



An
Bord
Pleanála

Inspector's Report ABP-302015-18

Development	31 houses
Location	Greenpark Avenue, South Circular Road, Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	17/1190
Applicant(s)	M.A. Ryan & Sons
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Desmond Noonan William Murphy
Observer(s)	Michael Sheedy John & Mildred Hassett
Date of Site Inspection	19 th September, 2018
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development is located approximately 1.5km to the south of Limerick city centre and west of South Circular Road. It is located close to the Dooradoyle area and is accessed off a narrow cul-de-sac, Greenpark Avenue. The southern end of the site has frontage onto this road. The site also backs onto a narrow overgrown track that links on its eastern end to the residential street Boreen a Tobair. The 1.6 hectare site comprises part of the eastern side of the former Limerick Racecourse and is a grassed area with treelines along parts of its northern and southern boundaries with neighbouring properties.
- 1.2 Development in the vicinity comprises primarily residential properties on Greenpark Avenue and Boreen a Tobair and to the east on South Circular Road. The lands to the west of the site remain undeveloped. There is a wide range of other uses in the general area, inclusive of schools and Mary Immaculate College and there are principal routes into the city centre in close proximity.

2.0 Proposed Development

- 2.1. The proposed development would consist of the construction of 11 detached houses and 20 semi-detached houses on a site area of 1.6 hectares. Access would be provided onto Greenpark Avenue to the south. Two accesses are proposed as part of the scheme linking the development to the as yet undeveloped racecourse lands to the west and a pedestrian link is proposed to the laneway linking to Boreen a Tobair to the north. The proposed development includes traffic management proposals for Greenpark Avenue.
- 2.2. Details submitted with the application included a valuation of the property, a planning statement, a bat survey, a tree survey, an engineering services report, a flood risk assessment, an appropriate assessment screening statement, and a traffic and transport assessment.

3.0 Planning Authority Decision

3.1. Decision

On 13th June, 2018, Limerick City & County Council decided to grant permission for the proposed development subject to 36 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's planning history and development plan provisions, re-stated all content of internal reports received, referenced external reports and scheduled all objections received. It was noted that the site is zoned for residential use and the design approach was considered acceptable. A request for further information was recommended requiring further details on surface water, traffic calming, lighting, fire service requirements, trees, and a mobility management plan.

3.2.2. Other Technical Reports

The Fire Officer requested further information in relation to access and sanitary facilities.

The Archaeologist requested that a condition requiring archaeological monitoring be attached in the event of permission being granted.

The Environmental Services Engineer recommended that attachment of a condition relating to waste management to any permission granted.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

3.4. Third Party Observations

Submissions were made to the planning authority from Michael Sheedy, Cecilia and Veronica Madden, Richard Kirwan and Ailbhe Kenny, John and Mildred Hassett, William Murphy, Stephen and Rita Ryan, David Beary and Geraldine Pierse, Sheila O'Kelly, Ann Sexton, Pat O'Shea, Cllr Elenora Hogan, David Shee, Thomas Ben and

Vera McNamara, Maeve Callanan, Niamh Forde, Nora Mulcahy, Patrick Ryan, Miriam Callanan and David Culligan, Declan and Joan Hickey, Rita Manning, Daphne Greene, Desmond Noonan, Eithne Galvin, John and Mary O'Connor, Aidan and Aine Connolly, Emma and Tommoy O'Carroll, Alphonsus and Una Reddan, Eugene McNamara, James Anthony Reilly, Harry and Mary McKeogh, Dermot and Marie McConn, Michael and Marian Keyes, Marie O'Driscoll, and David Keane. The grounds of the appeals and the observations reflect the principal planning concerns raised.

- 3.5 A further information request was issued on 15th February, 2018 and a response was received on 6th April, 2018. Following this, the Planner recommended that clarification be sought on lighting and surface water disposal. This was sought on 2nd May, 2018 and a response was received on 18th May, 2018. The Planner then recommended that permission be granted subject to conditions.

4.0 Planning History

There is an extensive planning history relating to the site. The following more recent applications are noted:

ABP Ref. PL 30.239922

Permission was refused by the Board for 26 houses for one reason relating to the risk of flooding.

ABP Ref. PL 91.248020

Permission was refused by the Board for 26 houses for one reason relating to the proposal not being compliant with DMURS and the substandard level of residential amenity for future occupiers.

5.0 Policy Context

5.1. Limerick City Development Plan 2010-2016

Zoning

The site is zoned '2A Residential' with the objective "to provide for residential development and associated uses."

