



An
Bord
Pleanála

Inspector's Report

ABP-317341-23

Development	Construction of 95 houses.
Location	Accessed via the existing Hophill Avenue and The Cedars residential estates, Church Road, Tullamore, Co. Offaly.
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	22212
Applicants	James Spollen Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Christine Cawley
Observers	Hophill Cedars Residents Association
Date of Site Inspection	4 th August 2023
Inspector	Dolores McCague

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1.0 Site Location and Description

- 1.1.1. The site is located at Church Road, Tullamore, Co. Offaly where it is accessed from Oakfield via the existing Hophill Avenue and The Cedars residential estates. The location is close to the centre of the town of Tullamore, rear boundaries of detached dwellings (mainly bungalow/dormer type) on Bachelor's Walk forming the north western boundary, rear boundaries of detached dwellings (also bungalow/dormer type) on Church Road (R 420 to Portarlinton) forming the north eastern boundary, The Cedars and Oakfield residential estates (mainly two storey semi-detached type) forming the south eastern boundary and undeveloped land bounding to the south-west, with the R443 / Killeagh Rd further to the south west. The type of boundary fencing used to secure the site and the use of drainage pipes as barriers, indicate its association with earlier residential development.
- 1.1.2. The residential areas which have developed within the outer boundaries of Church Rd, Bachelor's Walk and Killeagh Rd are served independently by residential roads from each of the perimeter roads. Even where residential roads are laid out such that they could connect, barriers are in place to prevent vehicular traffic moving through between the perimeter roads.
- 1.1.3. The site is flat with some mounding of soil at the northern and eastern end. The Church on Church Road to the east is elevated and is a landmark feature in the area.
- 1.1.4. The site is traversed by high voltage electricity transmission lines.
- 1.1.5. The site has an access to Bachelor's Walk, west of the five arm roundabout on Church Road. Although the access corridor, which runs between the flanks of the sites of detached dwellings, has the appearance of land retained for vehicular access, it is to be used only for pedestrian / cyclist access.
- 1.1.6. The site is given as 3.048 ha.

2.0 Proposed Development

- 2.1.1. The application dated, 29th April 2022, is for permission:

For the construction of 95 no. houses comprising of 30 no. two storey three bedroom terrace (house type C), 17 no. two storey three bedroom terrace (house type C1), 9no. two storey two bedroom terrace (house type C2), 8no. two storey three bedroom terrace (house type D), 11no. two storey three bedroom semi-detached/terrace (house type E), 3no. two storey two bedroom terrace (house type F), 6no. two storey two bedroom semi-detached/detached (house type G), 1no. two storey three bedroom semi-detached (house type H), 4no. two storey three bedroom detached (house type H1), 3no. two storey three bedroom semi-detached (house type H2), 3no. single storey one bedroom terrace (house type K) and all associated siteworks.

2.1.2. The application was accompanied by:

Drawings, and

Architect's Design Statement Planning Report by MCOH Architects,

Engineering Report by Killian Consulting Engineers (shorter and longer versions),

Brochure of Tobermore Hydropave Permeable Paving,

Landscape Design Report, by Mitchell & Associates.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decision, dated 23rd May 2023, was to grant permission subject to 23 conditions, including:

2 – part V, 3 – restricting first occupancy to individual purchasers, 4 - completion, 5 – development charge, 6 – bond, 7 – naming and signage, 8 - lighting, 9 – phasing, 10 – completion of phases, 11 – boundary treatment, 12 – landscaping, 13 – open space, 14 - finished floor levels as specified, 15 - details and materials, 16 – undergrounding of cables, 17 – roads, parking spaces, pedestrian facilities, lighting drainage etc, etc, 18 – construction standards, noise and waste management, 19 - Irish Water, 20 – sewer wayleave, 21 – elevational drawings, 22 – delineation of car parking spaces and 23 - minimum 10% EV spaces.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. There are two planning reports on the file. The first, dated 17th June 2022, recommending further information, which issued, includes:

- Considers that the density of 31 units per ha. is appropriate.
- It would appear that the open space zoning of part of this site reflects the original design of the historically granted planning permissions for housing on these lands. It would appear that this land was zoned in order to preserve the original conceived layout of the entire area.

