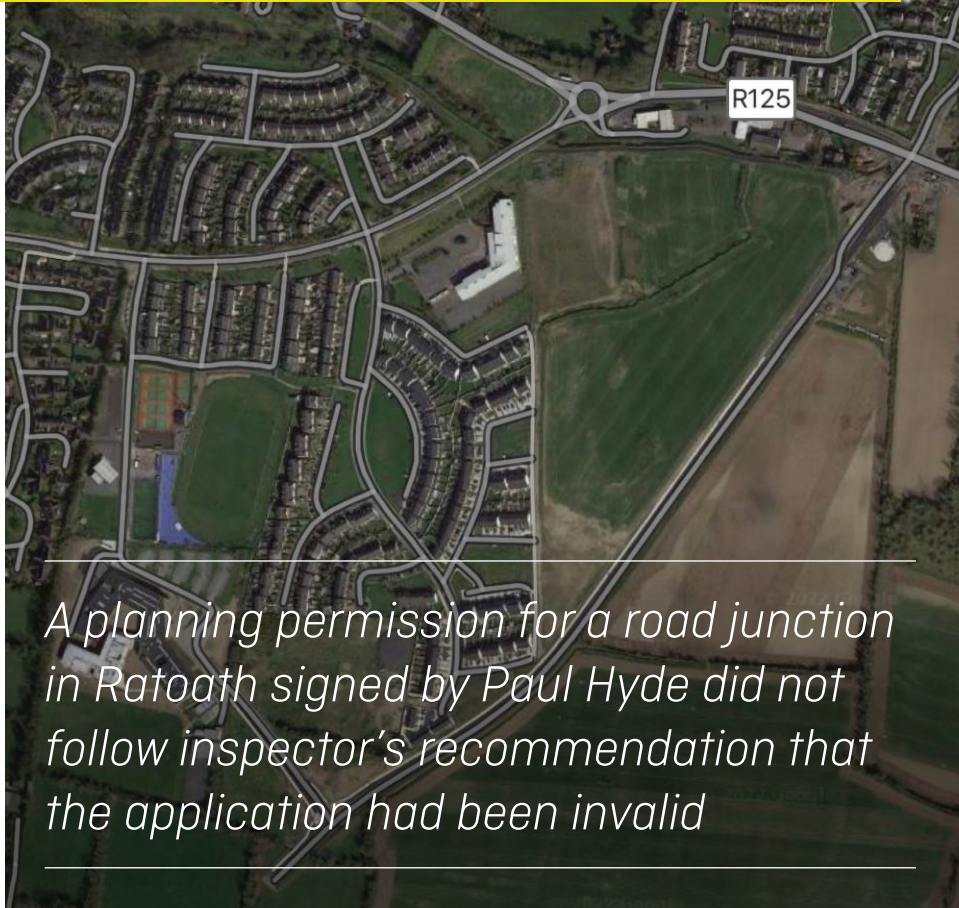


Hyde-bound



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The Inspector wrote: 'Works that form an integral part of the proposed road junction do form part of the subject application and the site layout plan does not detail the existing road layout in the vicinity of the site'

By Frank Connolly

THE DEPUTY chairman of An Bord Pleanála (ABP), Paul Hyde, signed a controversial permission for a development in, Ratoath, County Meath, which was originally based on an invalid planning application.

Mr Hyde, who has stepped down from his role while inquiries continue into other decisions he made as a board member of ABP, signed off on a decision in March 2020 to amend a road junction at Moulden Bridge, Ratoath. The road junction is part of the Ratoath Outer Relief Road and was designed to provide access to a 128-house estate built by Sherwood Homes (Ratoath) Ltd., owned by local builder, Luc Hemeryck.

The decision to grant permission failed to follow the recommendation of ABP inspector, Karen Kenny, who recommended against giving planning permission for a road junction that had been granted by Meath County Council in 2016. Kenny carried out an inspection of the

application following an objection by local man, John Scott, to the road junction.

Following her inspection in November 2019, Kenny contended that the “lack of clarity in respect of the extent of the works and..in respect of existing road layout in the area raises a procedural issue under Article 23 of the Planning and Development regulations”.

The regulations require that land adjoining the site and which is “under the control of the applicant or the person who owns the land which is the subject of the application shall be outlined in blue and any wayleaves shall be shown in yellow” in the maps accompanying the planning application.

According to Kenny and the objector, John Scott, this condition was not met in the original planning application to MCC which, she said had “deemed the submitted plans and particulars to constitute a valid planning application in accordance with the provisions of the Planning and Development Regulations”.

However, she recommended a decision that would have said that “on the basis of the submissions made in connection with the planning application and appeal, it appears to the Board that the planning application made to the Council was invalid on the grounds that the requirements of Article 23 1(a) of the Planning and Development Regulations 2001, as amended, are not met”.

