



An
Bord
Pleanála

Inspector's Report

ABP-313342-22

Development	Construction of a dwelling
Location	3 Highfield, Mullingar , Co Westmeath
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	2227
Applicant(s)	Aoife Rhattigan and Cathal Furey.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Aoife Rhattigan and Cathal Furey.
Observer(s)	(a) Suzanne Duffy (b) Sean and Angela Kelly.
Date of Site Inspection	30/01/2023
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The site is 1010sq.m. and is located at the end of a residential cul de sac, Highfield, in a long-established residential area of Mullingar. There is an existing access road and footpath fronting the site in Highfield.
- 1.2. The site has a steep gradient to the rear. A portion at the front (roadside) of the site on Highfield is relatively level, the site falls over 13.5m before falling over 25m to the rear of the site. The site has a long narrow configuration from north to south.
- 1.3. The eastern site boundary is a palisade fence (Highfield) and overlooks an open space area, and the turning area associated with the cul de sac. The southern eastern site boundary is the common boundary of the curtilage of a two-storey dwelling in Highfield.
- 1.4. The western, rear site boundary is a hedgerow, a common boundary to dwellings backing on to the site which are accessed from a lower road Regional Road R400 (Lynn Road) in particular two bungalows which are running along the full western site boundary.
- 1.5. The site is overgrown, there is a low wall along the northern site boundary. The site has no obvious function and is currently inaccessible.

2.0 Proposed Development

- 2.1. The proposed development consists of a 229sq.m. contemporary flat roofed dwelling with home office. It is a split-level dwelling, with the single storey element 170sq.m and 59sq.m. containing guestroom and home office. The single storey element is at street level (Highfield) with a second storey below recessed into the site's slope.
- 2.2. The landscaping along the western boundary shall be retained to main privacy between existing and proposed properties.
- 2.3. Proposed connections to the public foul and surface water drains and water mains.

3.0 Planning Authority Decision

3.1. Decision

Westmeath County Council **REFUSED** the proposed development for one reason:

The development by virtue of its design and siting is considered to result in an ad hoc and incongruous design form which fails to assimilate within its context thereby adversely impacting upon the character of this mature residential area. The proposal would also adversely impact upon amenities of neighbouring residences by virtue of loss of privacy from overlooking. The development is contrary to the standards contained within Section 9.9.3 and 9.9.9 and policy P-RLD1 of Mullingar Local Area Plan 2014-2020 and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports (16th of March 2022)

The proposed dwelling is located 1.4metres (at its nearest point) from the neighbouring western boundary. The dwelling to the west is 12.6metres from its rear boundary, and it is 7metres lower than the proposed development, therefore it is considered an adverse impact will be created on residential amenity by reason of overlooking, daylight and visual dominance.

Refusal is recommended on residential amenity grounds.

3.2.2. Other Technical Reports

Area Engineer: No objection.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Adjoining residents are concerned the dwelling will adversely impact on the enjoyment of their dwelling because of the proximity of site boundary and the

proposed dwelling positioned on a higher ground level. It could result in overshadowing and flooding of their property due to the steep gradient.

A resident within Highfield is concerned their rear garden area will be overlooked and severely impact on their residential amenities.

4.0 **Planning History**

4.1 **The subject site:**

Planning Reference 15/6228

Eamon Rattigan refused planning permission for the erection of a split level dwelling, single storey to the front and two storey to the rear at No. 3 Highfield, Ballinderry.

Planning references 16/6195 and 18/6190

Eamon Rattigan applied for planning permission for a single storey dwelling over basement on the subject site, but he later withdrew both applications.