3.3. Other Technical Reports

3.3.1. Water Services & Environment, 16th May 2022 – further information.

3.3.2. Architectural Report, 16th May 2022 – generally favourable.

3.3.3. CFO, 19th May 2022 - no objection,

3.3.4. Roads Design, 25th May 2022 – list of FI requirements, incorporated in FI request.

3.3.5. Housing, 31st May 2022, re. Part V compliance, satisfied.

3.3.6. Tullamore Municipal Engineer, 2nd June 2022 – further information, incorporated in FI request.

3.4. Further Information

3.4.1. A further information request, on 4 points, issued 21st June 2022:

1 Layout and design items a) to t).

2 Roads layout items a) to k).

3 Roads issues a) to d).

4 Water and wastewater.

3.4.2. A further information response was received 20th March 2023, including:

Revised Drawings, and

Preliminary Design Stage Quality Audit, by DBFL Consulting Engineers,

DMURS Compliance by DBFL Consulting Engineers,
Further Information Landscape Design Report, by Mitchell & Associates.

3.5. Further Reports

- 3.5.1. Housing, 28th March 2023, re. Part V compliance - satisfied.
- 3.5.2. Tullamore Municipal Engineer, 18th May 2023 – conditions.
- 3.5.3. Water Services & Environment, 19th May 2023 – conditions.
- 3.5.4. The second planning report, dated 19th May 2023, recommending permission, which issued, includes:

Satisfied with the responses.

3.6. Third Party Observations

- 3.6.1. Third party observations on the file have been read and noted. Similar issues are raised in the appeal and observation.

4.0 Planning History

PL83.233012, PA Reg Ref 08/69, permission granted for 86 units (reduced from 122) and all associated works.

07/4536 permission refused for 130 dwellings and a creche (reasons include designation of part as open space).

05/4197 permission granted for 62 dwellings on part of the site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Offaly County Development Plan 2021-2027 is the operative plan. Relevant provisions include:
 - The site is zoned, in part, new residential and, in part, open space amenity and recreation.
- 5.1.2. The other relevant provisions of the plan are set out in the planner's report.

5.2. **Planning and Development Act 2000 as amended.**

S 37 (6) sets out the manner in which a planning authority is empowered to materially contravene the development plan.

5.3. **Natural Heritage Designations**

5.3.1. The closest Natura site is Charleville Wood SAC (site code 000571), located c2km, straight line distance, south west of the subject site.

5.4. **EIA Screening**

5.4.1. The development is sub-threshold: Schedule 5 Development for the purposes of Part 10: Part 2. Item 10. Infrastructure projects (b) (i) construction of more than 500 dwelling units; being a development of 95 dwellings. The location is on zoned, serviced land within a town in a location with no notable sensitivities.

5.4.2. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. Christine Cawley has submitted this appeal, the grounds include:

- The notice did not state that the roadway into the development would be located in the Oakfield estate.
- There has been no thought or consideration for the health and safety of children by Offaly County Council, who will be allowing the developer to needlessly destroy the only recreational area in the Oakfield estate.
- Offaly County Council did not commission a traffic survey re. amount of traffic the roadway will bring through Oakfield.

- There is an alternative. There is ample space for a roundabout in The Cedars, with a road running diagonally from it, leaving Oakfield green area intact.
- There is ample width for vehicular access (one way, entry only) with the proposed cycle lane and pedestrian footpath from Bachelor's Walk. This would alleviate congestion at the Church Hill/Hophill roundabout. There are tailbacks there at peak times.
- There is no good reason why the proposed Ashley Court entrance for cyclists and pedestrians should not also be open to vehicular traffic. This would also alleviate congestion at the Church Hill/Hophill roundabout.
- The proposed roadway into the development from Oakfield will entail loss of a significant area of recreational green space, the removal of much of the established laurel hedgerow, which was paid for and planted by the Oakfield Tenants Association.
- The proposed roadway will entail loss of an adjacent parking area, with spaces for six vehicles.
- The proposed roadway will create hazards for the residents and children of Oakfield.

