



An
Bord
Pleanála

Inspector's Report ABP 303679-19.

Development	Construction of Seventeen Houses.
Location	Junction of Chapel Street and R462, part of former site of Tulla Secondary School, Tulla, Co. Clare.
Planning Authority	Clare County Council.
P. A. Reg. Ref.	18/643
Applicant	Woodhaven Developments Ltd.
Type of Application	Permission
Decision	Refuse Permission
Type of Appeal	First Party X Refusal.
Appellant	Woodhaven Developments Ltd.
Date of Site Inspection	8 th May 2019.
Inspector	Jane Dennehy

Contents

1.0 Site Location and Description.....	3
2.0 Proposed Development.....	3
3.0 Planning Authority Decision	4
3.1. Decision.....	4
3.2. Planning Authority Reports.....	4
3.4. Third Party Observations.....	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations.....	6
6.0 The Appeal.....	6
6.1. Grounds of Appeal.....	6
6.3. Planning Authority Response	9
6.4. Observations	10
7.0 Assessment.....	11
8.0 Recommendation.....	18
9.0 Reasons and Considerations	18

1.0 Site Location and Description

- 1.1. The site has a stated area of 8,900 square metres and is that of the former secondary school in Tulla which was vacated in 2016. A one and two storey school building constructed in the early 1970s and several pre-fabricated units are located on the site. (The school relocated to a new building at site on the opposite side of the road.) The site which is at the junction of the R462 and Chapel Street has road frontage onto the west and south boundaries. A dwelling is located to the north side. A services station and residential development are located on the opposite side of the road.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for construction of a residential development of seventeen houses on the site along with thirty on site car parking spaces.
- 2.2. A further information submission was lodged with the planning authority on 29th November, 2018 in response to a multiple item request for additional information. It was the applicant's case having regard to the mixed-use zoning for the site the initial application was confined to the residential element to that construction could proceed as quickly as possible. A concurrent application for permission for two apartments, three shops and two offices lodged under P. A. Reg. Ref. 2018/644 was withdrawn prior to determination of a decision. The proposal for the apartments, shops and offices in a commercial building was amalgamated into the subject application within the further information submission on the enlarged site.
- 2.3. Included with the further information submission was a legal opinion on the proposal extend the application site area to incorporate the entirety of the space within the landholding, (outlined in blue in the original application) within the application site area, defined by the red line site boundary. New public notices to indicate submission of "significant further information" were also issued. The further information submission also included revisions to the site layout, increased tree retention, design and height revisions, details of cladding, auto-track layout drawings, revisions to the foul sewer layout and connections and sunlight studies.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 17th January, 2019 the planning authority decided to refuse permission based on three reasons.

According to Reason One, the development would not satisfactorily integrate into the established built form and character and, would seriously injure visual amenities of the area having regard to the 'Opportunity Site' designation in the CDP for which a high standard of design and layout is required and to the prominent site location.

According to Reason Two, the layout of development would be substandard and seriously injurious to residential amenities within the development and at adjacent properties due to:

Reciprocal overlooking and overshadowing at Nos 14, 15 and 16;

Lack of fenestration and light and substandard internal layout at No 15.

Lack of integration with open space and overall development at Nos. 8 and 9.

Substandard layout for No 16 along with its two parking spaces relative to the R462 having regard to manoeuvring on and off the Road.

Lack of clarity for pedestrian route which adjacent to parking spaces resulting in conflicting pedestrian and traffic circulation.

According to Reason Three the planning authority would be precluded from granting permission having regard to the amalgamation into the application, in the further information submission, of the mixed-use element subject of the application under P. A. Reg. Ref. 2018 644, (which was withdrawn) is a material change both to the nature of the development and the development site boundary and, separately, that to grant permission for the original proposal for the residential element would be in material contravention of the 'mixed use' zoning objective.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The planning officer in his initial and supplementary reports having indicated that details in the further information submission address some of the concerns raised in the additional information request, concluded that permission should be refused based on the reasons attached to the planning authority decision as outlined above

under para 3.1. The planning officer places emphasis on the necessity for achievement of high-quality design and layout given the prominent location of the subject, designated Opportunity Site as provided for in the CDP.

