



An
Bord
Pleanála

Inspector's Report

ABP-316562-23

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| Development | Permission sought for residential development of 3 no. detached four bedroom two-storey houses and ancillary site works, including new site access from Blackbush Lane. |
| Location | Blackbush Lane, Bryanstown, Drogheda, Co. Louth. |
| Planning Authority | Louth County Council |
| Planning Authority Reg. Ref. | 22587 |
| Applicant(s) | Damien Chesser |
| Type of Application | Permission |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party |
| Appellant(s) | Olan McNeece |
| Date of Site Inspection | 17 th June 2023 |
| Inspector | Colin McBride |

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.159 hectares is located on the southern side of Blackbush Lane to the south west of Drogheda town centre. The appeal site is undeveloped lands, which appears to have been subject to site clearance works. Existing site boundaries includes a mixture of trees and hedgerows along the southern boundary, existing walls to the east and west and mixture of trees and hedgerows along the roadside (northern) boundary with a significant opening currently blocked with security fencing. Adjoining land uses include a two-storey dwelling to the east, which backs onto the eastern boundary of the site, a small undeveloped infill site to the west defined by existing boundary walls and the Five Oaks housing development consisting of two-storey detached dwellings to the south. Blackbush Lane forms a junction with the R132/Dublin Road a short distance to the east of the site.

2.0 Proposed Development

2.1. Permission is sought for the construction of 3 no. detached, four bed, two-storey dwellings and ancillary site works. It is proposed to install a new vehicular access off Blackbursh Lane and provide a central access road with 2 no. dwellings backing onto the eastern site boundary and 1 no. dwelling backing onto the western site boundary. There are 2 houses types, house type 1 (1 unit) is a two-storey detached dwelling with a floor area of 174sqm and ridge height of 8.142 and house type 2 (2 units) are two-storey detached dwellings with a floor area of 167.7sqm and a ridge height of 9.102. Both dwelling types feature pitched roofs and external finishes of mainly render with some stone sections. Each dwelling has off-street car parking for two vehicles and rear gardens vary between 109-137sqm in area.

2.2. The proposal was revised in response to further information with the dwellings to the east of the site relocated further south (1.5m), a revised footpath/roadside layout and provision of pedestrian entrance to Five Oaks and a 1.8m high boundary wall along the southern boundary.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 10 conditions. Of note are the following conditions...

Condition no. 4: The grant of permission does not include for provision of a pedestrian access to Five Oaks and drawings to be submitted illustrating its omission, drawings are also to be submitted illustrating retention of existing hedgerow along the entire southern boundary and details of additional boundary treatment along such.

Condition no. 6: Provision of obscure glazing on the side elevations at 1st floor level shall be permanent.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report (13/09/22): Further information required including an assessment of Blackbush Lane's ability to accommodate additional traffic, proposal to widen this section of road and demonstration of adequate sightlines, an examination of possibility of vehicular access from the development to the south and as a minimum provision of pedestrian entrance to such, proposal for storm water run-off, a detailed landscape plan/boundary treatment.

Planning report (28/03/23): The proposal was considered to be in accordance with the proper planning and sustainable development of the area and a grant of permission was recommend subject to the conditions outlined above.

Infrastructure Section (23/02/23): Further information required including demonstration of sightlines and demonstration that surface water drainage is compliant with SuDs.

Environmental Compliance (08/08/22): No objection subject to approval by Irish water.

Infrastructure Section (16/08/22): Further information including storm water proposals and a revised sight layout demonstrating sightlines of 75m x 3m in each direction.

Uisce Eireann (No date): No objection.

Place making & Physical Infrastructure (21/03/21): No objection subject to conditions.

3.3. Third Party Observations

3.3.1 A number submission were received

The issue raised included....

- Traffic impact, inadequate width of Blackbush Lane for additional traffic, lack of footpath, inadequate standard of junction between Blackbush Lane and The R132/Dublin Road.
- Impact on adjoining residential amenity through overlooking and impact on development potential of adjoining sites.
- Impact of the provision of a pedestrian entrance to Five Oaks in terms of security and residential amenity, loss of hedgerow.
- Inappropriate density of development and contrary national, regional and local policy in relation to density.

4.0 Planning History

No planning history.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Louth County Development Plan 2021-2027.

