



An  
Bord  
Pleanála

## Inspector's Report ABP-301811-18

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<b>Development</b>	Permission to demolish and remove existing house and construct 3 new houses.
<b>Location</b>	Dublin Road and Ard Carraig, Thurles, Co. Tipperary.
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	18600386
<b>Applicant(s)</b>	John J. Ronayne (Construction Ltd).
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	First / Third Party
<b>Appellant(s)</b>	Mary Larkin
<b>Observer(s)</b>	<a href="#">Click here to enter text.</a>
<b>Date of Site Inspection</b>	26 <sup>th</sup> July 2018
<b>Inspector</b>	Colin McBride

## **1.0 Site Location and Description**

1.1 The appeal site, which has a stated area of 0.0774 hectares, is located on north side of the N75 Dublin Road about one kilometre east of Thurles town centre. In the vicinity of the site there is a mixture of uses. On the north side of the road it is generally residential in character but on the south side opposite the site there is a funeral home and the Anner Hotel. The premises of a building supplies firm are located further east. Immediately to the west of the site is a single-storey dwelling, the home of appellants Mr and Mrs Larkin. To the east is a road junction where the residential cul-de-sac Ard Carraig joins the main road. Beyond that is Davitt Terrace, three terraced houses set back from the Dublin Road frontage, and Mount St. Benedict lying in extensive grounds.

## **2.0 Proposed Development**

2.1. Permission is sought to demolish and remove the existing house and to construct 3 no. houses complete with external works and site development works. The proposal consists of 2 no. two-storey semi-detached dwellings (3 bed units) and 1 no. detached dormer (3 bed unit). The semi-detached dwellings front onto Dublin Road and have individual vehicular access point whereas the dormer dwelling facing onto the access road serving the Ard Carraig housing development, with vehicular access off the internal service road with the existing housing development.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission granted subject to 16 conditions. Of note are the following conditions...

Condition 2: The developer shall provide for the maintenance of the existing sewer line serving the adjoining dwelling to the west. The minimum size metres wayleave shall be provided for and shall be accessible to vehicular traffic. The developer shall provide for protection of the existing sewer line and protected ventilation stack (RPS66) during construction works. Details in this regard shall be agreed with Irish

Water prior to submission to the Planning Authority for written agreement prior to the commencement of development.

Reason: In the interests of orderly development.

### **3.2. Planning Authority and Technical Reports**

- 3.2.1. Planning report (24/05/18): The proposal was considered satisfactory in the context of Development Plan policy including the zoning objective and development control standards. The design and layout was considered to be satisfactory in the context of visual amenity and the amenities of the adjoining property as well in the context of traffic safety and convenience. A grant of permission was recommended based on the conditions outlined above.

### **3.3. Third Party Observations**

- 3.3.1 A submission was received from Mary Larkin, Lisdaleen, Templemore Road, Templetouhy, Thurles.

- It is noted that the sewer line crosses the appeal site with the observer having a right of access to maintain the sewer pipe. The observer notes that a demolition state is required to ensure no adverse impact on her property. Concern is expressed that the front boundary wall will prevent access to the sewer with condition no. 2 of PL79.221683 noted.

### **4.0 Planning History**

PL79.221683 (2007): Permission granted for demolition of house and construction of 3 no. houses complete with external works and site development works on the appeal site.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant Development Plan is Thurles Town and Environs Development Plan 2009. The appeal site is zoned Existing Residential with a stated objective 'to preserve and enhance existing residential amenity'.

### 5.2. Natural Heritage Designations

None in the vicinity.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third party appeal has been submitted by DH Ryan Architects on behalf of Mary Larkin, Lisdaleen, Templemore Road, Templetohy, Thrules, Co. Tipperary.

- The appellant owns the dwelling to the west of the site fronting onto the Dublin Road. The appellant is against the principle of the proposal however she does have a number of concerns.
- Sewage from the appellant's house traverses the development site with concern the new front boundary wall blocks her access, which at present is used to maintain the sewer line.
- The appellant would like the temporary fence mentioned in Condition 4(e) to be made permanent to allow maintenance of the line without entering another person's garden.
- There has been a gate over the sewer line for the past 60 years. It is important that a wall is not built over this sewer line as it would cut off access for maintenance.
- The appellant is concerned regarding condition no. 2, it is considered that the condition is not clearly defined as the vehicular entrance gates are in a different position than the sewer line.