3.2.3. **Other Technical Reports**

The **Municipal District Engineer** indicated requirements relating to surface water drainage arrangements, boundary walling on the frontage along with upgrade works to the footpath, measures to prevent parking on landscaped space, pedestrian crossing facilities and painting and line markings.

The Fire Officer indicated no objection subject to compliance with current Building Control Regulations.

3.3. **Third Party Observations**

- 3.3.1. Objections were received from eight parties at application stage and four supplementary submissions were received at further information stage in which issues raised include concerns about: consistency with the CDP zoning and specific objectives, quality of design and layout, access and circulation and parking arrangements and vehicular and pedestrian safety and convenience in the immediate environs, water supply capacity and boundary treatment.

4.0 **Planning History**

P. A. Reg. Ref.17/896: Permission was granted for demolition of the school buildings and site clearance.

The site also has a history extending back to 1969 for the development of the school campus and subsequent minor applications up to 2007 relating to proposals for extensions and additions.

5.0 **Policy Context**

5.1. **Development Plan**

The operative development plan is the Clare County Development Plan, 2017-2023. According to the plan for Tulla incorporated in Volume 3, the site location is subject

to the zoning objective “Mixed Use” and is identified as an Opportunity Site. (OP1 (MU2) according to which:

“These lands are located at a prominent junction on the approach to Tulla, marking a key entrance point to the town. The vacation of the site by the secondary school presents an opportunity for the site’s redevelopment for a mix of uses that would complement the range of established uses in the vicinity. A high standard of design and layout will be required of any future development proposals on the lands.”

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received from Leahy Planning on 12th February, 2019 on behalf of the applicant. According to the appeal:

6.1.2. With regard to Reason One:

- The applicant decided to have the commercial and residential elements of the overall development for the site considered separately, for planning purposes due to the different development criteria involved. Further to obtaining legal advice, the combination of the two elements and corresponding extension of the application site area, (following withdrawal of the concurrent application, under P. A. Reg. Ref. 2018/644 for the commercial element) was provided for in the further information submission along with re-advertisement facilitating opportunities to comment by third parties.
- The commercial building is high quality and appropriate for the high-profile landmark location and context. It is three storey but not monolithic in appearance in that individual elements are broken up. It has solid and void elements and stepped alignments, is appropriate in finishes and is supplemented by planting at the south east corner. It delineates the entrance to the town and acts as a counterpoint to the new secondary school which is considerably greater in mass and scale. Along with recently constructed commercial developments it is distinctive and modern.

- The area has one and two storey houses and the planning authority does not clarify the specific or coherent established built form of the area to which reference is made. There is emphasis on higher level of building and increasing prevailing buildings heights in delivery of more compact growth in urban centres in “*Guidelines for Planning Authorities-Urban Development and Building Heights*”. 2018. (Section 1.9 and 1.21 refer and are reproduced in full.) This reflects the *National Planning Framework*, in encouraging planning authorities to consider height increases even in low density areas to facilitate increases in population. (section 3.4, 2.6 and 3.7 refer and are reproduced.)
- The motivation for the application is to create a new urban typology with distinctive buildings in traditional street forms in providing, (instead of low-density own door houses), mixed heights and typologies as provided for in statutory guidance: “*Urban Development and Buildings Heights: Guidelines for Planning Authorities* “, 2018 and “*Sustainable Residential Development in Urban Areas*”, 2007. Extracts are included and discussed in the submission in support of the claim that the scale massing and height, is the minimum that should provided for at the location. There is no clarity or specificity as to how the proposed development is unacceptable to the planning authority regarding form, design, bulk and materials.

6.1.3. With regard to Reason Two, most of the issues could have been addressed and resolved by condition and some revisions to the proposal are shown in an appendix to the appeal.

