



An  
Bord  
Pleanála

## Inspector's Report

**ABP-318163-23**

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<b>Development</b>	122 residential units in the form of 48 houses and 74 apartment/ duplex units, creche and all associated site works.
<b>Location</b>	Lands at Dawsons Demesne, Ardee, Co. Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	23/60237
<b>Applicant(s)</b>	May Ard Developments Limited
<b>Type of Application</b>	Large-Scale Residential Development (LRD)
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	<ul style="list-style-type: none"><li>• Third Party</li></ul>
<b>Appellants</b>	<ul style="list-style-type: none"><li>• An Taisce</li></ul>
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	22 <sup>nd</sup> November 2023

**Inspector**

Paul O'Brien

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## 1.0 Site Location and Description

- 1.1. The subject site with a stated area of 4.02 hectares comprises lands to the north of Hale Street/ the R170 regional road and to the west of a distributor road/ Castleguard Road, between the R170 and the N33, to the eastern edge of Ardee, Co. Louth. The site is under grass and is in agricultural use. The site rises gently towards the centre of the eastern edge and to the east of the site, outside of the red line boundary, there is a cluster of trees which cover a historic site. Site boundaries consist primarily of hedgerows, augmented with post and rail fencing, with a small section of stone wall in the south east corner.
- 1.2. To the east of the site/ east of the eastern access road, the lands are in light industrial use. Lands to the north have recently been developed to form the Castleguard Manor residential development, consisting of two storey houses in the form of detached/ semi-detached and terraced units. The lands on the other sides of the site are primarily in residential use, though in the form of detached houses on their own sites. There are footpaths on the side of the roads that adjoins the subject site, and which are provided with public lighting.
- 1.3. Approximately 110 m to the north of the site is the River Dee. This river flows through Ardee, passes to the north of the subject site and flows east and into the Irish Sea at Annagassan. Powerlines cross the northern part of the site on a south west to north east axis.

## 2.0 Proposed Development

- 2.1. The proposal, as per the submitted public notices, comprises a Large-scale Residential Development (LRD) for the construction of 122 residential units in the form of houses and apartments, a creche and all associated site works.
- 2.2. The following tables set out some key elements of the proposed development:

**Table 1: Key Figures**

<b>Gross Site Area</b>	4.02 hectares
<b>Net Site Area</b>	3.74 hectares
<b>Plot Ratio</b>	0.3
<b>No. of Apartments</b>	74

<b>No. of Houses</b>	48
<b>Net Density –</b>	32.62 units per hectare
<b>Dual Aspect – Apartments</b>	60 Units/ 81.1%
<b>Creche Floor Area</b>	246.9 sq m
<b>Number of Children</b>	30
<b>Open Space Provision</b>	
<b>Public OS</b>	8353 sq m (20% of total site area)
<b>Communal OS</b>	1086 sq m
<b>Car Parking –</b>	
Apartments	74
Houses	88
Visitor	12
Creche Parking	4
<b>Total</b>	<b>178</b>
<b>Bicycle Parking –</b>	<b>189</b>

**Table 2: Unit Mix**

Type	Bedrooms			Total
	1 Bed	2 Beds	3 Bed	
<b>Houses</b>	0	6	42	48
<b>Apartments</b>	17	32	25	74
<b>Total</b>	<b>17</b>	<b>38</b>	<b>47</b>	<b>122</b>

2.3. The proposed creche, is located on the ground floor of Block H.

### 3.0 Planning Authority Pre-Application Opinion

3.1. A Section 247 Consultation Meeting took place on the on the 18th of August 2022 and further formal LRD discussions were held on 2nd March 2023., between the applicant and Louth County Council.

3.2. The Planning Authority considered that following the LRD meeting, and the submitted documentation, the proposal would constitute a reasonable basis for an application for Large-scale Residential Development in accordance with Section 32B of the Act. The applicant was advised that the following specific information should be submitted with any LRD application for the proposed development:

- Item 1: Traffic and Transport Issues, including Layout of Internal Streets etc.

