



An
Bord
Pleanála

Inspector's Report ABP-303446-19

Development	25 no. houses
Location	Roslevan, Tulla Road, Ennis, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	18137
Applicant(s)	Datcha Construction Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Teresa Brosnan Dan Barrett & Others
Observer(s)	None
Date of Site Inspection	26/03/2019
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site is located on the outskirts of Ennis town, to the north of the Tulla Road. The wider area can be described as suburban residential, with a number of small residential housing estates.
- 1.2. The subject site is a pocket of land bound to the east and south by an existing small housing estate. The existing estate Cluain Ros Leamhain has a number of cul-de-sacs terminating in hammerheads – two of which bound the subject site. To the west of the site, a road terminates at an agricultural gate. An agricultural track runs through the fields, creating the western boundary to the subject site.
- 1.3. The subject site rises to the north and is bound by a mixture of fencing and block walls.

2.0 Proposed Development

- 2.1.1. On the 22nd February 2018 planning permission was sought for the construction of 25 no. dwellings comprising 3 no. terraced house type A, 8 no. terraced house type B, 6 no. terraced house type C, and 8 no. terraced house type D, and 52 no. car parking spaces on a plot of 0.777ha. The proposed dwellings range in size from 94sqm. (house type B) to 124sq.m. (house types C and D).
- 2.1.2. The application was accompanied by a letter of consent signed by the owners of the lands to the west of the site providing temporary construction access to the site.

3.0 Planning Authority Decision

3.1. Planning Authority Reports

- 3.1.1. **Fire Officer:** standard condition to be included in a grant of permission.
- 3.1.2. **Irish Water:** PCE required, no detail of the proposed water and sewer network
- 3.1.3. **Road Design Report:** proposed footpaths not DMURS compliant, swept path analysis required, disabled parking spaces required, proposed parking not development plan compliant, traffic management plan and construction safety plan required, construction access road to be maintained, street lighting to be DMURS compliant and vegetation to assist visibility. Further information required.
- 3.1.4. **Planning Report:** Proposed development is similar to that granted in 2004. Principle of multiple residential units on the site is acceptable. Further information required

regarding legal title and access at eastern site boundary. Access to the site via the proposed temporary construction route to the west is the preferred DMURS option of the Planning Authority. 66 no. car parking spaces required. Further information required regarding issued raised by roads design office and Irish Water. Surface water management plan required. Proposed dwellings required to have a 3.7m separation distance with at least 1m on each side of the shared boundary. Further information required on FFL's, increased provision of open space, bin storage areas, protection of stone all on the western boundary and landscaping plans. Proposed development is considered to have no impact on visual or residential amenity.

3.2. Request for Further Information

3.2.1. On the 17th April 2018 the applicant was requested to address the following:

- 1(a) revised site layout plan which provides or future access to the west,
- 1(b) provision of 66 no. car parking spaces
- 1(c) cross section of parking areas
- 1(d) swept path analysis for larger vehicles
- 1(e) 1.8m footpaths
- 1(f) public lighting proposal to be DMURS compliant
- 1(g) revised topographical survey, including FFL of existing dwellings
- 2(a) 3.7m between dwellings and 1m to each boundary
- 2(b) increased open space area
- 2(c) proposals for bin storage
- 2(d) retention of existing stone wall along the western boundary
- 2(e) retention of maximum number of mature trees
- 3(a) confirmation of feasibility of connection from Irish Water
- 3(b) details of proposed method of surface water management
- 4 land registry details and folio maps

3.3. Response to FI Request

3.3.1. The applicant requested and was granted a three-month extension of time up to and including 15th January 2019.

3.3.2. On November 2nd the applicant responded to the FI request. The response included a revised site layout plan that reduces the proposed number of dwellings to 22 no. and 52 no. car parking spaces, increases open space, provides for access points to

the adjoining residentially zoned lands and provides details of legal interest. The response was re-advertised as being significant.

3.4. Reports on File following submission of FI

- 3.4.1. **Chief Fire Officer:** condition to be included with grant of permission.
- 3.4.2. **Road Design Office:** footpaths are DMURS compliant, road radii not demonstrated on swept path analysis, electric car charging points and bicycle parking not demonstrated, construction safety plan required, large tree adjoining plot 6 should be re-considered.
- 3.4.3. **Ennis Municipal District:** 9 no. conditions recommended.
- 3.4.4. **Planning Report:** Revised proposal providing access to adjoining residentially zoned lands welcomed. Pedestrian connectivity to existing development required through the omission of house no. 14. Proposed parking provision, swept path analysis, footpaths and lighting proposals are acceptable. Proposal to re-use the estimated 7100m³ of excavated soil on lands to the north (not owned by applicant) requires planning permission or removal off-site to a licensed facility. Re-designed site layout achieves required separation distances, appropriate bin storage and adequate open space. Retention of natural stone wall along western boundary is welcomed. Proposed landscaping is acceptable but should be managed by condition to tree at no. 6. Response regarding Irish Water and management of surface water is acceptable. Recommendation to grant.

