



An
Bord
Pleanála

Inspector's Report PL03.248837

Development	Construction of 7 houses.
Location	Maigh Dara, Quinn, County Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	P16/630
Applicant(s)	Donncadh Nagle
Type of Application	Appeal
Planning Authority Decision	Grant permission
Type of Appeal	Third v Grant
Appellant(s)	Caroline Power
Observer(s)	None
Date of Site Inspection	2 nd November 2017
Inspector	Karla Mc Bride

1.0 Site Location and Description

- 1.1. The appeal site is located in Quinn Village in County Clare and the surrounding rural area is characterised by a mix of residential and agricultural uses. The site is located to the NW of an existing housing estate at Maigh Dara on the W side of the village. This estate contains 45 low density detached houses in a cul-de-sac layout with vehicular access off a local road to the S (L3148-0). The site is located to the rear of four existing houses and access to the site would be via an entrance located to the side of the house no.45. The site is bound to the SE by the rear gardens of the four houses and to the N, W, and E by agricultural land, and the site boundaries are defined by fences. The greenfield site slopes down from NW to SE, there is drain along the N boundary and builder's rubble has been deposited in the S section.
- 1.2. Photographs and maps in Appendix 1 describe this relationship in more detail.

2.0 Proposed Development

- 2.1. Planning permission is being sought to construct 7 detached houses with garages:
- The proposed c.161sq.m to 266sq.m houses would occupy a c. 1.02ha site.
 - The proposed single & 2-storey houses would comprise 4 house types.
 - Vehicular access via the existing Maigh Dara estate.
 - New connections to existing public services (water and waste).

3.0 Planning Authority Decision

3.1. Further information

1. Provide details of a separate access for construction vehicles - *no feasible alternative, however a traffic Management Plan, Project Risk Assessment & Method Statement will be provided in relation to construction traffic; willing to accept a Special Contribution Condition in relation to the road surface.*

2. Submit the following:
 - a. A Flood Risk Assessment - *report provided.*
 - b. A SuDS Plan which should include measures to ensure that storm water is disposed of on site or attenuated & treated prior to discharge – *an attenuation tank will be provided at S3 of the storm sewer scheme.*
 - c. Details in relation to a hollow to the rear of House nos. 3 & 4 - *created by previous topsoil stripping & will be filled and landscaped.*
3. Details of N boundary treatment - *provided*
4. Address concerns of Irish Water in relation to end of line flushing and location of the water main termination point at a dead end - *Hydrant will be provided.*

3.2. Decision

The planning authority decided to grant planning permission subject to 22 conditions.

- Condition no.2 required that the applicant carry out a Risk Assessment with appropriate mitigation measures on the access of all construction works traffic thorough the existing estate, the measures should be included a Construction Management Plan & Traffic Management Plan.
- Condition no.3 required the submission of full details of phasing to the PA.
- Condition no.4 required that the developer provide a wearing course (asphalt) overlay of the exiting estate road.
- Condition no. 7 required a condition survey of the existing foul sewer on the haul route through the estate before and after the works.

3.3. Planning Authority Reports

Planning Reports:

The Planning Officer recommended the grant of planning permission.

Other Technical Reports:

The Engineers report raised the following concerns:

- Original developer of the estate left the scheme incomplete, and the Bond did not cover all the works relating to the foul sewer network & water supply pipes
- The roads do not have a wearing course surface which is required to serve the proposed development, the current developer should be required to provide a substantial contribution towards the cost of fixing this (c. E50,000).
- Traffic calming measures may be needed on the main access route.
- The use of the existing incomplete public road as a haul route for construction traffic will require detailed conditions and undertakings.
- Additional 7 houses would not increase traffic loading at the entrance junction.
- Identify the form of storm water attenuation in accordance with SUDS.
- Unclear as to whether a hollow exists to the rear of House 3 & 4 which may cause ponding during heavy rainfall.

Treatment of boundaries and the open drains need to be confirmed in the interest of safety, an access to the adjacent land should be maintained.

No objection following receipt of FI subject to the attachment of stringent conditions. Although concerns remained in relation to traffic safety, it was concluded that a refusal of planning permission would prevent the completion of the existing internal estate roads at Maigh Dara.

Irish Water raised the following concerns:

- Design does not take into account end of line flushing and the watermain termination point is at a dead end.
- Applicant must sign a connection agreement with Irish Water; proposed connections to Water & Waste Infrastructure will be subject to the constraints of the Irish Water Capital Investment Programme; and works to be carried out in accordance with Irish Water's requirements.