6.2. Applicant Response

6.2.1. A response on behalf of the applicant, was made by MCOH Architects, which includes:

- Re. item 1 – issues were raised and responded to in the course of the application.
- Re. item 2 – the existing green area referred to by the appellant is located to the southeast side of a larger area zoned for open space, currently undeveloped and in the ownership of the applicant. The wider surroundings have been developed in a piecemeal fashion since the 1970s. This centrally located site offers the opportunity to complete the development of the local area and create an enhanced amenity area for all neighbourhoods. The intention is to ground the new development within its surrounding environment through the full development of the land zoned for open space, creating a

landscape buffer that will extend between the proposed development and the existing residential areas. The existing amenity grass area opposite the Oakfield houses will be enhanced by the full implementation of the Landscape Masterplan. The centrally located landscape buffer will enhance the open space creating opportunity for both passive and active residential amenity.

- Re. item 3 – the planning application clearly indicates the location of proposed the access road within the surrounding context on the site plan and site location maps.
- Re. item 4 – this was addressed under item 2. A key element of the design and landscape concept is to encourage active travel through permeability and the inclusion of pedestrian and cycle links.
- Re. item 5 – DBFL Consulting Engineers response is attached, re. the reasoning why a roundabout is not suitable and a T junction is preferred.
- Re. item 6 – DBFL’s response is attached, re. potential vehicular link from Bachelor’s Walk and Ashley Court.
- Re. item 7 – the current location of the laurel hedgerow would divide the proposed open space and pedestrian footpath, and would prevent the creation of an open space with the incorporation of the existing grass area outside the red line. The loss of the hedge is to be balanced by the addition of a mix of shrub and native tree planting.
- Re. item 8 - the existing car parking spaces are indicated in the planning drawings to be relocated to the east. The concrete pipes were positioned on site during the summer of 2022 at the request of residents, following illegal camping and have since been removed from the hardstanding.
- Re. item 9 – responded to under separate headings.

6.2.2. Part of the DBFL report is provided, it includes:

- Re. the use of a roundabout, the nominal levels of vehicle flows predicted to travel through the proposed site access junction do not, from an operational perspective, merit the implementation of a larger junction. The proposed priority junction layout is predicted to operate well within acceptable thresholds and its design, in accordance with DMURS geometric

requirements, actively ensures slow vehicle speeds and appropriate safe pedestrian provision. It minimises the level of encroachment into adjoining open space lands. Roundabouts can be difficult for pedestrians and cyclists to navigate.

- Re. vehicular access from Bachelor's Walk and Ashley Court. The proposed development includes a number of new active travel linkages, in response to the recommendations of the NTA Permeability Best Practice Guide. In addition to benefitting the proposed development these new linkages will also be a significant benefit to residents of Oakfield / The Cedars / Hophill Ave to the south, Ashley Court to the west and potentially in time Clonminch Ave to the southwest. The proposed development's internal active travel infrastructure constitutes the missing jigsaw piece facilitating integration with existing adjoining residential areas and providing new convenient, attractive and safe connections for pedestrians and cyclists. The adopted design approach seeks to respect the user hierarchy in Section 2.2.2 of DMURS.
- It will deliver active travel connections to the northeast with Bachelor's Walk and to the northwest with Ashley Court. These will encourage more sustainable travel behaviour. The design team believe that the conversion of one or both of these dedicated active travel connections, to also accommodate vehicle movements, would be contrary to the guidance disseminated in DMURS, generate an adverse impact upon the placemaking attributes of these active travel connections, in addition to promoting private motor vehicle use, when an alternative viable solution is already available. They disagree with the argument that a new vehicle access inbound could be readily accommodated on Bachelor's Walk. Less than the 45m visibility, recommended in DMURS, is available.
- The conversion of the active travel connection with Ashley Court would potentially create a convenient rat-run through existing and proposed residential developments.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority has responded requesting the Board to uphold their decision. They urge the Board to impose condition 17 (c) so as to foster permeability in this site, situated between existing housing estates and within easy walking distance of the town centre.

