



An
Bord
Pleanála

Inspector's Report ABP-302884-18

Development	Conversion and extension of existing garage to self-contained apartment.
Location	Monaskeha, Clonlara, Co Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	18392
Applicants	Newgrove Housing Association
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellants	Newgrove Housing Association
Date of Site Inspection	10 January 2019
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located Monaskeha, Clonlara, Co Clare along a cul de sac road, which runs west at a slight uphill gradient from the regional road R463. The R463 follows, along the western side, the course of the headrace canal, south west from the Parteen Basin, east of O'Briens Bridge, to Ardnacrusha. Monaskeha Heights within which the subject site is located, is on the opposite bank of the canal to and north of Clonlara, comprising a group of 18 houses unrelated to any settlement, laid out in a line on either side of a cul de sac private road. The dwellings along this road are detached and single storey, mostly occupying sites of upwards of c0.2ha (0.5ac), each with an individual waste water treatment system and mains water supply. A recent spur extension at the end of the road accesses a new dwelling to the north.
- 1.1.2. The subject site is given as 0.0821ha (0.203ac), this appears to be in error as the accompanying map indicates a site of 0.25ha.

2.0 Proposed Development

- 2.1.1. The proposed development is the demolition of the existing shed to the rear of an existing garage, which is located to the rear and side of the bungalow on the site and the conversion and extension of the garage to a self-contained apartment ancillary to the existing residential care dwelling on the site; and associated works above and below ground.
- 2.1.2. The proposed single occupant dwelling is generously proportioned with a very large living / dining / kitchen area and a floor area of 81.1 sq m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to refuse permission for 2 reasons:

Having regard to the established character and pattern of development in the vicinity of the site, it is considered that the proposed development, by reason of its size and scale, and the nature of its use, would result in the overdevelopment of the site and further intensification of use on this site, which would seriously injure the residential

amenities of the area and of property in the vicinity. The proposed development would therefore set an undesirable precedent for such other proposals at this location, and would be contrary to the proper planning and sustainable development of the area.

Having regard to the ground conditions on site, the density of onsite wastewater treatment systems in the area, and notwithstanding the proposal to upgrade the wastewater treatment system, it is considered that the proposal, by reason of its nature and scale would result in the further intensification of use on the site and would therefore be prejudicial to public health.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two planning reports on the file, the first, recommending further information on 3 points, includes:

- Located in a designated rural cluster of Monaskeha.
- Located in a settled landscape where development should sustain and enhance quality of life and residential amenity and promote economic activity
- Western Corridor Working landscape.
- Questioning the description in the public notices which refer to a Residential Care Dwelling. No Section 5 declaration was issued.
- The need for the self contained dwelling has not been justified and the current operation is unclear.
- The unit is in close proximity to the party boundary between 5.5, and 6.3m. The boundary is defined by a strong landscaped hedgerow.
- The presence of windows on the side elevation is noted, one high level. Not considered to unduly overlook neighbouring property.
- The dwelling is currently serviced by a septic tank on a site of 0.0821ha. There is a large concentration of single dwellings in the immediate vicinity with private effluent units. No details submitted to demonstrate that the existing tank is in good operating order or capable of catering for the increased loading. Further information required.

- Visual amenities – no disamenity.
- Residential amenities: questioning the ancillary nature; for further information.
- Flood risk – located outside flood zone A and B, applicant's have no knowledge of the site ever flooding.
- Recommending FI, which issued on 3 points:
 - Residential care dwelling – status.
 - Public health – wastewater
 - Revised site layout with correct northpoint.

3.2.2. The second planning report, recommending refusal of permission for 3 reasons, includes:

- Response no. 1: the change of use from house to residence for persons with an intellectual or physical disability is exempted.
 - It is acknowledged that the main dwelling is operating under class 14(f) of the Planning and Development Regulations. The exemption allows for the number of persons with an intellectual or physical disability or a mental illness living in any such residence not exceeding 6 and the number of residential carers not to exceed 2, therefore 8 persons could be housed.
 - The creation of a second dwelling would be likely to adversely impact on the amenity of neighbouring occupiers by reason of the intensification of use and having regard to the size and proximity of the proposed unit to the adjoining property given the characteristic of dwellings in the area.
- Response no. 2: the existing septic tank will be replaced.
 - This was reviewed by the Environment Section. This is positive as the ground in the area is not suitable for discharge in the first instance. The proposal for the treatment unit and raised percolation is deemed appropriate. Applicant should plant willow in the area outside and intersecting the French drain to soak up any treated effluent which may pond at certain times of the year.
 - This situation is of concern.

- Response no. 3 north point corrected.
- The proposed development would provide semi-independent living for an additional person on site. Considered to lead to an intensification of use which could lead to negative impact on the residential amenity of the adjoining properties, by proximity to the adjoining property and open space and intensification of traffic. Furthermore percolation at this location is poor and the intensification of the site creates concerns based on the information submitted, that the proposed development cannot be adequately serviced by a new on-site wastewater treatment system. Recommending refusal for two reasons, which issued.