- Item 2: Design and Layout, Unit Mix, Residential Amenity, Compliance with Standards etc.  
Item 3: Drainage, Water and Wastewater Issues
- Item 4: Sustainable Urban Drainage Systems – fully detailed.
- Item 5: Surface Water details
- Item 6: Irish Water requirements
- Item 7: Demonstrate compliance with Part V requirements.
- Item 8: Infilling of Lands – Described and fully detailed.
- Item 9: Appropriate Assessment and Ecological Impact Assessment
- Item 10: Universal Design – Demonstrate compliance as appropriate.
- Item 11: Provision of a Phasing Drawing

## 4.0 **Planning Authority Decision**

### 4.1. **Decision**

The Planning Authority decided to grant permission subject to conditions.

Condition no. 6 (b) is the subject of this appeal and I have repeated it here:

‘6. a) The developer is required to engage the services of a suitably qualified archaeologist to carry out a detailed archaeological impact assessment of the development site. No sub-surface work should be undertaken until an archaeological assessment has been completed and commented on by the Department and approved in writing by the Planning Authority. Such an assessment should include a detailed description of the results of the previous archaeological test trenching carried out under licence 00E318 and clearly show the locations of the excavated test trenches and the locations and extents of all identified archaeological features and deposits. This impact assessment should also include the result of further

archaeological test trenching as recommended within the summary report. A programme of further test excavation shall be carried out at locations chosen by the archaeologist (licensed under the National Monuments Acts 1930-2004) having consulted the site drawings and the Department.

(b) The archaeological impact assessment report should also clearly define a buffer area of 20m to be implemented around the extent of Recorded Monuments LH017-012001-Class: Castle – motte and bailey. No ground works shall be carried out within the buffer area, including boundary works, landscaping or ground reduction. The buffer area shall be fenced off and protected during construction and shall not be used for storage or vehicular access which will preserve the setting and visual amenity of the site.

(c) Having completed the work, the archaeologist should submit a written report stating their recommendations to the Department and for written agreement of the Planning Authority. Where archaeological material/features are shown to be present, preservation in situ, preservation by record (excavation) or monitoring may be required. The developer should be aware that this may result in required amendments to the layout and/or omission of units depending on the archaeological material shown to be present.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.'

## **4.2. Planning Authority Reports**

### **4.2.1. Planning Reports**

The Planning Report, prepared by the Assistant Planner, recommended that permission be granted for the proposed development. No issues of specific concern were raised other than the request of the Department of Housing, Local Government and Heritage for further information in relation to archaeological assessment was noted, but it was reported that as this issue was not raised as an item as part of the Notice of LRD Opinion, then it would be unreasonable to seek further details in relation

to archaeology. The Louth County Council Planner considered that this issue could be addressed by way of condition.

#### 4.2.2. **Other Technical Reports**

- Place Making & Physical Development Section: No objection subject to conditions.
- Heritage Officer:
  - Further information requested in relation to archaeology and impact on the historical site.
  - No issues regarding the submitted appropriate assessment screening.
- Environment Section: No objection subject to conditions.
- Louth County Childcare Committee: No objection to this development.

#### 4.2.3. **Prescribed Bodies**

- An Taisce: Recommends that Condition 6(b) be strengthened such that the buffer zone be determined following an assessment of where the motte and bailey were originally located, the extent of these is determined.
- Uisce Éireann: No objection subject to recommended conditions.
- Department of Housing, Local Government and Heritage: Further information requested in the form of an archaeological assessment to ascertain the extent of potential archaeology on site.
- Transport Infrastructure Ireland: No observations to make.

#### 4.2.4. **Third Party Observations**

Ten submissions were received. The issues raised include the following summarised comments, which I have grouped under appropriate headings:

##### **Impact on the motte and bailey:**

- Concern expressed about the potential impact of this residential development on the important historical and archaeological site.
- The provision of three storey apartments would have a negative impact on the protected views of the site.



- The proposed buffer around the site is inadequate to ensure the protection of the motte and bailey.
- The 'Co. Louth Archaeological and Historical Society' support the recommendations contained within the submitted archaeological report and associated geophysical report provided in support of the application.