Condition 17

- a) Lines of sight at the entrance and at junctions throughout the site shall be provided and maintained strictly in accordance with the requirements of Table 4.2 Stopping Sight Distance (SSD) standards, DMURS 2019 (Version 1.1) nothing shall be planted or sown in front of these sightlines without prior written consent of the Planning Authority.
- b) Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, a revised site layout of the proposed entrance to the development, which shall include a proposal to provide a pedestrian crossing at the proposed entrance to accommodate a pedestrian link to existing footpath network in the adjoining Oakfield/The Cedars estates.
- c) Prior to commencement of development, the developer shall submit for the written agreement and consent of the planning authority revised particulars as follows:
 - i) The three proposed parking spaces situated between houses 95/94 and 81 shall be removed and the road carriageway shall be fully built out to the boundary and a pedestrian cycle link shall be provided from the proposed estate to the existing Ashley Court Estate footpath network. The three car parking spaces shall be relocated outside dwelling number 81.
 - ii) Bollards and retention sockets shall be installed at the boundary to prevent vehicular access to the Ashley Court Estate.
- d) Prior to commencement of development, the developer shall submit for the written agreement of the planning authority a revised site layout of the proposed footpath link at the north east corner of the site to L-2026

(Bachelor's Walk). This footpath link shall be designed to accommodate both pedestrians and cyclists.

- e) Prior to commencement of development, the developer shall submit a revised surface water system for the development, without the use of permeable paving. The developer shall submit a full set of revised calculations for the surface water network and relocated attenuation. The developer shall also provide a site layout map, scale 1:500, showing these changes to the surface water network, attenuation, & locations of additional gullies to accommodate surface water runoff for roads and parking areas.
- f) Where paving is to be installed, full rigid foundation details and the relocation and of the attenuation tanks shall be agreed with the planning authority.
- g) Tactile paving at crossing points throughout the development shall comply with the (UK) DETR – Guidance on the use of Tactile Paving Surfaces.
- h) Proposed tree locations shall not interfere with the forward visibility of road users/pedestrians & cyclist or underground infrastructure.
- i) A suitable tree root barrier shall be installed around proposed trees within the site to inhibit growth of roots in close proximity to proposed infrastructure.
- j) Lighting within the proposed development shall be installed as per the received information, using energy efficient LED lighting. The developer shall ensure that LED lighting is angled downwards to prevent light spill and nuisance to the surrounding environment.
- k) No such surface runoff shall be allowed to flow onto the public roadway or other adjoining properties.
- l) No construction vehicles will be permitted to park on the public / private estate roadways during construction works.
- m) No loading or unloading will be permitted on the public / private estate roadways. The road network shall remain unaffected by the construction works at all times.
- n) All necessary measures shall be taken by the developer to prevent any spillage or deposition of clay, dust, rubble or other debris, whether arising

from vehicle wheels or otherwise, on the adjoining and/or adjacent public road and footpath network during the course of the construction works.

- o) Any damage to roads, footpaths or other public property, caused by the development, shall be made good to the satisfaction of the District Engineer.
- p) Any works which are to be carried out on the public roadway and / or footpath shall be subject to the grant of a licence by Tullamore Municipal District.

Reason: In the interests of public health and traffic safety.

6.4. Observations

6.4.1. Hophill Cedars Residents Association have submitted an observation, which includes:

- The decision is overly one-sided, questionable and not in the best interests of orderly and sustainable development.
- It doesn't address the residents two primary concerns: estate/estates have not been taken in charge by the Local Authority; and increased traffic congestion at the main entrance 'choke point' to Hophill on the Church Road roundabout.
- It is proposed that an alternative access and egress point is conditioned at an appropriate location at the site boundary along the New Road (Bachelor's Walk) vicinity, to mitigate against the heightened congestion anticipated at the Church Road entrance.
- This applies also to heavy goods vehicles utilizing the existing estate roads during the construction phase of the project. They would exacerbate the deterioration of the existing estate road. If the estate roads are not taken in charge there is no recourse for the association to fund any remediation.
- Numerous requests and attempts to resolve this taking in charge issue, have been made by the Council over the past number of years, culminating in the present ambiguous impasse.
- It is understood that ownership of the folio's associated with the adjacent housing estates of Oakfield, Ashley Court and Clonminch Avenue and part of Cedars are registered with the developer James Spollen Ltd.