No objection following receipt of FI.

3.3.1. **Submissions:**

Six letters received from local residents who raised the following concerns:

- Existing estate road network is not adequate to cater for residential or construction traffic, and construction traffic will cause a traffic hazard.
- Lack of capacity at estate entrance to accommodate additional traffic.
- Further deterioration of the existing unfinished road surface, inconvenience residents and cause a traffic hazard.
- Impact on traffic safety and children playing (c.60 children under 8).
- Exacerbation of existing drainage problems in the estate.
- Site safety and need to prevent children from entering the building site.
- Condition should be attached to ensure that the road is properly resurfaced.
- Non-compliance with conditions attached to Maigh Dara permission.
- Consideration should be given to an alternative access via lands to the W.
- All spillages from construction vehicles are cleaned up in a timely manner.
- Lack of spare capacity in existing sewerage system.

Objections sustained following receipt of FI.

One letter of representation received from Cllr. Pat Daly.

4.0 **Planning History**

Appeal site:

Reg. Ref.07/1447: permission granted to build 8 houses with garages on the appeal site lands with access via the Maigh Dara estate (permission expired in 2012)

Maigh Dara:

Reg. Ref. 02/2071: permission granted for 45 out of 60 proposed houses at Maigh Dara, including drainage connections, improved road access and site works.

Reg. Ref. 03/1498: permission granted for changes to the design of 2 house types.

UD09-141: unauthorised works related to noncompliance Reg. Ref. 02/2071 in relation to several elements including the storm sewer on the main access road.

5.0 Policy Context

5.1. The Planning System and Flood Risk Management, 2009

This document provides guidance on the identification, assessment and management of flood risks in areas of potential development and they recommend a precautionary approach in relation to flood risk management. They require the planning system to: - avoid development in areas at risk of flooding, particularly floodplains, unless there are proven wider sustainability grounds that justify appropriate development and where the flood risk can be reduced or managed to an acceptable level without increasing flood risk elsewhere; adopt a sequential approach to flood risk management when assessing the location for new development based on avoidance, reduction and mitigation of flood risk; and Incorporate flood risk assessment into the process of making decisions on planning applications and planning appeals.

5.2. Clare County Development Plan 2017-2023

The Clare County Development Plan designates Quin as a Large Village. Volume 3A of the Plan contains objectives for the Ennis Municipal District and Section 3 relates to Quin. The appeal site and surrounding lands are covered by the following residential zoning objectives for future housing to the W of the village:

LDR4: Appeal site lands to the NW of the Maigh Dara estate

LDR5, R4 & LDR1: Adjacent lands to the S of appeal site & SW of Maigh Dara

LDR4 states that this site is located behind Maigh Dara estate and is considered appropriate for a low density residential scheme, accessed via the existing Maigh Dara estate. Proposals for development shall ensure that the residential amenities of existing dwellings at the E boundary are protected. Proposals shall include a detailed assessment of the capacity of the existing entrance to the Maigh Dara estate to

accommodate additional traffic movements and proposals for upgrade to the entrance, if deemed necessary shall be provided for.

LDR5, R4 & LDR1 state that these adjoining residential development sites should be accessed via the LDR1 site off the local road to the SW, subject to traffic safety considerations. The Housing and Sustainable Communities section states that new road infrastructure will be required to provide access these sites to the public road. The road shall be progressed as part of the development of the lands and shall be designed in accordance with the Design Manual for Urban Roads and Streets.

5.3. **Natural Heritage Designations**

The following European site is located within a 15km radius:

- Lower River Shannon SAC

6.0 **The Appeal**

6.1. **Grounds of Third Party Appeal**

- Health & safety related to construction vehicles and the building site.
- Substantial number of children under 12 live and play in the entire estate.
- Construction traffic will pass through the estate without any speed controls, at any time of day, and for an undefined construction period, is not acceptable.
- It will restrict children's movements, impact on quality of life (noise & dust) affect the road surfaces and increase the risk of injury or accident.
- Alternative access should be sought during the construction period and this concern was reflected in the FI request.
- The original report of the Council's Road's Engineer recommended the refusal of permission on road safety grounds, however this recommendation was withdrawn without any reasonable consideration of alternative access.