**Impact on residential amenity:**

- Acceptance that some form of development will occur on these zoned lands.
- Concern that the development will increase nuisance in the area. Reports of anti-social behaviour in the area.
- There is very low demand for apartments in Ardee. There are no suitable employment or education uses that would provide a demand for these apartments.
- Housing demand will be met by already permitted development.
- Population growth has stagnated in Ardee over the previous census periods.
- Potential overlooking that will lead to a loss of privacy.
- Loss of views from existing houses.
- The proposed development would be overbearing on existing houses that adjoin the site.
- Potential for overshadowing of existing houses.
- The accuracy of the submitted Daylight & Sunlight Assessment Report is queried.
- Concern about the proposed boundary treatment; uncertainty whether or not planting will be provided between the boundary and adjoining lands.

**Design:**

- Three storey units are out of character with this edge of town site.
- The proposed scheme would give rise to ribbon development.
- Family sized houses would be more appropriate on this site.
- The existing lands provide for amenity through the undeveloped nature of the site and the presence of the motte & bailey.

**Traffic and Transport:**

- Opportunity exists to provide for improved cycle/ pedestrian routes in the area.
- There is a shortfall in car parking provision to serve this development.

- The road network in Ardee cannot cope with the additional traffic that this development may generate.
- Public transport provision serving Ardee is limited at present, and the site is over 1.2 km from the nearest bus stop.
- The local road network is not safe for cyclists.

#### **General Comments:**

- There is inadequate infrastructure in Ardee to facilitate this development.
- Concern about who will manage the historic site.
- Who will be responsible for public safety. The fencing may not be adequate to stop people from accessing the site.
- Query over the extent of the submitted Ecological Impact Assessment.
- Flooding is raised as an issue of concern, and it is important that existing measures are protected.
- Query over the accuracy of the submitted drawings, plans, etc.

## **5.0 Planning History**

- **PA Ref. 061843 and ABP Ref. 224978** refers to an April 2008 decision to grant permission for a residential development including a creche, parking and ancillary works. 105 units were applied however this was reduced by 10 units by way of condition no. 2 – ‘The houses on sites numbers 11 to 20 to the north-west shall be omitted. A fresh planning application may be made to the planning authority for this area’ and a further reduction of 6 units through the omission by Block C by way of condition no. 3 – ‘Block C shall be omitted in its entirety and the space thus created shall form part of the landscaped open space between the remaining four apartment buildings.’ A total of 89 units were therefore permitted, though the opportunity existed for additional units in lieu of houses no. 11 to 20 through the submission of a new planning application.

## **6.0 Policy Context**

### **6.1. National Policy**

### 6.1.1. **Project Ireland 2040 – National Planning Framework (NPF)**

Chapter 4 of the National Planning Framework (NPF) is entitled ‘Making Stronger Urban Places’ and it sets out to enhance the experience of people who live, work and visit the urban places of Ireland.

A number of key policy objectives are noted as follows:

- National Policy Objective 4 seeks to ‘Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being’.
- National Planning Objective 11 provides that ‘In meeting urban development requirements, there be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth’.
- National Planning Objective 13 provides that “In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

Chapter 6 of the NPF is entitled ‘People, Homes and Communities’ and it sets out that place is intrinsic to achieving a good quality of life.

A number of key policy objectives are noted as follows:

- National Policy Objective 27 seeks to ‘Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages’.
- National Policy Objective 33 seeks to ‘Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location’.

- National Policy Objective 35 seeks 'To increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights'.

### 6.1.2. **Section 28 Ministerial Guidelines**

The following is a list of Section 28 - Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Urban Development and Building Heights - Guidelines for Planning Authorities – (DoHPLG, 2018).
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DoHPLG, 2023).
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (DoEHLG, 2009).
- Quality Housing for Sustainable Communities (DoEHLG, 2007).
- The Planning System and Flood Risk Management including the associated Technical Appendices (DEHLG/ OPW, 2009).
- Childcare Facilities Guidelines for Planning Authorities (2001).
- Architectural Heritage Protection - Guidelines for Planning Authorities (2011).

