



An
Bord
Pleanála

Inspector's Report

ABP-305799-19

Development	Construction of 5 no. houses and associated works.
Location	Castlecourt, off Sheares Road, Kilmallock, Co. Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	19/233
Applicant(s)	Kersbrook Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V. Grant
Appellant(s)	John O'Brien and others
Observer(s)	None
Date of Site Inspection	29th January 2020
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The appeal site is located within the Castlecourt residential development, located on the western side of Sheares Street, towards the southern end of Kilmallock town centre. The site is located approximately 35 kilometres south of Limerick City. To the north and south of the appeal site are established residential properties in the form of the Sheares Avenue and Castle Court residential developments. To the east are the rear gardens of properties fronting onto Sheares Street and to the west is an area of open space and remains of the Kilmallock town wall.
- 1.2. The site is rectangular in shape and has a stated area of 0.175ha. It is generally level with the public road and comprises an overgrown fenced off area.

2.0 Proposed Development

- 2.1. It is proposed to construct two residential blocks, one comprising of three terraced units and the other comprising a pair of semi-detached units, with direct frontage onto internal access road that serves the Castle Court development. The houses are two-storey with pitched roofs with a maximum ridge height of 7.7 metres. Each house has a gross floor area of approx. 94 square metres (sq. m.) and private rear amenity spaces range in size from 52 sq. m. to 72 sq m. The proposed works include for the provision of a public footpath and to provide two off-street car parking spaces per residential unit.
- 2.2. Further Information submitted to Limerick City and County Council on the 11th day of September 2019 included: Surface water management details and details of public lighting.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 34 no. conditions. The relevant conditions are noted below: -

Condition 1: clarified that permission was granted for the scheme as modified by further information.

Condition 4: related to archaeological monitoring.

Condition 8: related to the external materials.

Condition 9: Provision of a footpath along the frontage of the development.

Condition 23: Submission of a Construction Management Plan.

Conditions 33 & 34: Measures for protection of the town wall.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer recommended that planning permission be granted following clarification on the matters raised within the further information request. The remains of the town wall are located along the western site boundary. It is stated within the Kilmalock Local Area Plan that no development should occur within 15 metres and no standing development within 20 metres of the town wall. The nearest part of the dwelling on site number one is 21 metres removed from the town wall. The County archaeologist has recommended a number of conditions including archaeological monitoring of development works and preservation of a buffer zone free from development, adjacent to the wall to protect its integrity.

3.2.2. Other Technical Reports

- Operations and Maintenance Services: No objections, conditions recommended.
- County Archaeologist: No objections, conditions recommended.
- Environmental Services: No objections, conditions recommended.

3.3. Prescribed Bodies

Irish Water: No objections, conditions recommended.

3.4. Third Party Observations

A number of submissions were received. The issues raised in the submissions are similar to those raised in the appeal.

4.0 Planning History

Planning Authority reference number 17/540: In 2017 Limerick County Council granted planning permission for the development of five dwellings on site. This decision was appealed to An Bord Pleanála and subsequently withdrawn.

Planning Authority reference number 06/1103: In 2006 Limerick County Council granted planning permission for the development of six dwellings on site.

Planning Authority reference number 11/7106: In 2011 Limerick County Council granted planning permission for an extension of duration of permission for the completion of the development permitted in 2006.

5.0 Policy and Context

5.1. Kilmallock Local Area Plan, 2015 – 2021

The appeal site is zoned 'Existing residential' with the associated objective: To ensure that new development is compatible with adjoining uses and to protect the amenity of existing residential areas. As per the zoning matrix, residential uses are generally acceptable in areas zoned 'Existing residential'.

The appeal site is also within the boundary of the Kilmallock Architectural Conservation Area (ACA). However, from a perusal of the text pertaining to the ACA, in chapter 6, it is apparent that the designation is primarily concerned with the collective arrangement of buildings on Sheares Street, Emmet Street, Lord Edward Street, and Wolfe Tone Street which it is stated are visually impressive within the traditional streetscape. The following is set out in relation to new development within the ACA: Proposals for new buildings should not seek to dominate the historic core and should respect the historic fabric of the buildings and the morphology of their plots.

The relevant policy objectives are noted below: -

- Policy H1: New Housing Development
- Policy H3: Housing density and infill development.
- Policy B4: Architectural Conservation Areas
- Policy B5: Archaeological Heritage.
- Policy B6: Town Walls.

5.2. **Limerick County Development Plan, 2010-2016 (as extended)**

The settlement strategy identifies Kilmallock as being within Tier 2. These locations are defined as Key Service Centres and act as main drivers of development and significant providers of services within their respective sub-regions. Tier 2 settlements will act as a base for high quality transport links to the core of the region. The relevant policies and objectives of the Limerick County Development Plan are set out below.