The site is zoned A1 Existing residential with a stated objective 'to protect and enhance the amenity and character of existing residential communities'.

HOU 11: To encourage and support a range of appropriate uses in town and village centres that will assist in the regeneration of vacant and under-utilised buildings and land and will re-energise the town and village centres, subject to a high standard of development being achieved.

5.2. Natural Heritage Designations

None within the zone of influence of project.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal lodged by Olan McNeece. The grounds of appeal are as follows...

- The development requires laying pipes along Blackbush Lane in lands owned by the appellant.
- The windows in the rear elevation House Type 1 overlook the appellants' lands and would impact the future development potential of such. The rear elevation of the dwellings on the eastern side overlook the appellant's property and would impact on their residential amenity and the future development potential of their property.
- Blackbush Lane is too narrow and lacking in footpaths.

- The junction of Blackbush Lane and the R132 is substandard and permitting intensification of traffic without improvement to visibility and sightlines would constitute a traffic hazard.
- The density of the proposal is contrary national, regional and local planning policies which seek to maximise efficient use of zoned land along public transport corridors such as this.
- The appellant takes issue with the Planning Assessment of the issues they raised and the consideration of density in light national policy and development permitted in the vicinity.

6.2. Planning Authority Response

6.2.1 Response by Louth County Council.

- The PA state that the issues raised in the appeal were previously raised in the submissions received, the proposed development is considered to be acceptable in regards impact on adjoining properties, appropriate in density and to be acceptable in the context of traffic safety. The PA request that the Board uphold the decision to grant permission.

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/development plan policy

Design, scale impact on adjoining properties.

Traffic

Drainage

Other Issues

7.2 Principle of the proposed development/development plan policy:

7.2.1 The proposal is for a small infill development of 3 no. detached dwellings. The site is zoned A1-Existing residential with a stated objective 'to protect and enhance the amenity and character of existing residential communities' on which residential development is permitted in principle.

7.3 Design, scale impact on adjoining properties:

7.3.1 The proposed dwellings feature vehicular access off Blackbush Lane with a central service road and provision of two dwellings on the eastern side and one on the western side backing onto the eastern and western boundaries. All dwellings are four bedroom units and feature 2 no. off car parking spaces and rear gardens ranging in area from 108sqm to 137sqm. The development management standards for residential development are in Chapter 13 with the proposal complying with the relevant standards in regards to private open space (80sqm in suburban greenfield), car parking provision (max standard is 2 spaces per dwelling).

7.3.2 In terms of adjoining properties, to the east is a two-storey dwelling, to the west is undeveloped land and to the south is the housing development of Five Oaks, which features two-storey detached dwellings. The appellant's property includes the dwelling to the east, the undeveloped site to the west and lands on the opposite/northern side of Blackbush Lane. The appellant has raised concerns regarding the impact of the development on both the development potential of their lands to both the east and west due to orientation and proximity of windows on the rear elevation of the proposed dwellings and impact on residential amenity due to orientation and proximity of windows in regards to their dwelling on the eastern side. The development is laid out in a manner that 2 no. House Type 2 dwellings back onto the eastern boundary with the rear gardens having a depth of between 10-11m and a separation distance of 25m from the rear elevation of the appellant's dwelling. Given the location of the site in an existing built up suburban area I would consider that the level of separation and relationship between the proposed and existing dwelling is acceptable in an urban context such as this. Separation distance of 22m between back to back dwellings (opposing first floor windows) within such an urban

context is a commonly applied standard and is met in this case. In relation to house type 1 to west of the site it has a separation distance of 8m from the western boundary. There is a small infill site to the west that is undeveloped. I am satisfied that the proposal would not compromise the development potential of such.