Area Profiles

The site lies within the South Circular Road/Ballinacurra area and the former Limerick Racecourse is recognised as one of the largest remaining undeveloped land banks in the city. It is a specific objective to seek the balanced development of the underutilised lands in the area, in particular the former racecourse lands.

6.0 The Appeal

6.1. Appeal from Desmond Noonan and Residents of Boithrin an Tobair

The grounds of appeal from the appellant, who has an address at Boithrin an Tobair, may be summarised as follows:

- The pedestrian access to Boithrin an Tobair is unacceptable for reasons relating to safety, security and anti-social behaviour.
- Changing the nature of Boithrin an Tobair and Greenpark Gardens as a cul-de-sac is unjustified for reasons relating to rights of residents, precedent, and house price inflation.
- The development and approval is flawed for reasons relating to the inadequacy of vehicular access and traffic impact, the pursuit of house price inflation at the expense of proper planning, and the failure to put an adequate traffic plan in place for the area.

6.2 Appeal from William Murphy

The grounds of appeal from the appellant, who has an address at Green Park Avenue, may be summarised as follows:

- Traffic infrastructure on Greenpark Avenue is inadequate, with inadequate road and footpath widths, and a dangerous blind junction where the laneway from the south joins the Avenue in close proximity to the proposed entrance.

- There is increased congestion on South Circular Road and the additional traffic will exacerbate this problem.
- The proposal is premature and piecemeal with regard to the limerick Racecourse Company site to the west. The “Master Plan” for those lands does not enjoy planning approval.
- The appellant fully support the objection to the proposed pedestrian access onto Boithrin an Tobair.

The appellant concludes with a list of residents of Greenpark Avenue and South Circular Road whom it is stated support the objection to the proposal.

6.2. Applicant Response

6.2.1 The applicant’s response to the appeal from Desmond Noonan may be synthesised as follows:

- There is no reason to determine that an increased number of houses will lead to security risks. With the future development of lands to the west, it makes sense to assume the laneway to the north will be developed and for pedestrian access to be provided. A public lighting layout has been provided. There is no basis for concluding that the proposal breaches government policy in relation to provision of secure housing.
- It is not feasible to suggest that the existence of the laneway, over which there is public access and right of way, should be prevented from having pedestrian access and it is difficult to understand the reservations.
- The traffic impact assessment has concluded that there will be no negative impacts of the proposal to the traffic regime in the area. Certain improvements are to be made on Greenpark Avenue.

6.2.2 The applicant’s response to the appeal from William Murphy may be synthesised as follows:

- DMURS does not apply to Greenpark Avenue, which is an existing road.
- The decision of the Board relating to the previous proposal that was refused related to the cul-de-sac approach of that development.

- The planning authority's requirement for a 2m wide footpath at the entrance cannot be taken to mean that the existing footpath along the remainder of Greenpark Avenue is not suitable to purpose.
- The Board's previous decision did not cite traffic safety concerns on Greenpark Avenue or the surrounding road network as a reason for refusal.
- The proposal rests on its merits and is not relying on the development of the adjacent Racecourse lands. The development provides potential access points to enable connectivity in accordance with good planning practice.
- The proposed pedestrian access to Boithrin an Tobair makes appropriate provision for future permeability.

The response to the appeal includes a report from the applicant's Consulting Engineer on roads and traffic matters.

6.3. **Planning Authority Response**

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

6.4. **Observations**

6.4.1 Observation from Michael Sheedy

The Observer raises concerns relating to the opening of a pedestrian access onto Boithrin an Tobair for security reasons.

6.4.2 Observation from John and Mildred Hassett

The Observers raise concerns relating to the separation distance between their Puraflo unit and proposed House No. 14.

7.0 **Assessment**

7.1. Introduction

7.1.1 I consider that the principal planning issues relating to the appeal are the site's planning history and traffic impact, the opening of pedestrian access onto Boithrin an Tobair, the absence of a Master Plan, and the impact on private effluent treatment systems.