3.5. Third Party Observations

- 3.5.1. Named residents of Cluain Ros Leamhain objected to the proposal at application and FI stage. Their objections are similar to those raised in the third-party appeal.

3.6. Decision

- 3.6.1. On the 14th December 2018 the Planning Authority issued a notification of their intention to grant permission subject to 26 no. conditions. Conditions of note are:
 - 6: omit dwelling no. 14, include a footpath of minimum 1.8m to link to development to the south
 - 8: revise dwelling no. 11 to re-design side gable first floor window
 - 9: development to be monitored by archaeologist
 - 12: schedule of permitted finishes

26: temporary access road finishes specified

4.0 Planning History

- 4.1.1. On adjoining site to the north of the subject site: Planning Authority reg. ref. **19/196**: Planning permission is sought for the construction of 68 no. residential units to be accessed via Roslevan. A decision is due in May 2019.

5.0 Policy and Context

5.1. Clare County Development Plan 2017-2023

- 5.1.1. Volume three of the development plan is the Ennis Municipal District Written Statement and Settlement Plan. Section 1 refers to Ennis. The subject site is within the development boundary of the town (see map no. 1a).
- 5.1.2. Section 2.3 of the plan refers to the Roslevan Neighbourhood, within which the subject site is located. **Section 2.3.1** states that recognising the existing availability of neighbourhood services, existing and planned road infrastructure and the potential of Roslevan, lands have been zoned to accommodate the expansion of this neighbourhood in the future. A number of areas of land have been zoned in the Roslevan neighbourhood to accommodate residential growth. The proposed residential development lands are in close proximity to existing housing, shopping facilities, church and community centre which will assist in the consolidation and appropriate expansion of the neighbourhood.
- 5.1.3. Site specific objective **R3 and LDR3** Roslevan states that development proposals for these two sites must protect the character and setting of Roslevan House and Walled Garden. Views to and from the historic Roslevan House should also be a key consideration in the overall layout of future development proposals. It is the preferred option that access to the lands shall be a continuation of the existing distributor road. Development of a high-quality design and layout shall be provided on this site. Additionally, a surface water management plan should be submitted as part of any future planning application on these lands.
- 5.1.4. Other Policies and Objectives of the development plan that are relevant to the proposed development include:

CDP4.7 Housing Mix: It is an objective of the Development Plan: a) To secure the development of a mix of house types and sizes throughout the County to meet the needs of the likely future population in accordance with the guidance set out in the Housing Strategy and the Guidelines on Sustainable Residential Development in Urban Areas; b) To require new housing developments to incorporate a variety of plot sizes to meet the current and future needs of residents; c) To require the submission of a Statement of Housing Mix with all applications for multiunit residential development in order to facilitate the proper evaluation of the proposal relative to this objective.

CDP4.15 Green Infrastructure in Residential Developments

CDP18.6 Strategic Flood Risk Assessment

CDP18.8 Storm Water Management

5.2. Natural Heritage Designations

- 5.2.1. The subject site is located 0.8km from the Ballyallia Lake SAC and 1km from the Lower River Shannon SAC.

5.3. EIA Screening

- 5.3.1. Having regard to nature of the development comprising the construction of 22 no. dwellings in an established residential area on the outskirts of a large town, it is considered that 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. Cluain Ros Leamhain Residents Association and 7 no. named Residents of Cluain Ros Leamhain Grounds of Appeal

- 6.1.1. The Chair of the resident's association of Cluain Ros Leamhain has submitted an appeal against the decision of the Planning Authority to grant permission. A second appeal has been received from seven residents (Teresa Brosnan, Don Barrett, Sinéad Clohessy, Meave Franks, Carol Parnell, John Parnell and Dean Fletcher) of Cluain Ros Leamhain, who also wish to appeal the decision of the Planning

Authority. The two appeals are identical and the grounds of the appeal can be summarised as follows:

- The site is subject to site specific development objective R3 in the development plan which states “it is the preferred option for any future proposals that access shall be a continuation of the existing distributor road”. The main road through the estate is not suitable for the existing 50 no. homes nevermind the proposed 22 no. houses. The possibility of future access points is concerning.
- The Planning Authority identify the route to the west as being the preferred option. The willingness of the Planning Authority to breach their development plan is concerning.
- The existing road is narrow, with parking for 17 no. houses directly off the road. house no.s 32-40 front onto the estate road. the removal of the hammerhead will result in shallow parking for these dwellings.
- The estate road serves apartment no.s 41-48 with shallow parking.
- It is submitted that the development plan reference to a “distributor road” does not refer to the estate road but to the route to the west. This is shorter, more direct and a more natural access.
- The revised layout is an improvement but should be a cul-de-sac rather than a through road.
- The proposed development would endanger public safety due to the additional traffic movements where carriageway width, sight lines and parking are restricted. The proposed access route would cause conflicts with cyclists and pedestrians.
- The proposed development would constitute a haphazard, non-integrated form of development which would injure residential and visual amenities and be contrary to the proper planning and sustainable development of the area. The proposed development would represent a poor living environment and would be contrary to the Clare development plan.
- The development could be successful if accessed from the west with pedestrian connectivity within the site, with 10 no. additional car parking spaces and the protection of existing boundaries.

- Condition no. 7 is concerning in the absence of a masterplan for the wider area. Condition no. 8 appears to indicate the permanent closing of the future access point.
- The appeal is accompanied by a number of appendices.

6.2. **Applicant Response**

6.2.1. None on file

6.3. **Planning Authority Response**

6.3.1. The proposed access connection points to adjoining lands will ultimately reduce vehicle movements through the existing housing estate. The Planning Authority are satisfied that the proposed layout is in accordance with the development plan site specific objective. Permeability to the south is achieved by a pedestrian access. The board is requested to uphold the decision of the Planning Authority to grant permission.

6.4. **Observations**

6.4.1. None on file

7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Access Route
- Layout
- Open Space
- Density

7.2. Principle of Development

- 7.2.1. The subject site, being within the settlement boundary of Ennis, is zoned for residential development. Subject, to all other planning considerations being satisfied, the proposed development is acceptable in principle.

7.3. Access Route

- 7.3.1. A key issue raised by the appellants, is the proposed access route to the subject site. The appellants wish to see access from the west (proposed temporary construction route) and state that the reference to a 'distributor route' in the development plan refers to this western route rather than the existing road running through the estate. In their assessment the Planning Authority consider the development plan objective to refer to the existing estate road. They note that access through the existing estate is the preferred option but also that in the interest of future development and connectivity, routes to the adjoining residentially zoned land should be provided.
- 7.3.2. As a starting point, I am satisfied that the site-specific development plan objective R3 reference to a distributor road clearly refers to the existing estate road. This is clear from the Ennis Settlement Plan map which shows two access points from the existing estate into the subject site – one from the east and one from the south.

7.4. Layout

- 7.4.1. Connectivity between and within adjoining residential areas is a key principle in the creation of sustainable neighbourhoods. However, a balance must be met between achieving connections to other residential sites and providing a sense of place within the proposed estate. The provision of too many connection points will facilitate the proposed site becoming a vehicular through-way or corridor rather than an area with its own character and identity. The creation of a neighbourhood that is well connected and permeable for pedestrians and cyclists is of paramount importance. The creation of multiple vehicular points falls lower on the desirability hierarchy.
- 7.4.2. It is regrettable that a masterplan was not prepared for the wider Roslevan area so that incremental and / or piecemeal development of individual sites does not hinder the Planning Authority's stated aim to consolidate and expand the neighbourhood

appropriately. I note that the subject applicant is also the applicant for the large residential housing estate to the north – currently on assessment with the Planning Authority. There is the potential to create character areas, a sense of place, a greater variety of unit type and areas of higher/lower density in accordance with the principles of the Urban Design Manual. This has not been satisfactorily achieved in this current proposal. The subject layout, as currently proposed is road dominated, as the principle aim appears to be focused on access to the adjoining sites rather than creating a successful development in its own right