4.2 ***Site within Highfield adjacent to the main road***

ABP Ref. : PL25.24699

Eamon Rattigan applied for a single storey dwelling at 18 Highfield, Ballinderry Heights, Mullingar, Co. Westmeath, which was refused by the Board in 2016 for the following reason:

The site of the proposed development is located on a highly visible corner site, where careful design is required. Notwithstanding the general suitability of the site for a single dwelling unit, it is considered that, by reason of its orientation, mass, height, and proximity to boundaries, the proposed dwellinghouse would be visually intrusive in the context of adjoining properties, and in particular of the existing house to the north. It is considered that the poor quality design fails to respond appropriately to the constraints and sensitivities of the site, including the proximity and orientation of the house to the north. The proposed development would, therefore, seriously injure the visual amenity of the area and of property in the vicinity, and would be contrary to the proper planning and sustainable development of the area

ABP Ref. PL25M.243569; Reg. Ref. 13/6126:

Permission refused for a two-storey house on the appeal site (No. 18 Highfield) (subsequently reduced to one and a half storey following a request for further information). The Board considered that by reason of its orientation, mass, height and design, the proposed development would be visually intrusive, particularly with regard to the house to the north.

5.0 Policy Context

5.1. Development Plan

Mullingar Town Development Plan 2014-2020 (as extended)

The subject site is zoned as **Proposed Residential**. It is surrounded by Existing Residential zoning.

The following sections from the current development plan area relevant because they are mentioned in the reason for refusal or in the Planning Report on file, or are sections I consider to be relevant to the appeal.

P-H1 To facilitate residential development in Mullingar in line with its designation as a Linked Gateway Town, as prescribed in the Regional Planning Guidelines and the County Development Plan, and to ensure that this development reflects the character and setting of the existing built form, in terms of structure, pattern, scale, design and materials with adequate provision of open space, and which also protects the amenities of existing dwellings.

Policy P-SR2 To encourage and promote the development of underutilised infill and backland development in the town, subject to Development Management Standards.

9.9.3 New Residential Development in an Urban Area Infill Residential Development

Potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas where the character is established by its density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of the established character and the need to provide residential infill. The design approach should be based on

recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design.

9.9.7 Design

Development proposals shall exhibit a high quality of architectural design and layout in order to achieve a high-quality living environment. All housing developments will be assessed in both quantitative and qualitative terms as to whether they demonstrate the key elements of a good urban design and meet prescribed standards.

9.9.9 Over-looking

In general, there should be a distance of 22m between opposing rear first floor windows. Innovative dwelling types, such as single aspect houses which have their main sleeping and living areas on one side, and circulation and bathrooms on the other, can be closer. Where developments are proposed in existing residential areas a distance of 35m or greater is required in the case of overlooking living room windows and balconies. Any window proposed at ground floor level shall not be less than 1m from the boundary it faces.

P-SR14 To facilitate working from home subject to relevant planning criteria and the protection of the residential amenity of neighbouring properties.

P-RLD1 To achieve attractive and sustainable development and create high standards of design, layout and landscaping for new housing development.

P-RLD6 To ensure that all new urban development especially in and around the town centre is of a high design and layout quality and supports the achievement of successful urban spaces and sustainable communities.

5.2. Natural Heritage Designations

Lough Ennell SAC and Lough Ennell SPA is to the south west of the site approximately 7km from the site with no hydrological link between the sites.

5.3. EIA Screening

Having regard to the nature and scale of the proposed development, comprising 1 no. residential dwelling on zoned urban land, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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

- The applicants own the site and wish to relocate from Dublin to remote work. It is a fully serviced site at the end of a residential cul de sac. The proposal consists of a 229sq.m. two storey dwelling with detached garage. The house is single storey at street level, with two storey to the rear recessed into the site steep slope.
- Entry to the site is level with the access road at Highfield. This portion of the site is level falling only 1metre over 13.5metres. The site falls dramatically away over 4metres to over 25metres to the rear of the site.
- The mature hedgerow and trees along the western site boundary were severely cut back without any knowledge or permission from the applicant. The applicant intends replanting this boundary.
- The existing houses on the cul de sac are a selection of single and two storey dwellings.
- The proposed dwelling is a unique response to the unusual features of the site. The house is accessed from the street level of the public road. There is a staircase from the entrance hall down into an open plan southwest facing Living/ Dining/ Kitchen area. There are 3No. west facing bedrooms.
- The design of the dwelling is a modest contemporary pavilion in the form of a glass house with charred timber cladding. The lower floor of the dwelling is only visible from the rear end of the site where it is seen to disappear into the slope of the site to provide for a podium for the single storey dwelling.