7.2 The Site's Planning History and Traffic Impact

- 7.2.1 I note the planning history relating to this site and, in particular, the decisions from the Board on proposals for housing. The two most recent decisions were each refused for one reason. ABP Ref. PL 30.239922 was a proposal for 26 houses that was refused for a reason relating to flooding. ABP Ref. PL 91.248020 was a proposal for 26 houses that was refused for one reason relating to the scheme not being compliant with DMURS and the Sustainable Residential Development in Urban Areas Guidelines, the inadequate quality and quantity of open space, and the substandard level of amenity for occupants. These proposed developments each sought to provide vehicular access onto Greenpark Avenue. It is clear from the Board's decisions that there is no particular concern that this road can accommodate vehicular traffic from residential development emanating from this site. While I acknowledge that the street is limited in width, that there are constraints arising from on-street parking, etc., I cannot seek to raise this issue as one of significance in light of the Board's previous decisions. One must reasonably conclude that, based on the previous decisions, Greenpark Avenue is adequate to accommodate the additional traffic generated by 31 houses from this site and that constraints are suitably mitigated by the proposed on-street provisions that are associated with the proposal.
- 7.2.2 With regard to the internal layout and pedestrian and vehicular provisions in particular, the applicant has addressed previous concerns of the Board and has ably demonstrated in the application submission how the scheme is compliant with DMURS. The layout also makes appropriate provision for open space to serve the needs of occupants of the proposed houses across the totality of the scheme. The scheme can reasonably be understood as being compliant the provisions of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas*. Its context is understood as being in close proximity to low density suburban housing and the increased density of development is considered an improvement over the previous schemes and a more efficient use of the available services available to this site. I also note that the scheme has been laid out to address any substantial concerns relating to any flood risk, where structural development avoids areas of risk.

7.3 Pedestrian Access

7.3.1 The proposed pedestrian access onto the lane leading to Boithrin an Tobair is a desirable asset to this scheme, improving linkage and connectivity with the wider community and increasing permeability. The *Urban Design Manual: A Best Practice Guide*, which is a companion reference for the implementation of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas*, actively promotes the principle of connectivity. The proposal to have pedestrian linkage from the northern end of this site is wholly compatible and further addresses the Board's previous concerns relating to the Guidelines. The suggestion that the provision of such an access would undermine safety and security for neighbouring residents and would result in anti-social behaviour is without foundation at this time.

7.4 The Need for a Master Plan

7.4.1 There is a very significant land bank immediately adjoining the site to the west, namely the Racecourse lands. The City Development Plan acknowledges this also and the Plan provisions include an objective to seek the balanced development of these underutilised lands. I note that the proposed development is a scheme that is being designed somewhat in isolation. There is evidently no Master Plan to which the development of these lands is committed to. This is not the most desirable approach to an area which requires a comprehensive guide to which new development would adhere to, i.e. employing a set of guiding principles to which new development, if pursued in a piecemeal manner, would, as a basic requirement, ably demonstrate a degree of compatibility in terms of form, scale, and layout with an overarching plan. This would include suitable linkage between different strands of development as they proceed separate from one another.

7.4.2 I note that the applicant's submitted plans reference a tentative Master Plan and the proposed scheme provides linkages to the adjoining lands to the west. I consider it also important to note that the Board has not previously considered any development of housing on this site as being in any way premature pending the development of a Master Plan or other forward planning provision for the overall lands at this location. While I accept that the proposed development could be seen to be piecemeal development and could be construed as somewhat isolated from the development of

the Racecourse lands, I once again must determine that this is not an issue that the Board previously considered one of particular significance that merited a refusal of permission for housing on these lands pending the provision of such forward planning provisions.

7.5 Impact on Private Treatment Systems

7.5.1 I note that the Observers John and Mildred Hassett state that they have a Puraflo unit 4 metres from their boundary and that it would be less than 6 metres from proposed House No. 14. I note that the layout plan submitted with the application shows that there are septic tanks serving three houses on Greenpark Gardens immediately to the east of the proposed scheme and close to proposed houses. This is an issue that the Board has not previously considered to be a significant planning concern. It is clear that this is a built-up suburban area and that the proposed scheme would be served by public services. Irish Water and the planning authority have expressed no concerns relating to the proximity and functioning of these nearby private sanitary provisions. I do not consider that this could now be determined to be a feature that would merit the refusal of permission for this scheme given the previous planning history relating to this site.

Note: Having regard to the site size falling very substantially below the threshold for triggering mandatory environmental impact assessment, the limited scale of the proposed development, the fully serviced nature of the proposed development, its location within the residential suburbs of the city of Limerick, and the nature of the receiving environment within that context, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

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 zoning provisions for the site as set out in the current Limerick City Development Plan 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 not endanger public safety by reason of traffic hazard and would otherwise be in accordance with the provisions of the current Limerick City 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 6th April and 18th May 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 dwellings 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. The site shall be landscaped in accordance with a landscaping scheme to be submitted to and agreed in writing with the planning authority prior to the commencement of development. This shall include comprehensive site boundary treatment provisions, the provision of screen walls/ fencing along and between residential properties, and detailed specifications of the children's play area.

Reason: In the interest of residential and visual amenity.

4. 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.

5. 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.

6. Proposals for street names 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 numbering scheme shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

Kevin Moore
Senior Planning Inspector

11th October, 2018