- A gateway for Nos 15 and 16 can be recessed as shown on Drawing DWB.18.02.03B to so that an upper floor window at No 14 only overlooks a public area. Drawing DWB.18.02.18A shows the revision to the window.
- A sun study is also provided for Nos 15 and 16 indicating eight hours sunlight to the rear garden of No 15 for June 21st but a lack of sun to the rear of the house is offset by the orientation whereby the front faces south. If deemed necessary, No. 16 could be moved southwards to increase light to the rear garden of No 15 as shown on Drawing DWB.18.02.03B.
- With regard to the internal layouts and lack of fenestration at of No 15, the rear door would be fully glazed and ‘tilt and turn’ to light the kitchen. If

required, an additional window adjacent to the door can be included as shown on Drawing DWB 18 02 17A.

- With regard to the concern as to failure to integrate Nos 8 and 9 into the development, it is intended that the two units would suit older residents who prefer a degree of seclusion hence the provision of courtyards and restricted vehicular access for these units and interconnectivity with the overall development.
- With regard to the concern as the footprint of No 16 and the two parking spaces adjacent to the R462 the maximum speed is 50kph, the R462 is lightly trafficked, has a 7.2 metres wide carriageway and there is no legitimate reason to remove the two car spaces. A boundary in stone which also ensures preservation of the trees with a gap to provide the car spaces is proposed.
- With regard to the concern as to the pedestrian access route it is submitted that pathways are clearly defined in the application and the development accords with DMURS standards. Some minor revisions are proposed on Drawing DWB 18 02 03B for the pedestrian crossings which, if required, can be addressed by condition.

6.1.4. With regard to Reason No 3, the combination of the two original applications in to the one application at further information stage was in response to a statement by the planning authority that it was not appropriate to lodge two separate applications. Legal advice was obtained, a copy of which is included in Appendix 2 and the planning authority accepted the bringing in of the commercial element into the original application. Reason 3 of the decision to refuse permission should be disregarded and comments from the applicant's legal advisor are included in the appendices for consideration in this regard.

- It is difficult to understand the planning authority reasoning to the effect that the proposal "*would not be in accordance with orderly development.*" In stating that it was, "*precluded from granting permission*", the planning authority should not have accepted the revised submission and should not have included considerations of the commercial element in the reason and considerations for the decision to refuse permission. The planning authority refers to "material contravention" but the argument is not logical

and does not refer to material contravention of the development plan. It is not precluded from granting permission for mixed use development. The provisions of section 37 (2) (b) do not apply.

- Separately, in addition to the appeal, a retail analysis which justifies retail capacity for the town has been carried out. Office and retail development has been proposed but guidance would be welcome in that it is considered that the zoning may not be entirely appropriate for the site.

6.1.5. According to the attached statement the applicant's legal advisor states that she considers that Reason No 3 should have been read as a comment in passing noting that it does not refer to grounds of material contravention of a development plan. The planning authority wrongly determined that it had no jurisdiction on the revised plan in the further information submission. Outstanding matters could be addressed by condition. She also states that no parties were prejudiced of their rights in that all parties were notified of the revisions in the further information submission.

6.2. Planning Authority Response

6.2.1. A submission was received from the planning authority on 14th March, 2019 according to which the planning authority requests that the decision to ruse permission upheld. According to the submission:

- There is a unique opportunity for development of the brownfield site within the town. The proposed development does not respond satisfactorily to this opportunity in its design and layout. A revised single application addressing this and, allowing for full public participation is required.
- The design and form of the proposed commercial building and its materials and finishes are unsatisfactory for the key access gateway site to the town It is not an acceptable design response to or reflective of the historic built form of the town which includes protected structures and cottages opposite the site. contributing to the sense of place. A balance between a strong building at the corner and respect for the existing development is required.
- Units 14, 15 and 16 will and overlook and overshadow each other. A first-floor side elevation window at No 15 overlooks the garden of No 14. The gardens are north facing with lack of light except in high summer. The

graphics do not accurately reflect the overshadowing over the entire year. The internal layout and lack of fenestration and lacks access to natural light at No 15 is substandard. The proposed revisions are acknowledged with regard to a window for the utility room and a tilt and turn door but the quality of the house and overlooking and overshadowing at Nos 14,15 and 16 is unsatisfactory.

