



An  
Bord  
Pleanála

## Inspector's Report PL91.248852

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<b>Development</b>	4 dwellings, access road and associated site works.
<b>Location</b>	Rathmale, Mungret, Co. Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	17/368
<b>Applicant</b>	Seamus Hayes
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Split decision
<b>Type of Appeal</b>	1 <sup>st</sup> Party v. split decision
<b>Appellant</b>	Seamus Hayes
<b>Observers</b>	Yes
<b>Date of Site Inspection</b>	23/10/17
<b>Inspector</b>	Pauline Fitzpatrick

## **1.0 Site Location and Description**

1.1. The site, which has a stated area of 0.35 ha., is located in a semi-rural area in the townland of Rathmale proximate to the village of Mungret, approximately 6 kilometres to the southwest of Limerick city centre. The lands generally slope down from south to north and are under grass. The site is irregular in shape with frontage onto a minor public road. There are dwellings to either side of the road frontage; that to the south-west is under construction and is two storey in design whilst that to the north-east is single storey. The area is characterised by extensive ribbon development and agricultural lands.

## **2.0 Proposed Development**

2.1. Permission is sought for 4 no. detached dormer dwellings, one with frontage onto the local road with the other three set back into the site served by a new, 5 metre wide access with a 1.8 metre footpath. The dwellings would be side-on to the existing single storey dwelling that bounds the site to the north. Connection to existing services is proposed.

2.2. The application is accompanied by a design statement.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Split Decision:

1. Grant permission for dwelling on site No.1 (fronting onto local road) subject to 12 conditions. Of note:

Condition 2: Revised site layout plan with dwelling relocated to the centre of the site.

2. Refuse permission for dwelling Nos. 2-4 for one reason on the grounds that the proposal is not consistent with objectives HO1 and HO2 of the Southern Environs LAP in respect of the promotion of the economic use of serviced land. The proposal would constitute backland, piecemeal, haphazard

development which would militate against the co-ordinated development of zoned lands at this location.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner's report notes that as per the land use zoning set out in the South Environs LAP the site is divided into three parts incorporating residential and agricultural land uses. From an efficient land use point of view the piece fronting the road should be viewed in the context of the existing established pattern of residential development – ribbon and one off housing – as an infill opportunity for a single dwelling accessing onto the local road. The second residential piece would be more suited for inclusion in a combined proposal with the adjoining residentially zoned lands in order to comply with the objectives set out in the LAP, specifically objectives HO1 & HO2 addressing New Housing and Residential Density. The location of 3 dwellings would constitute backland development which is generally not permitted. There are outstanding issues with respect to footpaths, lighting, visitor car parking and open space provision as per LAP requirements. A split decision granting the dwelling fronting onto the road and refusal of the three to the rear is recommended.

#### **3.2.2. Other Technical Reports**

Planning and Environmental Services recommends an Exemption Certificate with respect to Part V requirements.

Operations and Maintenance Section notes that the proposed access is impeded by an existing hedgerow. Further information is required on sight lines. The report also refers to the provision of visitor parking, traffic calming ramps, advance signage, roads, driveways and footpaths, the setting back of the site frontage to allow for a future footpath and contribution towards provision of same and public lighting. A revised site layout plan is required to address issues pertaining to surface water disposal. A construction and delivery plan to be agreed prior to commencement of development.

### 3.3. **Prescribed Bodies**

Irish Water has no objection subject to conditions.

### 3.4. **Third Party Observations**

Objections received by the planning authority have been forwarded to the Board and are on file for its information. The issues raised are comparable to those as set out in the observations received by the Board and summarised in section 6.3 below.

## 4.0 **Planning History**

PL91.246981 (16/422) – Permission refused in November 2016 for site development works and outline permission for 6 no. serviced residential sites. The reason for refusal noted that the majority of the site where the serviced sites are proposed is zoned agriculture in the Southern Environs Local Area Plan 2011–2017 (extended until May 2021) and that the proposal would materially contravene the said zoning objective.

PL 91.244076 (14/956) - outline permission granted in February 2015 for construction of a house and associated works. Condition 6 limited the house to single storey only, with no attic or dormer accommodation.

## 5.0 **Policy Context**

### 5.1. **Southern Environs Local Area Plan (extended until 2021)**

Objective HO1 – New Housing

On serviced land that is zoned 'Residential Development Area' to facilitate sustainable residential development in accordance with the principles and guidelines of 'Sustainable Residential Development in Urban Areas' (May 2009), the accompanying Urban Design Manual, and the Development Management Standards contained in the Limerick County Development Plan 2010-2016.

## Objective HO2 – Residential Density

- (a) Promote the concept of a ‘compact district’ by encouraging appropriate densities in suitable locations and by resisting sporadic isolated developments.
- (b) Require an average net density of 33 units per hectare on ‘Residential Development Area’ sites within the plan area.