- Policy CP 03: Quality of Life
- Objective SS O4: Sequential growth of settlements
- Objective SS O6: Compliance with other guidelines
- Policy HOU P 3: High Quality Living Environment
- Policy SS P7: Tier 2 settlements
- Chapter 10 : Development Management Guidelines is also relevant, specifically Section 10.5.5-Infill development in urban areas.

5.3. **National Guidance**

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- Architectural Heritage Protection Guidelines for Planning Authorities (2011)- Department of Arts, Heritage and the Gaeltacht.

5.4. **Natural Heritage Designations**

There are no designated areas in the immediate vicinity of the site.

5.5. Environmental Impact Assessment - Preliminary Examination

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. This third party appeal is being made on behalf of Mr John O' Brien representing himself and a number of his neighbours, all residents of Sheares Avenue. They include:

- John & Teresa O 'Flaherty,
- Richard & Theresa Lyons,
- Michael Collins,
- Eugene Grant,
- Marion Sheehan.

6.2. Grounds of Appeal

The areas of concern relate to the following: -

- Proposals do not adhere to the land use zoning objective of the site.
- Proposed rear garden depths/open space provision do not meet County Development Plan standards.
- Proposals will block light and view from Sheares Avenue homes.
- Dwellings are poorly designed and will adversely affect established residents amenities.
- Is there sufficient capacity in the water and sewage systems to service the proposals?

- The construction works will cause inconvenience, disturbance, dust and noise in this vicinity.
- Concern that the Sheares Avenue dwellings could be damaged as a result of any proposed construction works.
- Concerns over potential overlooking from proposed dwellings.
- Unclear as to what would happen to an existing access gateway between Castlecourt and Sheares Avenue upon completion of the development.
- Proposed development does not meet County Development Plan standards in terms of minimising overlooking, overshadowing or optimising solar gain.
- Proposals will generate additional traffic movements locally.
- Proposals would not accord with provisions of KIlmallock Local Area Plan.

6.3. **Applicant Response**

None.

6.4. **Planning Authority Response**

None

6.5. **Further Submissions**

Further submissions were invited by the Board from the Development Applications Unit, The Heritage Council and An Taisce and no comments were received from any of the parties.

7.0 **Assessment**

7.1. The main concerns to be addressed in this appeal relate to the grounds of the appeal. Appropriate Assessment requirements are also considered. The main issues can be dealt with under the following headings:

- Land use zoning

- Residential Amenity
- Access & Services
- Design and Layout
- Appropriate Assessment.

7.2. Land use zoning

7.2.1. The appeal site is zoned Existing residential as per the Kilmallock Local Area Plan 2019-2025. Residential development is generally acceptable subject to the usual development assessment criteria. These are set out in Section 10.5.5 of the Limerick County Development Plan 2010-2016 (as extended) in relation to infill development in urban areas. The site at present is overgrown and has no apparent functional use. I am satisfied that the current proposals represent an appropriate use of zoned serviced lands in close proximity to a town centre.

7.3. Residential Amenity

7.3.1. The appeal site demonstrates consistent site levels with the existing adjacent residential developments. The site is open at present, with the rear boundary treatments of No.s 9-14 Sheares Avenue being visible and comprise a mix of fencing, hedging, walls and sheds, none exceeding 1.8 metres in height. The rear garden depths of those properties are shallow at approximately 5 metres in length. I note that the proposed dwellings would have rear garden depths of approximately 7 metres. The proposed dwellings would comprise of low level two storey houses with maximum ridge heights of 7.7 metres, the finished floor levels (FFL's) of the proposed dwellings are approximately 1.2 metres below those of Sheares Avenue, and the rear elevations have been specifically designed to minimise overlooking, I am satisfied, given the separation distances between the proposed dwellings and the existing properties to the north (12 metres at the nearest point) and with the introduction of a two metre high block wall boundary between the properties (a matter that can be conditioned), that such an impact could not be construed as significant. The proposed development would not result in overshadowing or

overlooking of the properties to the south so as to warrant a refusal of permission on this issue.

- 7.3.2. I am satisfied that any issues in relation to dust, disturbance, light and/or noise pollution could be addressed by means of a Construction Management Plan which could be conditioned.
- 7.3.3. In relation to any impact upon the structural integrity of the adjacent Sheares Avenue dwellings, given the separation distances involved and with the application of measures from the Construction Management Plan which would include vibration that the impact upon adjacent dwellings would be minimised.
- 7.3.4. I, therefore, conclude that the proposal would afford a satisfactory standard of amenity to future residents and it would be compatible with the pattern of development in the area.