- Dwelling Nos 8 and 9 do not integrate into the development and the open space. They older persons dwellings are inappropriate in location and lack passive surveillance. No16 relative to the public road and the to direct accessible parking spaces are dangerous.
- The road is not lightly trafficked. Traffic safety considerations arise.
- The pedestrian access from Chapel Street isn't defined. There is potential pedestrian and vehicular conflict due to the proximate parking spaces.

It is concluded that the revisions shown in the appeal do not address and overcome the issues of concern indicated in the report on the application.

6.2.2. The planning authority reiterates its position that the original application is in material contravention of the development plan, and that the further information showing alterations the site boundaries outlined in red and incorporation of the commercial element subject of the withdrawn application are unacceptable.

6.3. Observations

6.3.1. A submission was received from Margaret and Kevin Scanlan of Church Road. Tulla. Their property is adjacent to the application site and they indicate concerns with regard to the application and further information submission. According to the submission:

- The application is in contravention of the policies in the CDP in that the proposed development constitutes overdevelopment and that open space provision which is to enrich the quality of life for residents is insufficient.
- The units adjoining the boundary with their property should be omitted and replaced with green space as they are overbearing and would adversely affect residential amenity due to height and scale, overlooking visual obtrusiveness

and conflict with the building line. The heights and scales are not consistent with the existing built environment.

- Increasing the wall height on the boundary to 1.8 metres would restrict vision to the left at the entrance to their property causing hazard to all road users. Vehicles for House No 16 need to be reversed onto the road endangering safety of all road users and it is noted that this arrangement was not satisfactory for the planning authority. Although the increase in boundary wall height was requested, it should not interfere with sight lines.
- There is concern as to potential insufficient capacity in water supply to serve the development in addition to existing development.

6.3.2. It is submitted that the statement in the appeal that the section of the R462 is lightly trafficked at the location is outrageous, due to the schools which have 930 students and 70 staff attending, a Montessori school a creche restaurant sports fields, garden centre, shop and filling station. The R 462 at the location serves routes to Scarriff Limerick Shannon and Ennis as well as the local traffic. There are two pedestrian crossings, one at the site entrance and one at the secondary school entrance.

7.0 Assessment

7.1. The appeal includes options for some minor revisions to the proposed development, to address some specific details raised in the planning authority's decision to refuse permission for consideration in the assessment. However, first considered below, are issues as to the acceptability, from a procedural perspective of the expansion of the site area and expansion of the proposed development to include a commercial element from a procedural perspective under "Further information submission – expansion of site area and extent and nature of development proposal". This is followed by consideration of the planning issues under the following sub categories:

Consistency in principle with the CDP zoning and specific objectives,

Visual impact and compatibility with existing built environment. (Scale, height form materials and finishes.)

Scheme Layout and residential amenities.

Impact on Traffic flow and vehicular and pedestrian safety and convenience on the R462.

Parking Supply and Layout.

Environmental Impact Assessment Screening.

Appropriate Assessment

7.2. Further information submission – expansion of site area and extent and nature of development proposal.

7.2.1. The applicant in responding to the concerns of the planning authority about the consistency of the proposed single use residential development on part of the former school campus site, the entirety of which is designated in the CDP as an Opportunity Site. (OP1 (MU2) subject to a 'mixed-use' zoning and to specific objectives relating to quality and design, decided to withdraw the concurrent application for commercial development and to include it in the subject application. Therefore, the application site area, (the area within the red line boundary) was enlarged to include the combined site areas of the subject and withdrawn applications which corresponds to the entirety of the landholding designated as the Opportunity Site providing for a proposal, as required for the site, for a mixed-use development. This option for addressing the concerns of the planning authority about the original application for residential development solely, was favoured by the applicant over withdrawal of the two concurrent applications and lodgement of a new application. It was therefore proposed in a significant further information submission lodged with the planning authority which was supported by an accompanying Legal Opinion which was supplemented at appeal stage.