## Objective ZD1 – Established Residential

- (a) Promote development that supports the predominant land use in the surrounding area;
- (b) Accommodate a range of other uses that support the overall residential function of the area where an acceptable standard of amenity can be maintained and where the amenities of existing residents/occupants are protected;
- (c) Encourage a high standard of residential design in new residential developments and to improve permeability and accessibility;
- (d) Discourage the expansion or intensification of existing uses that are incompatible with residential amenity;
- (e) Permit non-residential uses in established and proposed residential areas where they comply with the zoning matrix and are of an appropriate nature and scale for the location proposed. In general, such uses will only be considered where they serve the needs of the neighbourhood within which they are situated; and
- (f) Have regard to appropriate densities as set out in DEHLG document ‘Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities’ May 2009 and the accompanying Urban Design Manual

## 5.2. Natural Heritage Designations

None in the immediate vicinity.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The first party appeal by Adam Kearney Associates Planning Consultancy on behalf of the applicant Seamus Hayes refers, and can be summarised as follows:

- The proposal has been amended since the Board's previous refusal on the site by omitting the majority of the agriculturally zoned lands. Approx. 80% of the site is zoned 'Existing Residential'. The four dwellings are within the zoned area save for the access road and part of the front gardens of units 2-4 which are within the agriculture zone. There is also a reduction in the number of houses to four so that the development plan standards for housing estates do not apply save with regard to the road, footpath and public lighting.
- The LAP objectives HO1 and HO2 referred to in the reason for refusal relate to lands zoned 'Residential Development Area'. The site is not covered by this zoning and is zoned 'Existing Residential'. This reason for refusal was not cited in the 2016 refusal.
- The logic applied is unclear. Whilst the site is deemed as suitable for residential development in combination with adjacent land, when presented in its current form is considered to constitute backland development that would interfere with residential amenity.
- The infill development within the 50km/hr speed limit seeks to connect to existing services and offset demand for one off, non-sustainable rural sites on unserviced land.
- There are sightlines available for safe access and egress. Whilst the site is not served by a footpath to the village the road is considered safe. It could be reclassified as a shared surface.
- The density is low in keeping with the area. Public open space outside of the red line area will be available to residents.
- The dwelling design is not atypical to that developed in the vicinity to date. The dwellings would not overlook adjoining properties. The separation to the single storey dwelling is 30 metres with a hedgerow along the boundary.

- The grant of permission for the roadside dwelling by way of condition requiring it to be centred on the site, is seeking to cut off access to the lands to the rear. Seeking the applicant to intentionally extinguish access to zoned land is considered to be fundamentally flawed policy.

## 6.2. Planning Authority Response

There is no contradiction on file. It is clearly indicated that the site has the potential to be developed as part of a larger residential area providing for appropriate access, footpath connection to the village, lighting and open space. The layout as submitted is poor and does not adequately address the fact that there are existing dwellings backing onto the site. Were the site to form part of a larger development area as zoned for, the protection of the rear amenity space of the existing dwellings could be more adequately designed for.

## 6.3. Observations

Observations have been received from:

1. Derek Richardson
2. Aideen Cunnane
3. Jerimah & Moira O'Mahony

The issues raised can be summarised as follows:

- Previous refusal for development on the site.
- Non-compliance with zoning
- Piecemeal and haphazard development out of keeping with pattern of development in area. The other developments referred to are not comparable and predate any development plans.
- Drainage
- Access and traffic impact
- Inappropriate house design
- Impact on amenities of adjoining property

- Site topography,
- Inadequate public lighting and footpaths from the proposed development to the village,

Note: Niall Collins TD has requested notice of the decision.

## 7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Compliance with zoning provisions
- Amenities of Adjoining Property
- Access and Traffic
- Other Issues
- AA- Screening

### 7.1. **Compliance with Zoning Provisions**

The current proposal before the Board differs from that subject of the previous appeal under ref. PL91.246981 in that it is smaller in area with the lands to the north-west omitted which, in the main, correspond with the agriculture land use zoning. The said application failed on the basis that the 6 dwellings located on such agriculture zoned land materially contravened the zoning objective.

The proposal now entails 4 dwellings, one with frontage onto the local road and the remaining three laid out in a linear fashion side-on to the rear boundary of the single storey dwelling bounding the site to the north.

In the main the dwellings are located within the existing residential zoned lands save for a small portion of the front gardens of the three dwellings set into the site and the access road.