7.4. Access and Services

- 7.4.1. The proposal would utilise an existing entrance off Sheares Street that serves the existing Castlecourt residential development, a public car park and playground. The area is governed by the 50 kilometres per hour speed limit. There are existing footpaths serving Castlecourt.
- 7.4.2. The proposal would use an existing internal service road and introduce a new turning bay and two metre footpath along its frontage. Each of the dwelling houses would be accompanied by 2 car parking spaces, which would be laid out side-by-side to facilitate independent access/egress from the driveway.
- 7.4.3. I am satisfied that the width of the adjoining public roadway is sufficient to cater for the level of traffic generated by the five proposed residential units. No objections were raised by the Operations and Maintenance Section of Limerick City and County Council in relation to roads matters subject to a number of matters being conditioned.
- 7.4.4. I am satisfied that the proposed five dwelling houses would be capable of being accessed satisfactorily and that their parking arrangements would, likewise, be satisfactory.

- 7.4.5. In terms of the existing access gate between Sheares Avenue and Castlecourt, this access gate appears to be located outside of the red line application site boundary and therefore is not affected by the proposed development.
- 7.4.6. In terms of servicing the site, I note that no objections were received from the Operations and Maintenance Services Section of the local authority or Irish Water subject to a number of conditions. It is apparent from the Development Plan that service capacity issues do not arise in Kilmallock. Therefore I am satisfied that there is sufficient capacity available within the networks to service this modest infill development.

7.5. ***Design and Layout***

- 7.5.1. It is accepted that not all development management standards are achieved within these proposals. However, flexibility is provided for within Section 10.5.5 of the Development Plan in relation to development on infill sites where it outlines the following: The site density, coverage and open space requirements will be considered on a site-specific basis to permit a development to integrate with the existing adjoining development. The development management standards set out for new residential developments may be relaxed in the case of infill development. The standards referred to by the appellants largely pertain to greenfield sites. The subject site is an infill site and although not all private open space, separation distances are achieved, the scheme provides for a satisfactory design and layout on this infill site in proximity to a town centre.
- 7.5.2. It is noted that the Planning Authority raised no concerns regarding the design and layout of the scheme.
- 7.5.3. In conclusion, having regard to the sites location within the town centre of Kilmallock and the pattern of development in the area, I am satisfied that the development is appropriately designed, could be accommodated at the subject site, that it would result in a development that would not impact upon the amenities of neighbouring properties.

7.6. ***Appropriate Assessment***

- 7.6.1. Having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission be granted subject to conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the zoning objective for the site and the policies and objectives of the Limerick County Development Plan 2010-2016 (as extended), it is considered, subject to the conditions set out below, that the design and layout of the proposed development would not seriously injure the residential amenities of the area and would be acceptable in terms of traffic safety. 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 plans and particulars submitted on the 11th day of September 2019, 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 Archaeological monitoring by a qualified archaeologist shall be in place for all ground disturbance associated with the development. The name of the archaeologist shall be submitted to the Planning Authority four weeks in advance

of the commencement of any site works. Should archaeological material be found during the course of monitoring, the archaeologist may have work on site stopped, pending a decision as to how best to deal with the archaeology. The Department of Culture, Heritage and the Gaeltacht and the local authority archaeologist shall be informed. The developer shall be prepared to be advised by the Department of Culture, Heritage and the Gaeltacht with regard to any necessary mitigation action and shall facilitate the archaeologist in recording any material found. On completion, a satisfactory archaeological report detailing the works shall be submitted to the Planning Authority and to the Department of Culture, Heritage and the Gaeltacht.

Reason: In the interest of natural heritage and the proper planning and sustainable development of the area.

3 (a) The grassed area to the west of the proposed development shall be maintained as a buffer zone between the town wall and the houses where no deep rooted planting, landscaping, soil disturbance, or exempted development shall occur.

(b) Prior to the commencement of development, a temporary protective fencing shall be erected at a minimum distance of five metres from the inner fence of the town wall. The appointed archaeologist shall oversee and certify the erection of this fencing.

Reason: In the interest of natural heritage and the proper planning and sustainable development of the area.

4 Prior to commencement of development the applicant shall submit and agree in writing with the Planning Authority details of a physical boundary treatment along the site boundaries of the site.

Reason: In the interest of visual and residential amenity.

5 The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

- 6 The provision of a ramp footpath along the southern boundary of the site frontage shall be constructed in accordance with the requirements of and with the written agreement of the planning authority.

Reason: In the interest of orderly development and traffic safety.

- 7 The continuation of the internal road network serving the proposed development, including the turning area, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

- 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 traffic management, intended construction practice for the development, including noise management measures and off-site disposal of construction / demolition waste.

Reason: In the interests of public safety and residential amenity.

- 9 Proposals for house naming and a house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

10 Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

11 The applicant shall enter into water and waste-water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

12 Site development and building works shall be carried out only between the hours of 0700 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 amenities of property in the vicinity.

13 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

14 Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

15 The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in

writing with, the planning authority prior to the commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

16 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 of roads, footpaths, watermains, drains, 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 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 of the development.

17 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

Fergal O'Bric
Planning Inspector

5th February 2020