- Under the previous application for houses on the site (07/147), the Roads Engineers stated that “unless the existing entrance to the estate is substantially improved that additional units which would create additional traffic movements through this entrance should not be allowed to be constructed.”
- Objective LDR4 states that proposals for development shall ensure that the residential amenities of existing dwellings at the E boundary are protected. Proposals shall include a detailed assessment of the capacity of the existing entrance to the Maigh Dara estate to accommodate additional traffic movements and proposals for upgrade to the entrance, if deemed necessary shall be provided for.
- Estate entrance was not completed to prescribed standards, the exit is blind and the geometry is not suited for the curvature of the local road. An Audit of the entrance should be undertaken & remedial actions put in place prior to granting permission for further construction with associated traffic increases.
- The sewage system was subject to remedial works over the past 3 years due to damage caused by the construction works, and the Bond was used to pay for these works along with remedial works to the waste water network.
- The Plan states (Housing & Community Development in Quin) that all future residential development will be strictly dependent upon the upgrade and provision of a suitable WWT facility in terms of effluent discharge & capacity.
- The Quin WWT facility is still overloaded with no spare capacity and is not be able to accommodate any additional effluent from new houses.
- The Bond should be reviewed to ensure that it sufficient to correct any damage made to the road network, wastewater network and any other forecastable costs associated with the extension of Maigh Dara.
- The Maigh Dara residents have not so far being consulted in relation to a Traffic Management Plan or Risk Assessment.

- **Condition no.2(a):**
 - (a) The developer should be required to put down speed ramps to ensure that traffic is kept at a low speed in the interests of health and safety.
 - (b) Request permission to review the Traffic Management Plan and submit comments prior to approval.
 - (c) Request daily inspection and road cleaning; rock blasting should only occur on weekdays (9am to 5pm); no parking of construction vehicles in Maigh Dara; a use of a one-way system for construction traffic; and speed and noise monitoring for construction vehicles.
- **Condition No. 2(b):** Request contact details for the Health & Safety Officer.
- **Condition No.3:** Details of the times frame for the first phase is required.
- **Condition no.4:** The Council should complete the final course layer on the other sections of the estate roads on the same day as the estate road from the local road to the site takes place.
- **Conditions 5 & 7:** Increase the amount of the bond to cater for the risk of damage to the wastewater mains within the estate during construction, with a refund in the event of no damage.
- **Condition no.9:** Any importation of soil should be strictly monitored to avoid the spread of Japanese Knotweed and other invasive species.
- **Condition no.15:** HGVs should not be permitted between 8.30 and 9.30 am and after 2pm as this is when children will be travelling to and from school and the site should be closed on Saturdays in the interest of child safety.
- Request written confirmation that this will be the last access route to a site and that the road is not used as a thoroughfare for any construction traffic.

6.2. First Party Response

Overview:

- The site has been zoned for residential use since 2003 and the proposal is similar to a previously permitted scheme (07/1447) which expired in 2012.

- Maigh Dara was permitted in 2001, occupied in 2007 and taken in charge by the Council in 2014 although the development was not complete, thus the Bond was insufficient to cover all the works to bring the estate up to standard.
- The Council prioritised work on the foul sewer & water supply networks with the result that the estate roads still do not have a wearing course surface.
- The current proposal is conditional on the applicant providing the wearing (asphalt) overlay of the existing road in the estate.

Response to Grounds:

- The appeal almost entirely concerns the use of the estate road, the applicant was not the original developer of the estate and has no connection with same.
- The issues relate to the estate road and its junction with the L3148-0 which is outside the appeal site and are under the control of the Council.
- The estate roads and footpaths accord with the standards set out in 1998 Site Development Works for Housing Areas and exceed current Development plan standards for access roads serving less than 80 units.
- The Road Safety Authority has no record of any accidents at the junction and an additional 7 houses will have a negligible effect on the safety risk.
- There would be an increased risk of accident during the construction phase and works would need to be carefully controlled to protect children.
- It is desirable that new development is directed into existing settlements although this will have adverse effects during construction.
- Around 8.2ha has been zoned for housing in Quin, the appeal site accounts for c.12% of this, and most of the zoned land depends on access via existing residential or predominantly resident streets.
- No objection to Conditions nos. 2, 3, 4, 15 & 16.

Principle of low density development:

- Proposal accords with proper planning and sustainable development.
- It comprised underutilised land on the edge of the historic village.

- FRA concluded that the site does not reside in a flood risk area, the proposed FFL of c.22m are more than 1m higher than any projected flood event factoring in climate change, and Irish Water had no objections.
- Proposal resembles the existing estate, complies with the low density zoning objective, will not adversely affect residential amenities with adequate separation distances, and will not give rise to a traffic hazard.

6.3. Third Party Response

No new issues raised.