3.2.3. Other Technical Reports

Environmental Scientist – the proposal is probably the best that can be achieved on this site. All these sites are unsuitable for on-site systems with ground discharge. The applicant has attempted to improve what is on site and mitigate any impact. In addition to the design proposed I would recommend that the area outside and intersecting the French drain be planted with willow or similar to soak up any treated effluent which may pond at certain times of the year. This should be done in the first planting season.

3.3. Third Party Observations

Observations on the file have been read and noted.

4.0 Planning History

05/2190 Noel & Catherine Newman permission granted for retention and completion of partially constructed garden shed to the rear of site.

05/2064 – incomplete application.

Adjoining site

16/276 to construct a new single storey extension to the front of house, consisting of a bedroom also to convert a domestic garage to living room.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Clare County Development Plan 2017-2023 is the operative plan, relevant provisions include:

- Located in a designated rural cluster of Monaskeha.
- Located in a settled landscape where development should sustain and enhance quality of life and residential amenity and promote economic activity.
- Located in the Western Corridor Working landscape.
- (objective 4.11) facilitate the provision of accommodation to meet the needs of those with disabilities.

5.2. Natural Heritage Designations

5.2.1. The nearest Natura site is the Special Area of Conservation: Lower River Shannon SAC, site code 002165, located c1.4km from the subject site.

5.3. Environmental Impact Assessment

5.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment 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.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal on behalf of the first party has been submitted by Leahy Planning Ltd. The grounds includes:

- Newgrove Housing Association are an approved Housing Body with the Department of Housing, Planning & Local Government for the purpose of

availing of capital funding to develop accommodation, specifically for people with an intellectual disability. It is the housing subsidiary of the Rehab Group. There are tenancy agreements between Newgrove and the individual tenants. Rehab Care provide support staff, funded by the HSE.

- Newgrove Housing Association's current best practice dictates that no more than 4 people with an intellectual disability will be accommodated at one location and despite the greater number which can be accommodated under the planning regulations do not intend to exceed the number of 4 residents and 2 carers.
- Purchased in 2017, considered suitable for the purpose, given the site area of 0.24ha. The main house accommodates 4 residents and 2 carers.
- It has been decided that one of the residents is capable of semi-independent life and would do better in a separate self-contained apartment, with on-going residential care available to them on site.
- The planning code makes no provision for the conversion of a residential car dwelling to a private house being exempted development, planning permission would now be required to revert to use as a private house.
- The Monaskeha cluster forms part of a typical Co Clare housing development, developed between the 1960s and the 1980s, comprising half-acre sites served by septic tanks.
- Zoned per myplan as '02' catchall zoning.
- CDP provisions cited: 13.1 (settled landscape), 13.3 (western corridor), 4.11 and 4.3.10 (to facilitate accommodation to meet the needs of those with disabilities) and 4.3.6 (the mix of house types proposed in an area must ensure that the needs of all members of society are accommodated).
- National Policy in relation to a move away from congregated settings, in the provision of housing for people with disabilities, is cited.
- The existing building is 125m plus conservatory - 134m, and is small for four special needs adults and two carers. Once the resident, currently housed in the main unit is housed in the adjacent proposed area,, the bedroom currently

used by that resident will accommodate an office and sleeping area for a carer.

- Refusal reasons: intensification and not sufficient provision for foul water disposal. A possible reason is the separation from the main dwelling. Certain persons have specific requirements and planning implementation must recognise this. The assessment of needs in this case has indicated that the best option is the provision of a small semi-independent unit. The proposal does not impact on amenity or intensify use and will provide for an improved method of sewage disposal, as accepted by the Council's environmental engineer.
- The second planner's report referring to residential amenity does not reflect the comments in the first planner's report.
- Re. overintensification: the site is over 0.24ha the distance from the nearest boundary is 6m and no closer than the existing building. It is outlined in the documentation that there will be no intensification; no increase in traffic, deliveries, or visitor numbers. As the provision of a residential care facility of a larger quantum is exempted development, these are not matters which should be of concern to the planning authority.
- Re. septic tanks system: a detailed site characterisation report was submitted and an assessment of the existing system, a proposal was made to remove the existing septic tank and provide an entirely new packaged waste water treatment system together with polishing filter. This was accepted by the Council's engineer.
- Third party objectors refer to the existing development, which is exempted; nor do they have great validity. The development is entirely compatible with a residential area, particularly a low density residential area. There will be no increase in traffic. The proposal is not backlands development; it is still one planning unit and an existing building is being converted. There is no physical or visual amenity impact. There is a large hedge between the proposed development and the nearest neighbour, therefore no overlooking issue. It is difficult to argue, given the very low level of development, that the existing car parking on site is not adequate.

- Positive aspects are listed: improved accommodation for a vulnerable individual in an area identified as being the main economic driver of the county; improved wastewater treatment; etc.
- They are happy to accept a condition limiting the maximum number of residents and carers to 4 + 2.
- Attached to the grounds are letters confirming the need for the additional accommodation and stating that it is not their intention to increase the number accommodated.