7.2.2. In effect, the significant further information submission represents a new proposal for a mixed-use development on an enlarged site. It is apparent, based on review of the Planning and Development Act, 2000 as amended and, the Planning and Development Regulations 2001 as amended, that the purpose of the legislative framework was not intended to include scope for major changes to the application site defined by the red line boundary or for major expansion and changes to nature and/or intensity of use during the application process by way of a significant further information submission. However, on the other hand, the case made as to the availability, within the significant further information submission of new public

notices, as to the adequacy of scope for opportunity for engagement by third parties and, as to scope for *de novo* consideration further to appeal by an aggrieved party is acknowledged. It is considered that the details in the description on the revised public notices are adequate, especially with regard to the incorporation of the commercial development previously subject of the withdrawn application and the corresponding enlargement of the site area to that to the entire landholding. Nevertheless, the Judgements cited for reference within the Legal Opinion accompanying the further information submission at application stage are not considered to be of direct relevance for comparative or precedent purposes.

7.2.3. This issue is clearly distinct to issues as to material contravention of a statutory development plan, over which some confusion is apparent having regard to the contents of the submissions of the applicant's agent and the documentation and reasoning for the decision to refuse permission issued by the planning authority. However, in this regard it is noted that the planning authority had also concluded in its assessment of the proposal solely for residential development, indicated in the original application, that to grant permission for it alone would be in material contravention of the CDP having regard to the zoning and specific objectives for the designated Opportunity Site.

7.3. **Consistency in principle with the CDP zoning and specific objectives.**

7.3.1. In principle the proposed development as indicated in the original application is in material contravention of the CDP's objectives for the Opportunity site by way of being a single use residential development for part only of the designated Opportunity site which can be considered, determined and implemented isolation, the absence of any phasing requirements. In principle, the mix of uses indicated in the further information proposal accords with the mixed-use zoning requirement.

7.4. **Visual impact and compatibility with existing built environment.** (Scale, height form materials and finishes.)

7.4.1. It is considered that the proposals further information proposal taking into account an option to omit the top floor apartment element provided for in the commercial building, fails to satisfy the specific CDP objective's requirement for a high standard of design and layout in any future development proposals on the lands in view of the

prominent junction, marking a key entrance point to the town on the main approach from the south along the R462. The site is that of the former school buildings and it has extensive frontage to the east on the south side of Chapel Street along which it is prominent on approach downslope from the east. It is prominent on approach from the south west from the R452 along a minor route as far as the junction on the R462. For the key landmark location there is a valuable opportunity at the corner for a high-quality signature building that both respects the surrounding built form of cottages, bungalows, dormer dwellings and two storey houses in clusters such as Powers Court and in road frontage development. The site of the new school campus by reason of configuration has the capacity to accept the school building which is significant in form, due to setback, footprint and profile parallel to the street frontage resulting in an acceptable integration into the streetscape and existing built environment.

- 7.4.2. The commercial building element of the development is considerable in form and height and there is a complex multiplicity of elements above the main parapet at the top floor level. It is to be inserted into a streetscape where, apart from the setback new school buildings and campus on the opposite side and on the inner side of the junction on the R462, is characterised primarily by low profile cottages and bungalows. While there is scope for a statement structure of interest at this location, a three-storey height amongst the low height, smaller scale and modestly profiled surrounding dwellings is conspicuous in the streetscape in views along the R462 in both directions. The structure would be unacceptable in the prominent views on approach towards Tulla along the R462 but more negatively conspicuous in views on approach from the town core from the north side of the junction.
- 7.4.3. There is a lack of capacity in the design form and in the selection of materials to complement and integrate with the established character of surrounding development in Tulla. It is considered there is good scope and potential for a lower height statement building of interest appropriate in profile at this location entailing good quality design, detail, materials and finishes on an appropriate footprint that would fulfil the CDP objectives requirements to be achieved for commercial/mixed use on the site.
- 7.4.4. While height could in part be addressed by omission of the two apartments at the top floor, it is not feasible within the confines of attachment of conditions which would allow for minor amendments, to modify the proposed structure in design and form,

(and material and finishes) so that a high standard appropriate to the key prominent location, as envisaged in the CDP objective could be achieved.