- The local engineers report on the planning file is favourable towards the development.
- There is no architectural consistency with the dwellings in Highfield. The site is at the end of the cul de sac and the house design does not have to integrate with Highfield. The proposed design does not impact on the character of the area.
- Section 9.9.3 of Mullingar Town Development Plan is complied with. There is no established architectural form associated with the neighbouring houses, and the site is beyond the visual influence of the houses and is within its own context.
- The primary driver of the design is the protection of amenities of the neighbouring houses despite the challenges of the sloped site.
- Section 9.9.9. of the Mullingar Town Development plan requires 22metres between opposing rear first floor windows. The window in the guestroom is 11 metres from the rear southern boundary and more than 23metres from the neighbouring house beyond the southern boundary. A portion of the window faces towards the gable of the neighbouring house on the eastern boundary. The window could be fitted with obscure glass.
- The window of the master bedroom on the lower level is the nearest the window facing the boundary with the neighbour and is 1metre away from the boundary in compliance with Section 9.9.9. of the Mullingar Town Development Plan. There is a 1.6metres fence to be erected along the western site boundary.
- The longstanding mature hedge between the properties was cut back without the permission of the applicant. The remaining hedgerow exceeds 2.2metres in height in the section facing the ground floor bedroom windows. The applicant's plan is to replant and regrow the hedge to complement the 1.6metre fence and to ensure privacy.

6.2. Planning Authority Response

There was no response received.

6.3. Observations

6.4.1 Sean and Angela Kelly

- The size and location of the two-storey element will interfere with the use and enjoyment of their family home because it will be constructed on a much higher level than their house.
- There seems to be three bedrooms and a terrace along the western elevation overlooking their house.
- The longstanding hedgerow referred to in Section 6.4.2 of the applicant's appeal is located on their property, not the applicant's site.
- The Kellys became the new owners in 2021 and have cut back the hedge to allow more light into the back garden. A tree was also removed. These works were carried out before they had any knowledge of the planning application.

6.4.2 Anne and Michael Duffy

- They live beside the proposed dwelling. The side (corner) window of the proposed dwelling extends beyond the back of their house by 7metres, overlooking their entire garden and severely impacting on their privacy.
- The use of obscure glass will not stop the windows from being opened.
- The rear will tower over their dwelling.
- Where will the surface water go.

7.0 Assessment

7.1. Having inspected the site and general vicinity of the site, considered the content of the appeal file, I believe the relevant planning issues relating to this appeal area as follows:

- Planning Policy
- Principle of the Proposal
- Design
- Impact on existing Amenities

- Other
- Appropriate Assessment

7.2 Planning Policy

The current development plan governing the site is the Mullingar Town Development Plan 21014-2020 (as extended). Under the provisions of the plan the subject site is zoned ***Proposed Residential***.

The site is located at the end of an established residential cul de sac. It is located at the turning area. It is currently an inaccessible piece of land not being utilised. It is a fully serviced area, in terms of sewerage, water mains, roads and footpaths. The site is overgrown and contributes nothing to the general amenities of the area.

Having regard to the current zoning on the site, I consider a single dwelling on the 1010sq.m site area, to be appropriate with the zoning objective and in keeping with the neighbouring residential estate in terms of land use.

7.3 Principle of the Proposal

Highfield Housing estate is a small development consisting of 14No. detached dwellings laid out on two short cul de sacs. The site is located at the end of one of the cul de sacs and is a wasteland located behind a palisade fence.