- This ownership demonstrates that providing an alternative access/egress point at a suitable interface between the proposed developments site boundary and these adjacent estates is possible, without any legal implications, in terms of wayleaves/rights of access – while significantly easing traffic congestion on the Church Road entrance as previously noted.
- It is also understood that Watent Ltd is still the registered owner of Hophill Avenue/Grove/Vale and much of Cedars, despite having been dissolved on 19th January 2021 and its assets transferred to the state in accordance with law. It now forms part of OPW portfolio. Observer received correspondence from OPW in 2022 stating that they would not be seeking ownership of Watent Ltd nor would they actively manage it.
- Hophill Avenue/Grove/Vale and part of Cedars does not border or touch the proposed development site or the remaining undeveloped part.
- The question arises as to how a grant of permission to James Spollen Ltd, to utilize the existing entrance ‘choke point’ and associated estate roads for access/egress for heavy goods vehicles during construction, along with increased residential vehicular traffic upon completion, is permitted in the absence of an officially approved/legal/wayleave or similar agreement with the legal owners of same.
- They request that Hophill Avenue/Grove/Vale and Cedars be taken in charge by a specific date and prior to the commencement of the proposed development.
- In the event that no alternative access point along the New Road (Bachelor’s Walk) vicinity is conditioned, it is requested that the LA take immediate steps to take in charge the estate and provide assurances and remediating impacts to the existing infrastructure, prior to commencement.
- Should this not be feasible prior to commencement, it is requested that the developer is conditioned to deploy ongoing maintenance and traffic management throughout the works and to remediate all roads and associated infrastructure impacted prior to completion of the works.

6.5. Further Responses

6.5.1. The appellant has submitted a response, 22nd August 2023, to the applicant's response to the grounds of appeal, which includes:

- 1) She reiterates her objection and states that there is ample room for another entry/exit via the existing roadway in Ashley Court, and an entrance only via Bachelor's Walk in addition to the proposed cycle way and footpath.
- 2) The destruction of the Oakfield recreational area and damage to the laurel hedge could be obviated by a small roundabout in The Cedars, which would be a much safer solution.
- 3) It was not stated that the roadway would be located in the Oakfield estate.
- 4) It now appears to be the developers intention to remove the entire laurel hedge.
- 5) Re. a roundabout in The Cedars, before the turn into Oakfield, as an alternative to that proposed, there is more than ample space for a small roundabout connected to the road entering the Oakfield Estate.
- 6) There are already significant tail backs in both directions at peak times on Church Road. This will worsen. Road markings could be used to prevent vehicles from the Court Hotel direction turning right before the roundabout, and to channel this traffic via the roundabout to a left-in entrance. This would not become a rat run as traffic would have to emerge at Hophill roundabout. The existing road in Ashley Court stops at the boundary of the site. There is no good reason why this could not be another entry/exit point to the proposed development.
- 7) It is now the developers intention to remove the entire laurel hedge. This was not stated in the application. This hedgerow was planted and is maintained by the Resident's Association. The Oakfield recreational area will no longer exist and there will be irreversible environmental damage.
- 9) Re. the concrete pipes. They were not put in place at the request of the Resident's Association. Residents were denied access to parking spaces, requested their removal, and removed them themselves after 12 months.
- 10) She stands by all her concerns.

6.5.2. The observer has submitted a response, 18th August 2023, to the applicant's response to the grounds of appeal, which includes:

Hophill / Cedars Residents Association supports this centrally located proposed development.

The case for accessing the proposed development site, where no legal issues regarding access or egress arises, via Ashley Court, during the construction phase is most compelling and does not appear to have any legitimate rivals.

All other surrounding estates should contribute to arrive at a fair, balanced outcome, having regard to best practice, but allowing for modification where appropriate. This modification is evident where the applicant opts for a T junction, 50m into Oakfield, in order to access the development site, in preference to the appellant's preferred roundabout (Cedars/Oakfield). The outcome is similar to that currently existing in Ashley Court.

Allowing vehicular access, post construction, via Ashley Court would mitigate traffic congestion at Church Road roundabout and must be given weighted and careful consideration. With bollards already in place between Ashley Court and Clonminch Avenue, rat racing should not be an issue.

Re appellant's proposal for a new vehicle access on Bachelor's Walk, observers agree with the Consulting Engineers that it would constitute a road hazard. They recommend the erection of additional Beacon lights and pedestrian crossing on Church Rd, near Dunnes Stores roundabout, on the Hophill side, which would complement the existing pedestrian crossing near Dunnes Stores on the town side of the roundabout and would enhance overall pedestrian safety at this very busy junction.

