



An  
Bord  
Pleanála

## Inspector's Report ABP-301503-18

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| <b>Development</b>                  | 16 semi-detached houses                   |
| <b>Location</b>                     | Main Street, Pallaskenry, County Limerick |
| <b>Planning Authority</b>           | Limerick City & County Council            |
| <b>Planning Authority Reg. Ref.</b> | 17/645                                    |
| <b>Applicant(s)</b>                 | Harry Long                                |
| <b>Type of Application</b>          | Permission                                |
| <b>Planning Authority Decision</b>  | Grant                                     |
| <b>Type of Appeal</b>               | Third Party                               |
| <b>Appellant(s)</b>                 | Kevin Cahalane                            |
| <b>Observer(s)</b>                  | None                                      |
| <b>Date of Site Inspection</b>      | 11 <sup>th</sup> July, 2018               |
| <b>Inspector</b>                    | Kevin Moore                               |

## **1.0 Site Location and Description**

1.1. The 0.87 hectare site is located on the west side of Main Street in Pallaskenry, County Limerick. The site has approximately 11 metres of road frontage onto the street and has a gate onto the road. The site comprises a small orchard area at its south-eastern end and is otherwise an overgrown field. It rises steeply in a westerly direction from the behind the area adjoining properties onto Main Street to a plateau comprising the western section of the site. There is mature hedgerow and trees along the western boundary. It is bounded to the west by the appellant's residential property, to the north by an open area and dwellings fronting onto a local road, and to the south and east by residential and commercial properties with frontage onto Main Street. The village street consists of a linear pattern of structures of different forms and scale.

## **2.0 Proposed Development**

- 2.1. The proposed development permitted by the planning authority would comprise the construction of 14 three bedroom and 2 four bedroom semi-detached houses. These would include 8 no. dormer-type houses along the east side of the site and 8 no. two-storey houses at the south-western section of the site. Overall, there would be four different house types, with the layout providing for the first four houses fronting onto the service road and the remainder of the units fronting onto a public open space at the north-western section of the site.
- 2.2. Details submitted with the application included a covering letter and a technical submission on drainage.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 29<sup>th</sup> March, 2018, Limerick City & County Council decided to grant permission for the proposed development subject to 30 conditions.

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

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

The Planner noted the site's planning history, development plan provisions, reports received and the third party submission made. It was noted that the houses would be higher than those fronting Main Street but, with the setback, the height difference was regarded as acceptable. It was considered that greater detail was required on landscaping and that the public open space was unacceptable due to its design and location. A request for further information was recommended relating to the referenced issues and the Roads Engineer's recommendation.

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

The Fire Service had no objection to the proposal.

The Archaeologist requested that a condition be attached to provide for archaeological monitoring if the development is to proceed.

The Roads Engineer requested further details on traffic calming, drainage, road markings and signage, and public lighting.

### **3.3. Prescribed Bodies**

Irish Water requested further information relating to mains water supply and sewer connections.

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

An objection to the proposal was received from Kevin Cahalane. The grounds of the appeal reflect the concerns raised.

3.5 A request for further information was made by the planning authority on 29<sup>th</sup> August, 2017 and a response to this request was received on 17<sup>th</sup> November, 2017 and 11<sup>th</sup> December, 2017. The proposed layout was reconfigured and drainage and roads matters were addressed.

3.6 Following this, the reports to the planning authority were as follows:

The Roads Engineer requested clarification on drainage, public lighting, driveways, roads, and sightlines.

The Planner had concerns about the extent of cut and fill proposed, change in levels and noted the Roads Engineer's requirements. Clarification of further information was recommended.

3.7 A request for clarification of further information was made on 13<sup>th</sup> December, 2017 and a response to this request was received on 3<sup>rd</sup> January, 2018. This amended the layout and levels of the proposal and addressed the technical issues raised.

3.8 Following this, the reports to the planning authority were as follows:

The Environment Engineer requested the attachment of a condition requiring the submission of a waste management plan should permission be granted.

The Roads Engineer requested further clarification on drainage matters.

The Planner considered drainage details to be inadequate, referenced a need to reduce 8 houses to single-storey height, expressed concern about the height of a number of retaining walls, and noted the Roads Engineer's report. A further clarification was recommended.

3.9 A request for further clarification of the further information was requested on 29<sup>th</sup> January, 2018 and a response was received on 8<sup>th</sup> March, 2018. This included a report on proposed fill, introduction of a dormer bungalow type for units 1-8, and further details on retaining walls, and drainage.