#### **Other Relevant Policy Documents include:**

- Smarter Travel – A Sustainable Transport Future: A New Transport Policy for Ireland 2009 – 2020.
- Permeability Best Practice Guide – National Transport Authority.
- Climate Action Plan - 2023

## 6.2. **Regional Policy**

### 6.2.1. **Regional Spatial and Economic Strategy (RSES) 2019 – 2031**

The Eastern & Midland Regional Assembly 'Regional Spatial & Economic Strategy 2019-2031' provides for the development of nine counties including County Louth and

supports the implementation of the National Development Plan (NDP). Ardee is listed as a Level 3 Town.

### **6.3. Local/ County Policy**

#### **6.3.1. Louth County Development Plan 2021 - 2027**

The Louth County Development Plan 2021 – 2027 was adopted on the 30<sup>th</sup> of September 2021 and came into effect on the 11<sup>th</sup> of November 2021 and is the current statutory plan for County Louth, including Ardee. Ardee, with Dunleer, are listed as Self-Sustaining Growth Towns. The population growth between 2011 – 2026 was only 0.6% for Ardee. Table 2.11 – ‘Population Projections & Distribution by Settlement Category, County Louth’ indicates a projected growth for Ardee of 7.9% between 2021 and 2027. Table 2.17 provides the ‘Core Strategy Table’ and indicates that approximately 584 houses could be provided between 2021 – 2027 in Ardee.

The following objective is noted:

Policy Objective CS 15 – ‘To prepare a new Local Area Plan for Ardee in line with the Core Strategy and in recognition of Ardee’s role as a regionally important local driver and Self Sustaining Growth Town in the Settlement Strategy.’

Section 2.15.1 specifically refers to Ardee and sets out the development plan considerations for this settlement, including objectives. A land use zoning plan is provided in Volume 1A of the Plan. The subject site is zoned A2 – ‘New Residential Phase 1’ and which seeks ‘To provide for new residential neighbourhoods and supporting community facilities.’ Childcare Facility and Residential uses are listed within the ‘Generally Permitted Use’ category.

In addition to the national monuments/ protected structures located on the site, View & Prospects are indicated to the south west corner and to the south eastern sides of the subject lands.

### **6.4. Natural Heritage Designations**

None.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

- 7.1.1. An Taisce have appealed Condition 6(b) of the decision to grant permission, as issued by Louth County Council on the 8<sup>th</sup> of September 2023. They have sought the strengthening of this condition.
- 7.1.2. The history and importance of the motte and bailey are outlined in the appeal statement. The extent of archaeology on site may be larger than that reported. Test trenched undertaken in 2000 found a dispersed distribution of finds indicating extensive settlement on this site, and although 16 trial trenches were dug, these were at least 45 m apart and would result in non-detection of multiple archaeological features on this site.
- 7.1.3. Welcome is given for the relocation of the entrance road a minimum of 25 m from the monument as per the National Monuments Service. Similarly, the provision of suitable fencing to protect the structure is to be welcomed.
- 7.1.4. The appellant recommends that the designated buffer be only confirmed following confirmation of the extent of the bailey by way of archaeological excavation. As stated by the appellant, 'The subterranean elements of the Bailey are part of the legally protected Registered Monument.'

## 7.2. **Planning Authority Response**

The Planning Authority note the details provided in the appeal statement and the recommended revisions to Condition 6(b). The Planning Authority have no objection to the revisions to the condition and have recommended a revised condition.

## 7.3. **Applicants Response**

- 7.3.1. Trim Archaeology Projects Ltd. (TAP) have prepared a response to the appeal. They consider that the recommended condition 6(b) is acceptable and that no further revisions are required to the condition.
- 7.4. Archaeological investigations including archaeological testing were undertaken in 2000. The applicant undertook geophysical surveys in September and October 2022. The results of these informed the design of the development. These tests were limited by the requirements of the National Monuments Service, which prohibited testing and development to ensure that there would be no impact to the monument. A buffer of 25 m was established between the base of the motte and the proposed development

area; this was informed by the previous archaeological testing in 2000 and the geophysical surveying undertaken in 2022. The location of the motte is easier to determine as it has a physical presence and as the applicant reports, 'the bailey is an assumed feature, as no physical remains can be seen on the surface..'. The request outlined in the appeal is noted but the undertaking of archaeological excavation to determine the full extent of the bailey is considered to be 'both unnecessary and bad practice..'. The applicant therefore considers that the condition as attached by the Planning Authority is appropriate in this case.