- Concern is noted regarding condition no. 4 with the appellant noting decisions would be made without public consultation.
- The appellant encloses a letter from the previous owner of the site giving assurances that the sewer line would not be built over.

## 6.2. Applicant Response

Response by W.O. Morrissey & Son Architects on behalf of John J. Ronayne (Construction) Ltd.

- It is noted that the applicants have contacted the appellant's representatives and have reached an agreement in principle to realign the sewer so that it would be brought to the public sewer and through her own property. This would eliminate the need to enter the appeal site. It is noted that the details of that agreement are being finalised by the solicitors for both parties. It is requested that condition no. 2 is amended to delete the requirement for a wayleave and to substitute a requirement to implement the agreement to re-route the appellant's sewer.

## 6.3. Planning Authority Response

A response has been submitted by Tipperary County Council

- The Planning Authority are satisfied that the issues raised were fully considered and dealt with in the Planners Report. It is noted that the development was refused (appears to be typographical error) having regard to the issues raised and in context of applicable guidance including the Thurles and Environs Development Plan 2009.

## 7.0 Assessment

- 7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development

Foul drainage

Appropriate Assessment

7.2 Principle of the proposed development:

7.2.1 The issues raised in the appeal are specifically concerning foul drainage and do not raise any objections to the principle of the proposed development, its design, scale, and layout or traffic impact. The proposal is consistent with the Development Plan zoning objective, has adequate regard in terms design and layout to the existing pattern of development and the visual and residential amenities of the area. The proposal also appears to be satisfactory in the context of traffic safety and convenience.

7.3 Foul drainage:

7.3.1 The issue raised by the appellant concerns foul drainage and specifically concerns regarding the future maintenance of the sewer line serving the appellants property, which traverses the appeal site. There is an existing manhole at the south western corner of the site and the site layout plan indicates there is wayleave at the south western corner. Issues of wayleave are not planning considerations and are legal matters. The appellant's concerns relate to their future ability to maintain the sewer line after the proposed development is constructed. There is a clear acknowledgement in the application documents that a wayleave exists and such is indicated on the plans submitted. I would also note that footprint of the proposed development does not encroach on the sewer line. In addition I note that the vehicular entrance to the westernmost dwelling is in a similar location to the existing entrance to the site and is wider in the case of the proposed development. Condition no. 2 outlined above was included, which requires maintenance of the sewer and a 6m wide wayleave. It is notable that permission has been previously granted on the site for three dwellings under appeal ref no. PL79.221683, a similar condition was included. It is also notable that temporary fence is to be installed during construction as a protection measure in the curtilage of dwelling 3A and such is to be removed as part of condition 4(e) prior to occupation of the unit.

7.3.2 It is notable that the applicant response notes that agreement has been reached to re-route the sewer off site so the appellant's dwelling will connect to the sewer line in the public area. This may be the case however there is no indication of such in writing from the appellant and in this regard I would suggest that in the event of grant of permission a condition along the lines of no. 2 be included. I am satisfied based on the information on file that the proposed development has adequate regard to the existing foul drainage arrangements serving the appellant's dwelling and that subject to adequate conditions, the proposal development would not impinge on the appellant's rights in terms of maintenance of the sewer line. In light of the applicant's response I would note that condition no. 2 should be attached but provide for an alternative scenario in which the sewer line is re-routed.

7.4 Appropriate Assessment:

7.4.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, 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. I recommend a grant of permission subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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 in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The developer shall provide for wayleave for the maintenance of the existing sewer line serving the adjoining dwelling to the west. A minimum six metres wayleave shall be provided for and shall be accessible to vehicular traffic. The developer shall provide for protection of the existing sewer line during construction works. Details in this regard shall be submitted to the planning authority for written agreement prior to commencement of development. Such measures shall be implemented unless provision is made for re-routing the sewer subject to agreement with all relevant parties.

Reason: In the interest of orderly development.

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to the planning authority for written agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

4. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

5. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

6. Prior to commencement of development, a construction management plan



shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, off-site disposal of construction/demolition waste and a scheme for dust and dirt control.

Reason: In the interest of amenities and public safety.

7. 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 and to ensure a proper standard of development.

8. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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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Colin McBride  
Planning Inspector

29<sup>th</sup> August 2018

