former agricultural land (mostly covered with various spoil heaps at the time of my site visit) which was part of an original application for permission in 2008. It was indicated on that permission that there was scope for a future phase (no details provided). There were no conditions on that permission relating specifically to this element. The site was zoned for new residential up to the adoption of the last CDP, where the development boundary of the village was moved to the existing edge of the town, which matches the speed limit control area. It is now zoned 'Rural Area' where the zoning objective is '*to protect and promote in a balanced way, the development of agriculture, forestry and sustainable rural-related enterprise, community facilities, biodiversity, the rural landscape, and the build and cultural heritage*'. There are no indications on file as to the reasons why this land was rezoned, although it is implied that it is due to the Stamullen WWTP being at capacity with no immediate upgrade planned. I also note that Stamullen is not identified as a key settlement in the county (it is the fourth largest in the county and is indicated as a 'self-sustaining growth town' in the settlement hierarchy) and it may be that the Council has decided that it has expanded at too rapid a rate in recent years. Its population appears to have increased very rapidly over the past 2 decades and it has no rail link to major urban areas. A Local Area Plan is proposed for the town, but none has been adopted as

yet (policies SH OBJ 5 and CS OBJ 9) in the 2021 CDP). The CDP emphasises potential for growth in enterprise and services in the town, not residential development.

Reason no.1 for refusal stated that it is a material contravention of the development plan zoning. In these situations, the Board can only overturn a decision to refuse for reasons as set out in S.37(2)(b) act as follows:

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that—

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to F362[**regional spatial and economic strategy**] for the area, guidelines under [section 28](#), policy directives under [section 29](#), the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

The applicant has argued that subsection (iv) applies in this case as there has been a clear pattern of development supporting the case for residential development on these lands. The key point in this regard is that the previous permission for the now complete development to the south of the site including the appeal site. It is also argued that it is a logical extension for the settlement, as most recent development in the village has been on higher ground to the north, away from the river valley and along the existing third class road network.

As I have noted above, while the lands were identified as a future phase in the previous permission, there was nothing in the permission to indicate that the planning authority were in any way granting permission for an outline development. I would concur with the general point that the site is a logical residential extension of the settlement, but this would only be within the context that additional residential development within the village is required. Stamullen has been subject to very rapid

growth over the past two decades, mostly it seems as a commuter centre for Dublin. The village does not have a train station or regular Bus Eireann service and has reached its maximum capacity for waste water treatment. The current CDP identifies the village as a growth area for employment, but not residential use. I would consider this to be consistent with national and regional policy for such developments. As such, I do not consider that, within the context of S.37(2)(b) above that the zoning of these lands for agricultural use is inconsistent with the development plan, in conflict with section 28 or 29 policy objectives, or with the pattern of development or permissions granted since the adoption of the development plan.

I would therefore conclude that under S.37(2)(b) there are no grounds for ABP to grant permission in accordance with paragraph (a) above when the refusal is on the grounds of it being a material contravention of the development plan. I would therefore recommend that the Board uphold this reason for refusal.

The planning authority in reason 2 for refusal state that it is contrary to rural development policy. I consider that quoting this policy is somewhat overkill and inappropriate for this type of medium density urban extension. While the land is zoned for agricultural use, the proposal is not for a low-density rural type development for which this policy is clearly intended.

In overall terms, while I would generally consider that the lands at some stage in the future could be a logical extension of the village, this would have to be pending further upgrades for infrastructure within the urban area. Notwithstanding the past planning history, the new development plan has been approved in accordance with national policy and there have been no conflicting objectives set out, and no planning permissions granted since the development plan was adopted. I therefore concur with the planning authority that residential development on these lands at this time is inappropriate and is contrary to stated policy and would represent a material contravention of the development plan.

8.2. Design and amenity

In overall terms of density and layout, the planning authority stated that it was satisfied with the proposed design of the development, and its density and layout is in accordance with all published guidelines and the development plan.

One observer, the residents of the dwelling at the north-west corner of the site, have objected on the basis of loss of privacy and amenity. I note that the proposed dwellings fronting the road to the west are set back a little from the notional building line set by the existing bungalow, but not to an extent I would consider to be unacceptable. The orientation and separation distances of these dwellings and those to the east of the bungalow are such that I do not consider that there would be an unacceptable level of overlooking or loss of direct light.

The overall spacing and orientation of the dwellings and associated buildings are such that all would have acceptable levels of internal light and amenity for all proposed buildings.

I am satisfied that if the Board is minded to grant permission that the proposed dwellings would be in accordance with published guidelines and would not seriously injure the amenities of adjoining residents.

I note that a play area and other amenities are proposed, and it is implied that these would be of benefit to the adjoining estate, which lacks a playground. While some minor alterations may be required, I consider that the general proposal for additional amenities are in line with development plan requirements and are in general acceptable.

8.3. Traffic and Transport

The proposed development connects via the existing service road onto the main road to the west of the site. This road is a third class country road, upgraded with a footpath on one side up to the site. The road at this point is generally quite straight with reasonable visibility in both directions.