6.2. Planning Authority Response

6.2.1. The planning authority has responded to the grounds of appeal, which includes:

- From the planning history and lack of detail it was unclear the exact nature of the operation and impact, hence the further information request.
- The planning authority is satisfied that the main dwelling is operating under class 14(f) of the Planning and Development Regulations. The exemption allows for the number of persons with an intellectual or physical disability or a mental illness living in any such residence not exceeding 6 and the number of residential carers not to exceed 2, therefore there could be 8 occupants.
- The creation of a second dwelling would be likely to adversely impact on the amenity of neighbouring occupiers by reason of the intensification of use and having regard to the size and proximity of the proposed unit to the adjoining property, given the characteristic of dwellings in the area.
- Percolation at this location is poor and the intensification of the site creates concerns based on the information submitted, that the proposed development cannot be adequately serviced by a new on-site wastewater treatment system.
- The proposed development leads to overdevelopment of the site having regard to the characteristics of the area and would injure the residential amenities of neighbouring properties.

7.0 Assessment

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, impact on the character and amenities of the area, wastewater treatment, traffic safety and parking, and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

7.3. Impact on the Character and Amenities of the Area

- 7.3.1. The first reason for refusal refers to the established character and pattern of development in the vicinity, that the proposed development, by reason of its size and scale, and the nature of its use, would result in the overdevelopment of the site and further intensification of use on this site and would seriously injure the residential amenities of the area and of property in the vicinity.
- 7.3.2. The use of the site as a residential care centre is an established use. The site has existing landscaping along the side boundaries and will have little impact as viewed from adjacent properties. As viewed from the road, the development would have an appearance very similar to the existing garage. The proposed use is the same as the established residential care centre use and is for a single occupant. In my opinion there will be no impact on the character and amenities of the area.

7.4. Wastewater Treatment

- 7.4.1. The second reason for refusal refers to the the ground conditions on site, the density of onsite wastewater treatment systems in the area and that the further intensification of use on the site would be prejudicial to public health.
- 7.4.2. It is proposed as part of the development to upgrade the existing onsite wastewater treatment system by providing a packaged waste water treatment system and a polishing filter. This was accepted as an improvement to the existing situation, by the

Council's Environmental Scientist who made further suggestions for planting to improve sit conditions.

- 7.4.3. The EPA CoP for wastewater treatment systems for single houses provides for a population equivalent of up to 10 persons, the existing treatment is for that capacity. Notwithstanding the site's acknowledged constraints for disposal of effluent, the proposal to provide a packaged waste water treatment system and a polishing filter, should be considered in the context of the existing permitted development. I consider that the proposal is an improvement on the existing situation and I am in agreement with the Council's Environmental Scientist that the proposal is the best that can be achieved on this site.
- 7.4.4. The proposal will offer a significant mprovement on the existing situation.
- 7.4.5. Wastewater treatment should not be a reason to refuse permission.

7.5. Traffic Safety and Parking

- 7.5.1. A further issue which was raised as a concern by observers to the planning authority is on-road parking and traffic safety
- 7.5.2. On the date of inspection there was a considerable amount of parking on the site, more than might be expected for a small residential care centre. The established use of the site is now a residential care centre and any activity on site must be related to that use, rather than as an administrative or management centre. Although no on-road parking was noted associated with the subject site, on road parking was noted associated with other properties. There appears to be ample parking on site to allow for staff turnover and to facilitate running activities for residents and provide for their transport needs. There is no obvious reason why traffic or on road parking would give rise to concern. This road is a very quiet cul de sac and any increase in its use would be noteworthy but not necessarily problematic.
- 7.5.3. In my opinion traffic safety and parking should not be reasons to refuse permission.

8.0 Recommendation

- 8.1.1. In the light of the above assessment I recommend that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

9.0 Reasons and Considerations

The site is located in a designated rural cluster of Monaskeha, where the residential use on this site is a residential care centre and the proposed development, which would involve the provision of independent accommodation under the supervision of carers in the existing care centre, would accord with the Council's objective to facilitate the provision of accommodation to meet the needs of those with disabilities, would not create road congestion or traffic hazard, would not detract from the residential amenities of adjoining properties or the amenities of the wider area and 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 plans and particulars submitted on the 28th day of August 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. The use of the dwelling hereby permitted shall only be as a place of

residence for a person under the care and supervision of the operators of the residential care centre on the site and shall not be used for any other activity or by any other person.

Reason: In the interest of clarity.

3. The residential unit shall not be sold or let separately from the main house on the site.

Reason: In the interest of clarity.

4. a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 28th day of August 2018, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009, and shall be installed to details agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the development and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the

installation.

(d) Surface water soakways shall be located such that the drainage from all hard surfaced areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of first occupation, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

Planning Inspector

30 January 2019

Appendix 1 Photographs

Appendix 2 Extracts from the Clare County Development Plan 2017-2022