They agree with the consulting engineers that to convert one or both of these dedicated active travel connections, to also accommodate vehicle movements, would be contrary to guidance, generate an adverse impact on the placemaking attributes of these active travel connections in addition to promoting private motor vehicle use when an alternative viable solution is readily available. Unfortunately the alternative viable solution is not currently available.

7.0 Assessment

- 7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment, the principle of the development, traffic safety, open space and environmental considerations and other issues, and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that 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.

7.3. Principle of Development

- 7.3.1. The site is subject to two zonings. Part of the site is zoned 'new residential' and part is zoned 'open space amenity and recreation'.
- 7.3.2. The open space zoning has the following objective, LUZO-10, to protect and improve the provision, attractiveness, accessibility and amenity value of public open space, amenity and recreation.

The use of land as 'Open Space' shall be taken to include the use of land for; parks, public woodland, pedestrian routes and greenways, riparian zones, housing estate open spaces, development incidental to the enjoyment of open space (including playgrounds, outdoor recreation centres and sports centres, civic / market square, village greens, landscaped areas, shelters, sanitary conveniences, play equipment, dressing rooms and similar facilities). It also provides for the use of such land or such facilities for games, educational and recreational purposes. High standards of accessibility are essential.

- 7.3.3. The extent of the encroachment into the open space zoning is not documented on the file. The zoning is an irregular shape, which appears to include most of the garden of house number 18, portions of houses 1-4, the road and parking area at units 5 to 8 and the access to units 9 and 10, in addition to a portion of the proposed access road. In relation to the latter, the Board previously determined that the

provision of an access road across the open space would not comprise a material contravention of the development plan and would not be detrimental to the overall functionality of this recreational amenity area. Significant additional encouragement on the open space zoning is proposed in the subject application.

- 7.3.4. The comment in the planner's report which states that it appears that the open space zoning of part of this site reflects the original design of the historically granted planning permissions for housing on these lands, and that this land was zoned in order to preserve the original conceived layout of the entire area, is noted. No landscape feature such as a waterbody or woodland exists which might provide an obvious reason for an open space designation, nor is the zoning providing a necessary buffer such as to a wastewater facility or road.
- 7.3.5. It does appear that an outdated master-planning exercise may be the rationale for the zoning, which the planning executive appear to no longer wish to support, and I do not disagree with that assessment. However, the zoning has been in place for more than one development plan cycle prior to the current plan. It impacted previous housing applications on this site: 233010/08/69 and 07/4536. The current plan was adopted in 2021 when there was an opportunity to alter the zoning and provide for residential development on these lands. In relation to the subject application it was open to the planning authority to vary the plan, or to implement the procedures laid out in Section 34 of the Planning and Development Act, to materially contravene the plan.
- 7.3.6. S 37 (3) Planning and Development Act 2000 as amended does not apply to the Board's functions in this case, as the planning authority did not decide to refuse planning permission on the grounds that the proposed development materially contravenes the development plan.
- 7.3.7. Since a substantial portion of the proposed development is within the area zoned open space, I consider that the proposed development materially contravenes the zoning and is therefore unacceptable in principle. This is a reason to refuse permission.

7.4. Traffic

- 7.4.1. The use of existing residential roads to serve the proposed development is a source of concern of the grounds of appeal and is referred to in the observation. The appellant considers that access from other residential areas would be preferable to the proposed access from Oakfield.
- 7.4.2. The observers' initial observation referred to the choke point at Hophill on Church Road, seeking an alternative access/egress point at an appropriate location along Bachelor's Walk.
- 7.4.3. The applicant's response to the grounds of appeal includes a further report from DBFL. That report refers to a number of new active travel linkages in response to the recommendations of the NTA Permeability Best Practice Guide, which will benefit residents of Oakfield / The Cedars / Hophill Ave to the south, Ashley Court to the west and potentially in time Clonminch Ave to the southwest. They state that the internal active travel infrastructure constitutes the missing jigsaw piece facilitating integration with existing adjoining residential areas and providing new convenient, attractive and safe connections for pedestrians and cyclists; that the adopted design approach seeks to respect the user hierarchy in Section 2.2.2 of DMURS; and that It will encourage more sustainable travel behaviour. They believe that accommodating vehicle movements on either of the two dedicated active travel connections via Ashley Court and Bachelor's Walk, would be contrary to the guidance in DMURS, would have an adverse impact on the placemaking attributes of these active travel connections and would promote private motor vehicle use. A new vehicle access on Bachelor's Walk, would have less than the recommended 45m visibility.
- 7.4.4. In response to the applicant's response, the appellant reiterates her concerns.
- 7.4.5. The observers' response agrees with the Consulting Engineers that a new vehicle access to Bachelor's Walk would constitute a road hazard. They accept the use of a T junction into Oakfield. They recommend (post construction) that vehicular access via Ashley Court would mitigate traffic congestion at the Church Road roundabout, noting that with bollards already in place between Ashley Court and Clonminch Avenue rat running should not be an issue.