7.5. Scheme Layout and residential amenities.

- 7.5.1. The views held by the planning authority on both the application and the minor revisions to the proposed development included as options for consideration with the appeal are supported. It is therefore agreed that there are deficiencies in quality of the layout and design of the proposed residential element and that as a result of which, the attainable standards of residential amenity for the future occupants would be deficient.
- 7.5.2. It is agreed that the layout is unsatisfactory in respect of the position of the two plots for the dwellings intended for older residents (Ns 8 and 9) having regard to the configuration of the shared private open space allocated to their north side and accessed at the edge from from single rear access doors. There is concern as to insufficient sunlight access at these plots and at the plots and/or units at Nos, 14, 15 and 16. The minor revisions to fenestration and doors, at Unit 15 are required to bring the development to a higher standard of residential amenity and the enhancement would not be significant. Similarly, it is agreed with the planning authority that units 8 and 9 are not satisfactorily integrated into the development, being somewhat peripheral. A more major reconsideration of the layout and orientation of the individual plots relative to each other is required.
- 7.5.3. In this regard it is also noted that the submissions made on behalf of the applicant do not include a fully comprehensive daylight sunlight analysis using an appropriate methodology for the entire residential element. It is not fully demonstrated that daylight and sunlight access, based on with year-round projections would be satisfactory, and ideally, where relevant, above minimum standards provided in, for example, *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*, (2011, (BRE 209.)
- 7.5.4. In addition to the concerns of the planning authority as outlined in its reports and submission in connection with the appeal, it is considered that that the overall layout, in entirety of the development gives rise to concerns about lack of connectivity with and public amenity potential of the proposed public open space. It is located on the western periphery where the ground levels are uneven to the extent that the range of

recreational activity and utility potential is restricted. There is very limited direct interconnectivity with the residential elements visually or otherwise and scope for passive surveillance would be curtailed.

- 7.5.5. The layout of the scheme is heavily dominated by surface carparking which surrounds and serves the commercial building and is potentially dual use with the residential element. The residential units on the eastern side of the scheme are dominated by the associated continuous carparking and commercial element of the development. To this end, the concerns of the planning officer as to lack of provision for pedestrian routing for which there is no prioritisation and permeability within the residential element and between the residential and commercial element and with the surrounding local road network are shared. Furthermore, even though the residential element is a small scheme along with the two apartments at the top floor also provided in the commercial building, a central focus or core is required and is lacking in the layout. The residential units are sandwiched between the commercial block and associated carparking and vehicular access and the peripherally located open space of limited attainable utility and interconnectivity with the residential development on the east side on sloped land at the east side of the site.
- 7.5.6. Having regard to the foregoing, it is considered that the reasoning for the planning authority's decision to refuse permission on grounds of substandard layout and design and consequent deficiencies in attainable standards of residential amenity for the future occupants is reasonable.

7.6. Impact on Traffic flow and vehicular and pedestrian safety and convenience on the R462.

- 7.6.1. The R462 is an important route linking with the R452 Shannon and Ennis and Scariff Limerick regional traffic and—carrying destination traffic to Tulla. Notwithstanding the location and site frontage within a section at Tulla within the maximum speed limit of 50 kph the inclusion of two car spaces directly at the frontage to Unit No 16 is similar to the addition of a double driveway not designed for access and egress in forward gear and is not acceptable. The necessity for reversal directly out onto the public road would create unwarranted obstruction of traffic and pedestrians, at a location close to the junction where there is heavy vehicular and pedestrian traffic on the local road network for the town, especially that which is generated by the new

school complex in morning and early afternoon times. At these times traffic queues may form owing to the location for the school, the two pedestrian crossings and the junction.