3.10 Following this submission, the Planner recommended that permission be granted subject to conditions.

#### 4.0 **Planning History**

From the local authority Planner's report, I note the following:

ABP Ref. PL 13.219468 (P.A. Ref. 05/213)

Permission was granted by the Board for the demolition of two sheds, and construction of an entrance, four detached houses, 16 semi-detached houses, six terraced houses, one number 68.8 square metres ground floor retail unit with first floor apartment overhead and one number 65.3 square metres ground floor retail unit

with first floor apartment overhead, bin stores and all associated site works.  
Condition 4 of that permission reduced the number of houses to 25.

P.A. Ref. 16/909

Permission was granted for site development works and outline permission for seven residential sites.

## 5.0 Policy Context

### 5.1. Limerick County Development Plan 2010-2016

#### County Settlement Strategy

Pallaskenry is a Tier 4 settlement.

*Policy SS P9:*

It is the policy of the Council to support the sustainable development of tier 4 settlements.

*Objective SS O12: Requirements for developments within tier 4 settlements*

Within these settlements the Council shall facilitate development subject to compliance with objectives SSO1- SSO6 and the following:

- a) The scale of new residential schemes for development shall be in proportion to the pattern and grain of existing development. In this regard any development shall enhance the existing village character and create or strengthen a sense of identity and distinctiveness for the settlement.
- b) The development of these centres shall provide for serviced sites and a variety of other house types and densities as appropriate.
- c) New commercial developments shall generally be located within the core area and shall contribute positively to the village urban fabric and streetscape.
- d) New community and social facilities shall be provided in conjunction with residential development as required.

(Note: Objectives SS01-SS06 relate to scale, design, village capacity, sequential growth, prevention of sprawl and compliance with guidance).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appellant resides in the property to the west of the proposed site. The grounds of appeal may be synopsised as follows:

- Houses 15 and 16 will be one metre from the appellant's boundary and 10m above his property. The development will have an overshadowing effect, will devalue his property, and will be obtrusive. Houses 13 and 14 will have the same negative effect.
- Excavations will interfere with the root systems of existing mature ash trees along the boundary and will increase the potential to fall, with resulting damage to property resulting.
- No provision is being made for a boundary wall with the appellant's property.
- The site clearance shows a lack of respect for the environment and there is no Conservation Impact Report.
- Public lighting will impact on the appellant's dwelling and will be visually intrusive.
- The development has been substantially changed and the final proposal do not resemble the original application. No opportunity was given to third parties in response to planning authority requests.

### 6.2. Applicant Response

The applicant's response to the appeal may be synopsised as follows:

- There is a differential of 1.2m between the finished floor levels of Houses 15 and 16 and the appellant's house and a distance of 41m from the front face of these units to the side elevation of the appellant's house. The overall ridge height is c. 2m higher than the appellant's house. There is no likelihood of overshadowing.

- It is proposed to retain two mature ash trees and remove three others, which will be replaced by 6 mature indigenous trees in the open space. These proposals will not affect the root structure of trees.
- A 2m high concrete post and panel fence is proposed along the western boundary to avoid damage to ash trees.
- The proposal is for 16 units compared to the 25 previously permitted by the Board and the current layout meets DMURS requirements.
- The public lighting scheme adheres to standards and will not injure amenity.
- The application was made for 16 semi-detached houses within an unchanged red line area and accessing Main Street. Revised proposals did not alter the fundamental aspects of the application. The layout evolved with regard to the open space configuration but was revised in response to the appellant's original objection. The house types evolved also in response to height differential concerns.

In conclusion, the applicant's agent has submitted that he was in correspondence with the appellant in November 2017 and a copy of the letter is attached with the submission. The response also includes a tree survey and impact assessment.

### 6.3. **Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

## 7.0 **Assessment**

### 7.1. Introduction

7.1.1 I consider the principal planning issues relating to the appeal are impact on residential amenity, the effect on the site's western boundary, and procedural matters relating to the revision of the proposal through the process with the planning authority.