6.4. Planning Authority Responses

The first response stated that the engineering concerns have been addressed, there is no alternative access to the site, and the provision of 7 additional houses is acceptable and would not detract from the amenities of the area. The second response raised no new issues.

6.5. Observations & Prescribed Bodies

No submissions received.

7.0 Assessment

The main issues arising in this case are:

- Principle of development
- Visual amenity
- Residential amenity
- Vehicular access
- Environmental services
- Other issues

7.1. Principle of development

The appeal site and surrounding lands are located within an area to the W of Quin Village which is zoned for low density housing use in the current County Clare Development Plan. The appeal site is covered by the specific zoning objective LRD4 which states that this site is considered appropriate for a low density residential scheme which may be accessed via the existing Maigh Dara estate. The proposed development would be acceptable in principle subject to compliance with the additional requirement to protect residential amenity and the capacity of the existing entrance to the estate to accommodate additional traffic movements.

7.2. Visual amenity

The proposed low density development would comprise seven detached single and 2-storey houses with garages in a curved layout which would overlook a central open space on a c.1.02ha site. The proposed houses would comprise 4 house types, the floor areas would be c.161sq.m to 266sq.m. and all of the houses would have front and rear gardens with off street car parking. The proposed development would be located to the NW of the existing Maigh Dara housing estate which comprises 45 detached single and 2-storey houses of a similar scale, design and layout. The proposed development would reflect the established character of the area and it would be acceptable in terms of visual amenity.

7.3. Residential amenity

The proposed houses would provide for an acceptable level of residential amenity in relation to floor area, room size, orientation, daylight/sunlight and storage. The proposed rear gardens would be in excess of 11m in length and they would provide for an acceptable level of private amenity space for future occupants. The houses would overlook a communal open space to the N with agricultural lands beyond.

The proposed houses would be set back a minimum of 11m and 22m respectively from the rear site boundaries and rear elevations of the neighbouring houses to the SE at nos. 42 to 45 Maigh Dara. The neighbouring houses would not be overshadowed or overlooked and the proposed houses would not be overbearing or visually obtrusive when viewed from these properties. The proposed houses would not seriously injure the amenities of neighbouring properties to any significant extent.

The proposed entrance and access road would be located in close proximity to the existing house at no.45 Maigh Dara. The road would run parallel to the side boundary of the rear garden at no.45 for a distance of c.20m and it would be set back c. 2.5m from the side elevation of the existing house. This separation distance is considered acceptable in terms of residential amenity.

7.4. Vehicular access

Vehicular access to the proposed development would be via the existing Maigh Dara estate off the local road to the S (L3148-0) which the estate road forms a junction with. This junction is located to the E of a sharp bend in the local road and visibility is restricted to the SW along the road. According to the details on the case file, the layout of the junction does not fully accord to required standards and the final surface has not been provided over the existing estate roads.

The estate comprises 45 existing houses and the internal road network is characterised by a series of narrow roads with footpaths. The speed restriction is set at 8km per hour to take account of the residential character of the area which includes a large number of young children, and the internal road layout. The proposed development would be located to the NW of the existing estate and the site entrance would be located in the NE corner to the side of house no.45. All

construction vehicles and residential traffic would access the appeal site via the internal estate road network.

The appeal site and surrounding lands to the S and SE of the site have been zoned for low density residential development in the current Development Plan (Volume 3A: Ennis Municipal District, Section 3, zoning objectives LDR4, LDR5, R4 and LDR1). Zoning objective LDR4 relates to the appeal site and it states that the site is considered appropriate for a low density residential scheme, accessed via the existing Maigh Dara estate. However, it also states that proposals should include a detailed assessment of the capacity of the existing entrance to the Maigh Dara estate to accommodate additional traffic movements and proposals for upgrade to the entrance, if deemed necessary shall be provided for. LDR5, R4 and LDR1 relate to the adjoining residential development sites to the S and SE which should be accessed via the LDR1 site off the local road to the SW. The Housing and Sustainable Communities section of the Plan states that new road infrastructure will be required to provide access these sites to the public road.

The Appellant raised serious safety concerns in relation to the use of the estate roads by construction vehicles to access the site during the construction phase, and the capacity of the junction of the estate road with the local road to accommodate the traffic movements associated with the construction and operational phases of the development. The applicant was requested to submit details of an alternative access route for construction vehicles by way of FI, and the planning authority accepted the applicant's response that that no alternative route was available.