The principle of the proposed detached dwelling on the site is in keeping with the layout of the estate and it will not materially alter Highfield estate in terms of layout or functionality.

7.4 Design

The constraints associated with the site include its narrow width, steep gradient westwards and the relationship to the existing dwellings to the east and west of the site. To the west there are two dwellings backing onto the site accessed off a Regional Road. The rooftops of the dwellings to the west are visible from the Highfield Road level on the subject site. To the east is a two-storey dwelling with a common rear garden boundary. The southern site boundary is narrow, and the northern site boundary is much wider.

The design response consists of a contemporary split level house, with a single storey legibility from Highfield and a two storey glass structure to the rear built into

the steep contours of the site. The main living accommodation is on the lower floor with a guest room and office on the first floor. The house is accessed from the first floor with a staircase to the main living area. There is a detached garage, parking area and dwelling visible from Highfield. Both elements are flat roofed with a cube like design readability from the streetscape.

The existing streetscape in Highfield consists of a variety of detached two storey and single storey dwellings, typical of their time, but none of significant architectural merit to warrant the proposed dwelling should follow a similar pattern. The contemporary box like design will add to the architectural character of Highfield without undermining the residential and visual qualities of the estate.

7.5 Impact on existing Amenities

The house will be visible from the rear of two dwellings positioned on a lower ground level located on Lynn Road (R400). Both houses along Lynn Road are setback deep into their curtilages from the main road. This leaves a narrow rear garden area, averaging in depth to 12metres to the proposed site boundary and the rear elevation. There was a mature hedgerow along the western site boundary and the site was previously screened from these two dwellings. The hedgerow was recently cut back making the site more exposed when viewed from the rear of these properties. I note the comment on appeal from one of the property owners stating the hedgerow is on their property and they cut it down to improve the light into their garden area having recently moved into the property.

The applicant proposes a new 1.6metre fence along the western site boundary and new planting. The ground floor windows are closest to the western boundary and these are the main living areas of the new dwelling. There will be over 23metres separation distance between opposing windows of existing and proposed dwellings at first floor level, i.e. the office/ guestroom floor onto Highfield. In my opinion, any new development will create an impact, however, it is important to ensure there will be no serious adverse impacts to the existing amenities. There will be no undue loss of light associated with the proposed dwelling due to the orientation, separation distance and low profile. The western elevation of the proposed dwelling is stepped back creating a tired impact which will reduce the visual obtrusiveness when viewed

from the rear of the existing dwellings. The fence along the western boundary will reduce overlooking and enhance privacy for both the existing and future residents.

Having examined the development plan policies stated in the reason for refusal, namely section 9.9.3, 9.9.9, P-H1 and P-RLD1, with regard to the design and separation distances, I consider the proposal complies with the stated policies.

In terms of the existing dwelling to the east of the site, which is a large two storey detached dwelling with a long south facing rear garden, I believe the impact will be minimal. A condition should be attached to insert obscure glass at the first floor level on the eastern elevation. This is a guest room. A large south facing window will serve the room satisfactorily.

7.6 Other Issues

- Highfield is a private estate road and has not been taken in charge.
- Connections to public main and public foul sewer.
- Surface water to connect to public sewer.

7.7 Appropriate Assessment

Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend the planning authority's decision to refuse be overturned and the Board grant planning permission for the proposed development.

9.0 Reasons and Considerations

Having regard to the proposed residential land use zoning of the site, the site size, and the variety in the design and type of the existing residential developments in the vicinity of the subject site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed

development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 the 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 developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 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.

3. The proposed 1st floor windows to the east side elevation of the proposed development shall be permanently maintained in obscure glazing.

Reason: In order to safeguard the residential amenities of property in the vicinity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. Prior to the commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

6. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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 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 the intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

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

8. The applicant or developer shall enter into a water and/wastewater connection agreement with Irish Water prior to the commencement of development.

Reason: In the interest of orderly development.

Caryn Coogan
Planning Inspector

17th of February 2023