In her recommendation to the Board, Kenny said that procedural issues that arose under the Regulations were “in respect of 1). The site boundary; and 2) the detail provided in relation to the existing road layout in the vicinity of the land to which the application relates”.

“Works that form an integral part of the proposed road junction to include a pedestrian and cycle crossing, turning lanes and signals are outside of the red line boundary and do not therefore form part of the subject application. On inspection, it was also apparent that the site layout plan does not detail the existing road layout in the vicinity of the site”.

She also noted that the submitted plans did



Rachel Kenny



Ownership of some of the lands which were transferred by Sherwood Homes to MCC in relation to the road and housing development are disputed by Yvonne and James Everard, though this is not terminal for an application

not include details of an approved junction upgrade close to the site and therefore did not provide sufficient detail to allow her to carry out a full assessment in respect of existing and proposed road layouts for the area.

Ten months before her inspection, in January 2019, Mr Hemeryck, his colleagues in Sherwood Homes Ltd. and his professional advisors met with the ABP Director of Planning, Rachel Kenny and with the MCC senior planners, Wendy Bagnell and Billy Joe Padden, in relation to his proposed housing development.

The minutes of the meeting do not include specific mention of the road junction and the apparently invalid planning application for it.

In a decision to grant permission in early 2020, for an amended proposal for the provision of a “signalised junction and associated works” at Moulden Bridge, Paul Hyde signed a decision saying that the original application made to the planning authority “was valid on the grounds that the requirements of Article 23 (1) (a) of the Planning and Development Regulations 2001, as amended, are met”.

Hyde wrote: “The Board considers that the requirements of Article 23 of those Regulations are met and that there is sufficient clarity and detail in relation to the works proposed under the subject application”.

Following a further meeting of the board on 30 March, 2020, Hyde signed the decision later that day. He said the decision to grant permission was justified following the submission of the amended plans submitted to ABP in January, 2020. This was implicit acceptance that the original plans to which an objection might have been made would have been deficient in allowing a potential objection to assess whether an objection would be justified. Without an objection an appeal is not possible. Hyde had also signed off on the original decision by ABP in November 2016 to grant permission for the strategic housing development and road construction by Sherwood Homes which generated the need for the junction.

The decision of May 2020 also appears to ignore the argument made by Mr Scott in his appeal of the original permission, as accepted by Karen Kenny in her recommendation, that the original planning application was not available for public viewing after it was first submitted in 2015. However, Kenny said this was a matter for the planning authority, MCC, and “cannot be addressed by the Board in this appeal”. Again it is possible potential objectors (and therefore appellants) were deterred by not being able to see the original planning application.

It has further emerged that ownership of some of the lands which were transferred by Sherwood Homes to MCC in relation to the road and housing development are disputed. In a letter from Staines Law, in May 2020, to MCC on behalf of Yvonne and James Everard of Ratoath, the solicitors stated that their clients are the owners of unregistered property which has been included in the development. In general lands not in the ownership of an applicant for planning permission may be included in an application provided it does not result in a frivolous application having to be considered.

Their clients, the solicitors said, have insisted that a portion of the lands acquired by the Council from Sherwood for the Ratoath Outer Relief Road was never owned by the company and that James Everard “is registered in the Registry of Deeds” as the owner. The 0.157 hectares of land at Jamestown, Ratoath was subsequently transferred in April 2020 by the Council to Howardwell Ltd, a company connected to Sherwood, for a consideration of €1 under Section 183 of the Local Government Act, 2001.

Independent councillor in Ratoath, Gillian Toole, has told *Village* that there are “significant issues” as a consequence of the decision by ABP and Mr Hyde to ‘override’ the inspector’s report by Karen Kenny, particularly given the current inquiries into decisions made by the Board over a number of years.

“I think there are serious questions over the manner in which the Inspector’s report was not



Karen Kenny, former ABP inspector

followed by the Board and Mr Hyde, particularly in light of everything that has been alleged with An Bord Pleanála. There are significant issues in relation to the site, including the placement of the boundary, which Karen Kenny raised in her report and have not been addressed. In relation to the claim of ownership by James Everard, I have seen the deeds in his name. The question is what due diligence was carried out by the Council in relation to the ownership of the lands before they acquired them from Sherwood”, Gillian Toole said.

Councillor Toole said that she raised her concerns about the Section 183 disposal in May 2020 and informed the Council of the title deeds in possession of James Everard. The transfer to Howardwell went ahead despite her appeal for a thorough examination of the land ownership.

MCC has said that its solicitor has confirmed that “no notification has been received from the Property Registration Authority in relation to a boundary dispute” relating to the lands it acquired from Sherwood Homes (Ratoath) Ltd. It also said in a letter to councillors on Ratoath Municipal District, including Gillian Toole, in May 2020 that the company has claimed that it is “not aware of any boundary or land dispute in relation to the lands they provided for the scheme”. 📌