The applicants submitted a TTA which was generally accepted by the planning authority as acceptable. The road is generally of a reasonable standard for traffic and there is a continuous footpath to the main amenities of the village.

The observers note that the town is not well served with public transport, and it seems most likely that the majority of new homeowners will use the M1 for car commuting, and will so drive through the village. I concur that this is inappropriate and not in accordance with overall national strategy – this seems to be the main logic behind the planning authority decision to prioritise enterprise and commercial

developments on zoned lands within the lifetime of this CDP at the expense of new residential.

So while I would not raise this as an additional reason for refusal, I would note that the residents of any permitted new scheme on these new lands will most likely be commuters pending the development of more employment land within the village environs. This lends further support within national policy for the planning authority to restrict additional residential development within the village for the life of the development plan.

8.4. Wastewater

The planning authority refused for the reason of an inadequate capacity for wastewater in the Stamullen system. The applicant has submitted details of a temporary scheme to provide primary treatment for waste generated by the proposed development which would allow for final treatment within the existing system. Both the Environment Division of the Council and Irish Water accepted this general approach.

From the available information, it seems that one of the considerations which led to the change of zoning of the lands was the limitations set by the Stamullen WWTP. The planning authority clearly consider this to have set a limit on the number of new dwellings with the village.

I note that neither the Environment Section nor Irish Water objected to the proposed temporary treatment system, which would allow for the existing plant and discharge to be used until it is upgraded and increased in capacity.

In effect, the decision represents a differing interpretation of how to address the lack of capacity within the WWTP system. The proposed temporary system is potentially workable as a solution, but it does not address the core strategic issues facing the settlement. I would consider that granting permission for any development that requires such a temporary system would not be appropriate. I therefore concur with the overall reason for refusal.

8.5. **Flooding**

The site is not within an identified flooding zone and there are no indicators of past flooding on the land. The nearest watercourse is the Delvin River, to the south. The Strategic Flood Assessment for this river identifies flooding areas around a tributary some 300 metres south of the site, but not directly impacting upon the lands. The indications on file are that the site can be satisfactorily drained, and its development would not result in downstream flood impacts.

8.6. **Cultural heritage**

The core of the village is medieval in origin and there are a number of recorded ancient monuments and protected structures around the town centre. None are within several hundred metres of the site. It is noted that the site is considered to be in an area of high archaeological potential – the DAU (Archaeology) recommended a standard pre-development testing condition if permission is granted.

8.7. **Appropriate Assessment/EIAR**

There are no designated habitats on the site or within the vicinity. The closest designated habitat is the River Nanny and Shore SPA (004158). This is some 4km to the north-east of the appeal site. The site is within the Delvin River catchment – this river discharges to the Irish Sea 1.5 km south of the nearest part of the SPA. The River Boyne SAC and SPA is 10 km to the north. The Delvin is not within the Boyne or Nanny catchments.

The planning authority carried out a screening process which identified all European sites for which significant effects cannot be excluded. I can confirm that there are no additional sites for which I would consider there would be significant effects, so no additional sites other than those assessed need to be brought forward for inclusion in the screening.

As the proposed development is not within the catchment of the Boyne or Nanny catchments and there is no hydraulic continuity with any fresh or salt water designated habitats, I conclude that all identified sites can be screened out.

I have examined the screening in the context of my site visit and other available sources of habitat and environmental data and I am satisfied that it includes

sufficient information to allow the Board to carry out a complete assessment of all aspects of the project. I am satisfied that a conclusion of no significant effects can be reached. I am therefore satisfied that the proposed development, in itself or in combination with other plans or projects, would not be likely to have a significant effect the integrity of European sites no. 004158 or any other European site, in view of these sites Conservation objectives and thus a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

Having regard to the nature of the proposed development, its relatively small scale within an existing complex of structures, and the absence of any sensitive receptors in the immediate vicinity, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

8.8. Other issues

I do not consider that there are any other significant issues raised in this appeal. If the Board is minded to grant permission the proposed development would be subject to a standard development contribution – no Special Contributions apply.

9.0 Recommendation

I recommend that the Board uphold the decision to refuse permission for two reasons – there is insufficient justification to overturn a material contravention of the development plan and the proposed temporary wastewater treatment scheme is an inappropriate response to the capacity issues in the local system.

10.0 Reasons and Considerations

The stie is located in an area zoned 'Rural Area' with objectives CS OJJ 1 and SH OBJ 1 in the current development plan for the area. The Board considers that the proposed development would materially contravene the zoning objective, as set out in the plan. The Board pursuant to the provisions of section 37(2)(b) of the Planning and development Act, 2000, is precluded from the granting of planning permission for the proposed development as none of the provisions of section 37 (2)(b)(i), (ii),

(iii) or (iv) of the said act apply in this case. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

The proposed development, which includes a proposal to provide a temporary wastewater treatment plant discharging o the public sewer, is considered to be premature having regard to existing deficiencies and inappropriate sewerage treatment facilities for the village pending the upgrade works to the Stamullen Wastewater Treatment Plan and related connection to a new network connection to the Balbriggan WWTP. The proposed development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

Philip Davis
Planning Inspector

22nd February 2023