## 7.2. Impact on Residential Amenity

7.2.1 The development permitted by the planning authority provides for 8 semi-detached dormer dwellings on the east side of the site and 8 two-storey, semi-detached houses at the south-western end of the site. A large section of the site comprises public open space that would occupy approximately one quarter of the main body of the site at its north-western end. The Board will note that the proposed open space is the area that would be nearest to the appellant's house. The closest proposed dwellings would be House Nos. 15 and 16, a pair of two-storey, semi-detached houses located south-east of the appellant's house at a distance of almost 40 metres. An outbuilding and a mature hedgerow exists between the appellant's house and these proposed houses. The proposed service road would have a turning head at its end close to the outbuilding which is located behind the boundary hedgerow and to the south of the appellant's house. Notwithstanding the finished floor levels of the proposed houses being above those of the appellant's house and the requirement for the proposed development to provide adequate street lighting, the proposed scheme of houses would have no significant adverse impact on the appellant's property by way of overlooking, over-shadowing, overbearing impact, or other potential nuisance.

7.2.2 This is a village centre site ideally suited for the densification of development within the village core. One may reasonably argue that the proposed development is of a density that is too low for this serviced site and that it would demand further densification in a manner that may encroach on the proposed public open space area in particular to achieve desired dwelling numbers, i.e. the nearest part of the site to the appellant's dwelling. However, I acknowledge the development plan objectives for this Tier 4 village and consider that the scale of development must recognise these objectives and that the development of Pallaskenry requires appropriate incremental growth in the manner proposed for this site.

## 7.3 Impact on the Western Site Boundary

7.3.1 The proposed development will result in a loss of a small number of ash trees along the western boundary. The Board will note the extent of cut and fill associated with the site preparation for the construction of the service road and houses. The Board



will also note the separation of the main components of the works from the western site boundary. House 16 would abut the hedgerow a significant distance south of the appellant's existing outbuilding and the proposed turning area of the service road would be set back from the existing boundary. Such works are not exceptional and should be deliverable in a manner that poses no public safety concerns or maintenance concerns for the majority of the boundary. I note also that the applicant proposes to construct a post and panel fence along the western boundary to protect the ash trees and there will be additional mature planting in the open space to replace the three trees being removed. I, thus, have no concerns about the impacts of the proposed development on the western site boundary.

#### 7.4 Procedural Matters

- 7.4.1 I acknowledge that the proposed development underwent revisions. The original application was subject to further information, clarification and further clarification. I note that at no time were the applicant's responses subject to further public notices. I note that the appellant made a submission to the planning authority following the lodgement of the application. I note also that the principal planning issues in the appeal submission remain similar to those originally raised and that the appellant was not precluded from making an appeal to the Board.
- 7.4.2 With regard to the proposed housing scheme itself, I note that it and the original proposal both comprised 16 semi-detached houses, with houses fronting onto a service road and with the main public open space located at the north-west end of the site. While I acknowledge that the layout of the road, siting of the houses and provision of the open space of the permitted proposal varies from that of the original submission, I consider that changes evolved in response to the appellant's initial concerns and the planning authority's desire to obtain a better quality layout. I must also acknowledge the applicant's correspondence with the appellant by letter dated 18<sup>th</sup> October, 2017 informing him of revisions to the site layout.
- 7.4.3 Overall, I consider that the appellant has not been excluded from engaging in the planning process and it is clear that the opportunity to appeal the decision of the planning authority to the Board was not impeded.

## 8.0 Recommendation

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations, and conditions.

## 9.0 Reasons and Considerations

Having regard to the designation of Pallaskenry as a Tier 4 settlement in the current Limerick County Development and to the design, character and layout of the development proposed, it is considered that the proposed development would not adversely impact on the residential amenities of adjoining properties, would be acceptable in terms of visual impact, would not endanger public safety, and would otherwise be in accordance with the provisions of the current Limerick County Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further drawings and details submitted to the planning authority on the 17<sup>th</sup> November, 2017, 11<sup>th</sup> December, 2017, 3<sup>rd</sup> January, 2018 and 8<sup>th</sup> March, 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

**Reason:** In the interest of visual amenity

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

4. A new public footpath shall be provided at the developer's expense along the frontage of the development onto Main Street, details of which shall be agreed with the planning authority in writing prior to the commencement of development.

**Reason:** In the interest of pedestrian safety and orderly development.

5. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) Screen walls/fences bounding and separating housing units;
- (b) Details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (c) Proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (d) Details of proposed street furniture, including bollards, lighting fixtures and seating;
- (e) Details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of visual amenity.

6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise and vibration management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation

from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

9. Proposals for street name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs and numbers shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

10. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

11. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the

development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Kevin Moore  
Senior Planning Inspector

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30<sup>th</sup> July 2018