Having initially raised concerns in relation to traffic safety, the Council's Road Engineer concluded that the existing internal estate roads would not be completed in the event of permission being refused, that the junction could accommodate the additional traffic generated by the proposed 7 houses and that, subject to stringent conditions, construction traffic could access the site via the internal estate road network. This was reflected in several of the planning conditions. Condition no.2 required the submission of a detailed Risk Assessment with mitigation measures to be also included in a Construction Management Plan and Traffic Management Plan for the Maigh Dara estate. Condition no.3 dealt with phasing of the proposed works,

and Condition no.4 required the satisfactory completion of the internal estate roads (existing and proposed).

It is noted that the applicant did not submit a detailed assessment of the capacity of the existing entrance to the Maigh Dara estate to accommodate additional traffic movements or proposals to upgrade to the entrance in accordance with LDR4, in the either the application or response submission to the appeal. It is also noted that the applicant did not avail of the opportunity to submit any of the documents referred to by Conditions nos. 2, 3 and 4 in the response submission to the appeal, notwithstanding the time constraints.

Discussion

The proposed development would occupy a back land location to the rear of an existing residential estate of 45 houses and the appeal site forms part of a larger tract of land on the W side of Quin Village that is zoned for future housing. The Development Plan provides for vehicular access to the appeal site via the existing estate, subject to traffic considerations, whilst the adjoining sites to the S and SE would be accessed via a new road layout off the local road to the SW.

The existing entrance to the Maigh Dara estate off the local road is substandard and there is limited visibility to the W as a result of a sharp bend in the road. The internal estate roads are narrow and winding and they provide access to small groups of houses that overlook areas of unenclosed open space which are used by local children to play. Notwithstanding the planning authority conditions related to traffic management, traffic calming, timing of construction works and phasing, and having regard to the existing traffic conditions at the estate entrance, I am not satisfied that the proposed development would not give rise to a traffic hazard or that it would not endanger the safety of other road users.

Notwithstanding the provisions of Objective LRD4, which zoned the appeal site lands for housing with an access through the Maigh Dara estate to the appeal site, and having regard to the extent of the adjoining lands that are zoned for residential use to the S and SE of the site, along with the objective to provide for a single vehicular access to these lands, it would be desirable for all of these sites to be developed in a coordinated manner with a shared vehicular access. I would consider this to be in

the best long term interest of the proper planning and sustainable development of the area, the protection of residential amenity and traffic safety.

Conclusion:

Having regard to all of the foregoing, the proposed development would constitute undesirable and uncoordinated back land development, it would be premature pending the agreement of a road layout for the surrounding area that would provide for safe access to the adjoining residentially zoned lands, it would seriously injure the amenities and safety of local residents during the construction, and it could give rise to a traffic hazard within the existing estate and at the entrance off the local road.

7.5. Environmental services

The concerns raised in relation to waste water treatment, public water supply, surface water runoff and storm water attenuation are noted, particularly with respect to the problems previously encountered at the Maigh Dara estate, most of which have since been remediated. The proposed development, as amended by way of the FI submission, is considered acceptable subject to the compliance with the requirements of Irish Water and the planning authority.

7.6. Other issues

Appropriate assessment: proposal would not have a direct link to a European Site.

Flood risk: The contents of the FRA are noted and I would concur with the conclusion that the site is not located within an area that is at risk of flooding. The proposed development would give rise to or contribute to flooding elsewhere subject to compliance with the requirements of Irish Water and the planning authority.

Financial contributions: standard conditions should be applied in accordance with the Council's Section 48 and 49 Schemes, in the event that permission is granted.

Bond: standard conditions should be applied to ensure that all of the works are completed to an acceptable standard, in the event that permission is granted.

8.0 Recommendation

Arising from my assessment of the appeal case I recommend that planning permission should be refused for the proposed development for the reasons and considerations set down below.

9.0 Reasons and Considerations

1. Notwithstanding the LRD zoning objective for the site which is considered appropriate for a low density residential scheme, the proposed development, which would be located to the rear of an existing housing estate at Maigh Dara, on a site which does not have a separate or independent means of access, would constitute un-coordinated and disorderly back land development that would fail to co-ordinate with adjoining similarly zoned lands. It would be premature pending the agreement of a new road layout for the surrounding area that would provide for a safe access to the surrounding residentially zoned lands, and it would seriously injure the amenities and safety of local residents during the construction phase. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would result in the intensification of the use of an existing substandard entrance to the Maigh Dara estate off the local road (L3148-0) during the construction and operational phases of the development. This junction, which is located in close proximity to a bend in the road where visibility is restricted to the SW, could give rise to a traffic hazard and endanger the safety of other road users. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Karla Mc Bride
Senior Planning Inspector
8th December 2017