- 7.4.6. Residential developments which has taken place in this area, within the perimeter roads of Church Rd, Bachelor's Walk and Killeagh Rd, are served independently by residential access roads. Even where laid out in such a manner that they connect, barriers are in place to prevent vehicular traffic moving between the perimeter roads.
- 7.4.7. At this stage of developing the area, a layout providing vehicular permeability would bring with it challenges. I accept that the permeability provided for pedestrians and cyclists, will facilitate connectivity with the town centre for future residents of the proposed development, and for existing residents of adjoining and adjacent residential areas, and is beneficial to the general area.
- 7.4.8. I am also satisfied that the central location, with convenient access to services, employment and public transport, favours sustainable mobility options in preference to private vehicle use, and that the additional vehicular traffic generated by the proposed development can be accommodated on the existing road network.
- 7.4.9. I note that the existing roads and services, serving adjoining residential areas, have not been taken in charge and I would recommend therefore that, if minded to grant permission, a bond should be put in place for the maintenance of existing private roads; and that conditions which refer to these private roads should be suitably worded to protect the private roads in addition to public roads.
- 7.4.10. Traffic should not be a reason to refuse or modify the proposed development.

7.5. Open Space and Environmental Considerations

- 7.5.1. The grounds of appeal states that the proposed access road which crosses over the public open space in her area, will involve removal of a laurel hedge planted by residents, and further, that following the applicant's response to her appeal, she is also concerned that it is the applicant's intention to remove the laurel hedge in its entirety with environmental damage arising.
- 7.5.2. I note the appellant's concern regarding the loss of laurel hedging planted by residents. The provision of a large open space area, of which the green area enjoyed by existing residents would be part, will make significantly better provision for landscaped open space than segmenting the space by hedge planting, into areas allocated to small groups of houses. Laurel is not a native species and therefore there are no negative environmental considerations associated with its removal.

7.6. Other Issues

- 7.6.1. The grounds of appeal states that the application did not state that the roadway into the development would be located in the Oakfield estate.
- 7.6.2. The applicant's response states that the planning application clearly indicates the access road within the surrounding context, on the site plan and site location maps.
- 7.6.3. The notices (application and further information) state that the development will be accessed via the existing Hophill Avenue and The Cedars residential estates. The layout plans show the exact location of the proposed access, which is to the north of the development known as Oakfield, via The Cedars and Hophill Avenue from Church Road.
- 7.6.4. The planning authority was satisfied that the application complied with the Planning and Development Regulations, 2001 as amended, and was a valid application. I am satisfied that the application was valid and that the notices adequately informed interested parties, who had available to view the planning application documents which included the site location map, the layout plans etc.
- 7.6.5. The right to use what are private roads, for access, is queried. Ownership is a matter outside the remit of the Board.
- 7.6.6. It is a concern of the observers that the existing residential areas, including the roads, have not been taken in charge. Taking in charge is a matter outside the remit of the Board.
- 7.6.7. Section 34(13) of the Planning and Development Act 2000 states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development.'

8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that the planning permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

The proposed development, would materially contravene the Offaly County Development Plan 2021-2027 being partly located on land zoned for open space, where the uses for which land so zoned may developed, are for recreational purposes only.

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.

Planning Inspector

29th August 2023

Appendices

Appendix 1 Photographs

Appendix 2 Offaly County Development Plan 2021-2027