7.3.3 I am satisfied that the development would have no adverse impact on any other adjoining properties including the existing dwellings in Five Oaks and that the layout and orientation of 3 no. dwelling has adequate regard to the amenities of adjoining dwellings to the south. It is notable that in response to further information the proposal was revised to include for a pedestrian entrance and the proposal also identified the provision of a 1.8m high block wall. The existing boundary along the south of the site consists of trees and hedgerow with an existing maintained hedge on the Five Oaks side. There were a number of submissions from residents of Five Oaks raising objection to the proposal for a pedestrian entrance in terms of security and impact on residential amenity as well as concerns regarding removal of the existing hedge. In granting permission the pedestrian entrance was omitted and a requirement to retain existing trees/hedgerow along the southern boundary. I would consider the principle of providing a pedestrian entrance into Five Oaks is acceptable in the context of proper planning and sustainable development providing for better connectivity and permeability. I would consider that the linking of this small infill development in this manner would not have a significant or adverse impact on the residential amenities of the existing housing development. I would note that such would require access through an existing hedgerow that is maintained within Five Oaks and possibly requires third party consent. In regards to boundary treatment I would consider it appropriate that the southern boundary hedgerow and trees be retained and a condition in this regard should be included in the event of a grant of permission.

7.4 Traffic:

7.4.1 The appellant has raised concern regarding the narrow width of Blackbush Lane and the standard of the existing junction between Blackbush Lane and the R132 stating that additional traffic generated without improvements/upgrades would constitute a

traffic hazard. Blackbush Lane is 3m wide and does not have footpaths or lighting. The proposal entails provision of a footpath along the road frontage of the site (2m wide). The applicant has demonstrated that sufficient sightlines are available at the proposed entrance and the provision of improved footpath provision is a positive factor. I would acknowledge that there is a lack of footpath along Blackbush Lane and the provision such is likely to be dependent on development of the lands on either side of road. In this case the development is short distance from the R132 and existing footpaths and given the small infill nature of the development and the proposal to provide a footpath along the road frontage, I not consider that such would merit refusal of the proposal.

7.4.2 In regards to the existing junction between Blackbush Lane and the R132, I would be of the view that the proposal would generate a small level of additional traffic given it is for 3 no. dwellings on an infill site. In this regard I would consider that such would not generate a significant increase in traffic on the local road network and that such is of sufficient capacity to cater for additional traffic without causing a traffic hazard.

7.5 Other issues:

7.5.1 The appellant raised the issues of density and the fact that density of the development is too low in the context of national policy and its proximity to a public transport corridor. The site is in close proximity to the R132/Dublin Road, which has bus services and is 1.2km or a 17 minute walk from Drogheda railway station. The development entails provision of 3 dwelling on a site of 0.159 hectares yielding a density of 19 units per hectare. In relation to density I would be of the view that the site can be classified as being Inner Suburban Infill under Section 5.9 of the Sustainable Residential Developments in Urban Areas-Guidelines for Planning Authorities (May 09). In relation to infill residential development (Section 5.9 (d)(i)) it is stated that “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 whose character is established by their 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 established character and the need to provide residential infill. The local area plan should set out the planning authority's views with regard to the range of densities acceptable within the area. The design approach should be based on a 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 etc. Local authority intervention may be needed to facilitate this type of development, in particular with regard to the provision of access to backlands". In this case the site is small infill site surrounded by established residential development and the development has regard to the character and pattern of development. I am satisfied that the density and form of development is appropriate in the context of national policy guidance on density on residential infill sites.

7.5.2 The appellant has indicated that the development requires laying of pipes along Blackbush Lane on lands within the appellant's ownership. The site has access to road frontage and based on the information on file the site is serviceable in terms of drainage infrastructure with no objection raised by Uisce Eireann. The appellant notes that servicing the development requires laying pipes through land in their ownership. In this regard I would draw attention to Section 34 (13) of the Planning and Development Act 2000 (as amended) which reads 'a person shall not be entitled solely by reason of a permission under this section to carry out development'.

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 Louth County Development Plan 2021-2027,
- (b) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009,
- (c) the nature, scale and design of the proposed development,
- (d) the pattern of existing and permitted development in the area,

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 March 2023, 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. The following amendments shall be implemented...

(a) the pedestrian entrance located on the southern boundary in the revised layout submitted to the Planning Authority on the 03rd day March 2023 shall be omitted and the existing trees and hedgerow along the southern boundary shall be retained and augmented with additional planting and implementation of tree protection measures during construction.

Reason: In the interest of orderly development.

4. 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.

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. 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.

9. 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

10. The developer shall enter into water and wastewater connection agreements with Uisce Eireann, prior to commencement of development.

Reason: In the interests of clarity and public health.

11. 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.

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

12. 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

13. 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.

14. 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.

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

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Colin McBride
Senior Planning Inspector

19th June 2023