- 7.4.3. Policy CDP4.7 of the development plan seeks to ensure a balanced mix of house design, mix and tenure in all new developments. This mirrors national guidelines, in particular the Sustainable Residential Development in Urban Areas- Guidelines for Planning Authorities and the associated Urban Design Manual which recognises that a successful neighbourhood will be one that houses a wide range of people from differing social and income groups and recognises that a neighbourhood with a good mix of unit types will feature both flats and houses of varying sizes. Likewise, the National Planning Framework recognises that the current average of 2.75 persons per household is likely to fall to 2.5. Given the dominance of semi-detached three and four bed housing in the immediate area of the subject site, the need to react to future housing needs is all the more pressing. The subject development appears to propose a housing need that appears already well served in the immediate area.
- 7.4.4. I note that the mix of housing types and sizes is a ‘new issue’ in that it was not raised as a concern by the Planning Authority or the Appellant and has not been addressed by any party. It is considered however, that the layout of the proposed development is fundamentally tied to the nature of dwelling types proposed – both of which have resulted from the over-arching design criteria to achieve connectivity to the adjoining lands.
- 7.4.5. It is considered that the proposed development is unsatisfactory. The desire to increase vehicular connectivity - with no provision for pedestrian or cycle connectivity to the wider area – whilst not actively engaging with the adjoining residential lands results in development that is road-dominated, provides substandard open space, has insufficient diversity in housing, mix tenure and design and would fail to create a sense of place.

7.5. Open Space

- 7.5.1. The revised layout requested by the Planning Authority to allow connectivity to the adjoining lands resulted in the creation of a pocket of open space in the centre of the subject site. The amenity provided by the proposed open space is questioned however. If, as proposed, the routes surrounding the open space are to provide vehicular access to the adjoining lands, then children accessing the space for amenity / recreation purposes will be contending with a significant number of vehicles also using the route. Further, the open space also provides 8 no. visitor car parking spaces, thereby reducing its function further. That the space will be actively overlooked is welcomed, as is the accessibility of the space to all dwellings within the site. This is not sufficient to overcome the short-comings in layout and access however.

7.6. Density

- 7.6.1. On a site of 0.777ha, the density of the proposed development is 27 no. units per ha. On a site within the settlement boundary of Ennis, in a neighbourhood designated for consolidation, one would expect a density of no less than 30 units per hectare. I note the revised design and subsequent reduction from 25 no. to 22 no. following the request for further information. I note that the issue of density may be considered by the Board to be a 'new issue' as it was not raised by any party to the appeal.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development in an established suburban area, no appropriate assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1.1. It is recommended permission be refused for the following reasons:
- 1 The "Urban Design Manual – a Best Practice Guide" issued by the Department of the Environment, Heritage and Local Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as context, connections, inclusivity,

variety and distinctiveness. It is considered that the proposed development results in a poor design concept that is substandard in its form and layout; fails to provide high quality usable open space; fails to establish a sense of place; would result in a substandard form of development lacking in variety and distinctiveness, all of which would lead to conditions injurious to the residential amenities of future and existing occupants. Furthermore, the layout of the proposed scheme, being dominated by roads, is contrary to the provisions of the Design Manual for Urban Roads and Streets, issued by the Department of the Environment, Community and Local Government and the Department of Transport, Tourism and Sport in 2013, as it involves three vehicular accesses into adjoining lands. It is considered that the proposed development would, therefore, seriously injure the residential amenities of future occupants, would endanger public safety by reason of traffic hazard, and would be contrary to the proper planning and sustainable development of the area.

- 2 The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009, and Policy CDP4.7 of the Clare County Development Plan 2017-2023, seek to ensure that a wide variety of adaptable housing types, sizes and tenures are provided. Criterion number 4 of the Urban Design Manual recognises that a successful neighbourhood will be one that houses a wide range of people from differing social and income groups and recognises that a neighbourhood with a good mix of unit types will feature both apartments and houses of varying sizes. The National Planning Framework recognises the increasing demand to cater for one and two-person households and that a wide range of different housing needs will be required in the future. The proposed development, which is characterised predominantly by three bed semi-detached and terraced housing and provides for no one or two bed roomed units, would fail to comply with national and planning authority policy, as outlined above, and would be contrary to these Ministerial Guidelines, and would, therefore, be contrary to the proper planning and sustainable development of the area.

3 It is considered that the density of the proposed development is contrary to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), issued to planning authorities under section 28 of the Planning and Development Act. The site of the proposed development is on serviceable lands, within the development boundary of Ennis and within the Roslevan neighbourhood as designated in the settlement strategy for the county. Having regard to the proposed density of development, it is considered that the proposed development would not be developed at a sufficiently high density to provide for an acceptable efficiency in serviceable land usage given the proximity of the site to Ennis and to the established social and community services in the immediate vicinity. In addition, the proposed development does not have an adequate mix of dwelling types, being predominantly semi-detached and terraced housing. It is considered that the low density proposed would be contrary to the aforementioned Ministerial Guidelines, which indicate that net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Gillian Kane

Senior Planning Inspector

29 April 2019