#### 7.5. **Observations**

None received.

### 8.0 **Assessment**

- 8.1. The appeal refers to part of a condition (6b) and is therefore assessed in accordance with Section 139 of the Planning and Development Act 2000 as amended. Section 139 applies where an appeal is brought against a decision of the Planning Authority to grant permission, the appeal relates only to a condition and the nature of the condition is such that the application does not warrant assessment if it had been made to the board in the first instance. The board may decide to attach, amend or removal the condition. I am satisfied that the appeal be assessed under Section 139 as it refers only to a condition attached to a grant of permission and the assessment of the condition does not warrant the assessment of the entire application.
- 8.2. The appeal requests that a condition which seeks to establish a suitable buffer zone around a recorded monument, be revised. The defined buffer area is to be fenced off and not be used for any purpose associated with the proposed development. In the interest of clarity, a motte is generally a mound of earth etc. with a flat section on top on which the main structure, the keep is located. A bailey is a fortified enclosure built next to the motte and which may consist of a wooden fence and a ditch. Buildings would be located within the bailey. The design of these structures would vary depending on location and the topography of the area.
- 8.3. The Planning Authority have reported no objection to the appeal and have provided a rewording of Condition 6(b). I note this response and I consider a revised condition to

be acceptable in this case. The comments made by the applicant are reasonable regarding the existence of the bailey and the less intrusive testing is the best option to determine a buffer area as it will ensure that remains are protected in-situ. There has been extensive testing undertaken on these lands over time, but any undertaken to facilitate this development would be in consultation with the Department of Housing, Local Government and Heritage.

- 8.4. I am satisfied that the motte, which lies outside of the red line boundary of the site, will not be impacted by this development, and it will remain the dominant feature of this part of Ardee post development. The provision of open space to the south west, west and north west increases the buffer between the motte and the proposed housing. The proposed site layout will ensure that there is at least a 30 m separation distance between the motte and the proposed residential units. This will allow for a suitable visual separation and ensures that the setting of the monument is protected.
- 8.5. I therefore recommend that the condition be revised such that the outer extent of the monument be determined by means of archaeological testing and available geophysical information, but that a buffer of at least 20 m be provided. I am satisfied that a buffer of 20 m would be sufficient to protect the extent of the known archaeology on site.

## 9.0 Recommendation

In light of the above assessment, I recommend that the Board, using its powers under Section 139 of the Planning and Development Act 2000 as amended, direct the Planning Authority that Condition no. 6(b) be amended.

## 10.0 Reasons and Considerations

Having regard to the provisions of the Louth County Development Plan 2021 - 2027, and the planning history of the site, it is considered that Condition no. 6(b) attached to the grant of permission under P.A. Ref. 2360237 should be revised such that the buffer zone around the motte and bailey be informed by appropriate archaeological assessment including trial trench excavations. This will ensure the protection of the recorded monuments through best archaeological practice. The rest of Condition no. 6 is acceptable, and no revisions are proposed to the wording.



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

**Amended Condition:**

6 (b). The archaeological impact assessment report shall clearly define the outer extent of Recorded Monuments LH017- 012001-Class: Castle – motte and bailey, providing for a buffer zone of at least 20 m. This buffer shall be determined by the programme of test excavations to be carried out under condition 6a) of this permission, supported by available geophysical information, and shall be agreed in writing with the Department of Housing, Local Government and Heritage (DHLGH) and the Planning Authority. No ground works shall be carried out within the buffer area, including boundary works, landscaping or ground level modifications. The buffer area shall be fenced off and protected during construction and shall not be used for storage or vehicular access which will preserve the setting and visual amenity of the site. A suitable permanent fencing, subject to the written agreement of the Planning Authority, may be provided at this stage of the development.

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.

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Paul O'Brien  
Inspectorate  
30<sup>th</sup> November 2023