As noted by the agent for the appellant the majority of the site (80%) is within an area zoned 'Existing Residential' in the current South Environs LAP, the objective for which is to ensure that new development is compatible with adjoining uses and to



protect the amenity of existing residential areas. This is clearly differentiated from the 'Residential Development Area' zoning and, as such, I submit that the plan objective HO1 which pertains to same and as referenced in the planning authority's reasons for refusal is not strictly applicable in this instance.

Whilst I acknowledge that the site largely corresponds with the existing residential land use zoning objective and addresses the issues arising in the previous case I have concerns that the proposal as currently designed would prejudice the orderly development of the area, specifically the other zoned lands to the north, by virtue of its layout and design. To allow for such piecemeal haphazard development would set an undesirable precedent for similarly conceived development and would be contrary to the objectives for the area as set out in objective ZD1 seeking to protect its residential amenities, encouraging a high standard of design and improving permeability and accessibility.

I also consider that a more co-ordinated approach to the development of the residentially zoned lands may also allow for a higher density than that proposed which equates to approx. 11 units of hectare. Whilst I acknowledge that the development plan requirement of 33 units per hectare is specifically referenced with respect to zoning objective 'Residential Development Area' and not Existing Residential' I submit that subject to the appropriate protection of existing residential amenities, a higher density would help to ensure the economic and efficient use of such zoned and serviced lands. Such an approach would also assist in advancing the plan objective in promoting the concept of a 'compact district' by encouraging appropriate densities in suitable locations and by resisting sporadic isolated developments.

Whilst reference is made in the appeal submission to open space to the south of the dwellings being made available to residents, no plans for same have been provided. The lands in question are outside the red line delineating the site boundary. I submit that the co-ordinated approach as advocated above would allow for the provision of appropriately located and sized open space for the benefit of prospective residents and ensure an appropriate standard of development.

I note that there is an extant outline permission for a dwelling on the portion of the site with frontage onto the road. Notwithstanding and in the context of this

application for multiple units, I would recommend against granting permission for the dwelling with such road frontage as done by the planning authority in this instance as it may prejudice future access requirements for the co-ordinated development of the said zoned lands.

I note the agent for the applicant's reference to other multiple housing schemes developed along the road, one which is to the north and the other to the south-east. Both are long established schemes which predate the current development plan. I submit that each proposal is viewed on its merits and must be assessed in the context of the policies and objectives of the prevailing development plan.

## **7.2. Amenities of Adjoining Property**

By reason of the proposed layout of the three dwellings in the northern part of the site, side-on to the single storey dwelling and the mature planting along the shared boundary I do not consider that issues of overlooking or loss of privacy would arise. Certainly additional screening would be required along its boundary with the access road to reduce the impact from the vehicular movements that would arise.

By reason of the setback of the said dwellings from the dwelling nearing completion to the south I do not consider that issues would arise in terms of overlooking or loss of privacy.

There is a mix of house designs evident in the immediate vicinity ranging from single storey and dormer to the recently constructed two storey dwelling immediately to the south of the appeal site. In that context, therefore, the proposed house design is considered acceptable.

The site is fully serviced and appropriate measures to address surface water disposal could be attached by way of condition should the Board be disposed to a favourable decision.

## **7.3. Access and Traffic**

The local road, whilst served by street lighting out from the village core to a point beyond the appeal site, does not have the benefit of pedestrian facilities. In view of the existing development along the road to date and the potential for the

consolidation and extension of the residential offer on appropriately zoned lands such provision should be considered to be a prerequisite for any in-depth development. The site is within the 50km/hr speed limit and can facilitate unimpeded two way traffic. Sight lines at the proposed access are sufficient in both directions.

#### **7.4. Other Issues**

Whilst the applicant makes reference to the fact that the lands in his ownership were zoned for serviced sites in the draft plan and subsequently removed I would concur with the Inspector in her assessment on the previous appeal in that the drafting and adoption of the current development plan has been through the rigours of the development plan making process and that the application must be assessed in the context of the prevailing policies and objectives including the land use zoning objectives.

#### **7.5. AA -Screening**

Having regard to the nature and scale of the proposed development on serviced, zoned lands and proximity to the nearest European site (Lower Shannon SAC (002165) and the River Shannon and River Fergus Estuaries SPA (004077), 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.

### **8.0 Recommendation**

- 8.1. Having regard to the documentation on file, the grounds of appeal, the responses thereto, a site inspection and the assessment above I recommend that permission for the above described development be refused for the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the location and configuration of the site and its relationship to other 'Established Residential' zoned lands in the immediate vicinity, it is considered that the proposed development, by reason of its layout and design would constitute haphazard, piecemeal development which would prejudice the orderly development of adjoining zoned lands in the vicinity and would, therefore, contravene materially the said zoning objective for the area which seeks to encourage a high standard of residential design in new residential developments and to improve permeability and accessibility. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**October, 2017**