7.6.2. In addition, the observer party has raised concerns about limitations to sightlines at this location it being pointed out that an increase in boundary wall height which is desirable from an amenity perspective would obstruct vision on exiting the appellant's property.

7.6.3. An appropriate arrangement is for all vehicular traffic generated by the proposed development to be confined, for access purposes to one entrance off the Chapel Street frontage from which through the scheme, as indicated in the planning officer report, a clearly defined segregated pedestrian facility is also warranted.

7.7. Parking Supply and Layout.

7.7.1. Overall there is a shortfall in the quantum of parking facilities on site provided in the scheme with reference to CDP standards is involved but it is reasonable that scope for dual usage (residential and office use) where a high quality and functional layout can be achieved without compromise to residential amenities. (It is agreed that garages provided with individual dwellings should not be included amongst the calculations for parking provision. Parking spaces, some of it, continuous end on parking over some distance at the west side of the commercial building in front of the residential element and in the layout to the west side for Dwelling Nos 5-9 in the residential element is a very dominant feature and there is limited segregation and for soft landscaping and private open space that would ameliorate this impact. These matters contribute to the concerns about the quality of the proposed layout. Consideration of some of the characteristics of the "Home Zone" concept might benefit design and layout for small schemes such as the proposed development.

7.8. Environmental Impact Assessment.

7.8.1. Having regard to the nature of the proposed development and its brownfield, serviced town centre location removed from any sensitive locations or features, there is no real likelihood of significant adverse effects on the environment. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

7.9. Appropriate Assessment.

- 7.9.1. Having regard to the scale and nature of the proposed development and to the brownfield, serviced town centre location removed from any European Sites no Appropriate Assessment issues arise. 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. It is agreed with the planning authority that it is appropriate for a new application to be lodged and that combining the development proposal subject of the concurrent withdrawn application with the proposed development on an enlarged application site by way of lodgement of significant further information is inappropriate. However, it is acknowledged that public participation in the application process in this instance has not been compromised as a result. However, it is recommended that the appeal be rejected and that the planning authority decision to refuse permission be upheld based on the planning related reasoning in the draft reasons and considerations set out below.

9.0 Reasons and Considerations

1. According to the Clare County Development Plan, 2017-2023, the zoning objective is, "Mixed Use" with the site being identified as an Opportunity Site. (OP1 (MU2), located at a prominent junction on the approach to Tulla, marking a key entrance point to the town. According to the associated specific objective, the site which is that of the former secondary school presents an opportunity for the site's redevelopment for a mix of uses that would complement the range of established uses in the vicinity and a high standard of design and layout will be required of any future development proposals on the lands. It is considered that the proposed commercial element of the development by reason of height, scale and form of the commercial building and by reason of the design detail and selection of the materials and finishes would not constitute a positive and high-quality key landmark structure that would satisfactorily integrate into and contribute positively to the established character of the existing streetscape and

surrounding built environment. As a result, the proposed development would be seriously injurious to the visual amenities of the area and to established pattern and character of development in the vicinity. It would materially contravene the specific development objectives for the site set out in the Clare County Development Plan, 2017-2023, and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development would be insufficient in quality in layout and would not provide for a satisfactory standard of residential amenities for the future occupants of the dwellings by reason of lack of direct connectivity and between the proposed dwellings and the public open space and its amenity potential which is peripherally located on sloped land at the western edge of the site, a predominance of vehicular circulation space and surface parking lacking screening and soft landscaping, poor configuration of plots, dwellings and private open space alone and in conjunction with adjoining plots resulting on lack of access to sunlight and daylight and lack of central focus and passive surveillance, permeability and defined pedestrian facilities and routing within the residential element. As a result, the layout of the proposed development would be substandard and seriously injurious to the residential amenities of the future occupants and to the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
28th May 2019.