



An  
Bord  
Pleanála

## Inspector's Report ABP 306547-20

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<b>Development</b>	Demolish existing buildings within site, construct 9 no. dwellings and new vehicular entrance onto Blackabbey Road
<b>Location</b>	Blackabbey Road, Blackabbey, Adare, Co. Limerick
<b>Planning Authority</b>	Limerick City & County Council
<b>Planning Authority Reg. Ref.</b>	19600
<b>Applicant</b>	Fleetgold Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Appellants</b>	Trudy McDermott & JP Dipietro
<b>Observers</b>	None
<b>Date of Site Inspection</b>	8 <sup>th</sup> May 2020
<b>Inspector</b>	Mary Kennelly

## 1.0 Site Location and Description

- 1.1.1. Adare is a small town which is approx. 18km to the south west of Limerick City, on the N21, which is the main road to Tralee/Killarney. The village has developed in a linear fashion along the N21 and the L-1422 and L-1423, which link the village with Askeaton and Foynes. The site is located on Blackabbey Road (L1422) which branches off the N21/Main Street that runs through the centre of Adare Village. It is a mainly residential road, with a semi-rural character, which is situated to the northwest of the Main Street, but is in close proximity to the shops and amenities of the village.
- 1.1.2. There are several large detached houses on Blackabbey Road, with some smaller bungalows and a number of recently constructed small housing estates. One such housing estate, Abbot's Way, is located immediately to the east of the site and a further small development, Deerpark is located to the south-west of the site. On the opposite side of the road lies an agricultural field and two one-off houses. There is a large building complex, 'The Old Adare Creamery', which is a Protected Structure, on the site immediately to the west of the appeal site. The site of the Old Creamery also extends to the rear (north) of the appeal site. The property was vacant at the time of inspection.
- 1.1.3. The appeal site, which is roughly square in shape, has a stated area of 0.232 hectares. It contains two large buildings which are agricultural in nature. The barn structures are set back from the roadside boundary and directly adjoin the northern, eastern and western boundaries. The western gable of the existing building seems to be contiguous with the barn structure at the rear of the Old Creamery. The roadside boundary is defined by a masonry wall with a large metal gate. There are existing mature trees along part of the eastern and northern boundaries.

## 2.0 Proposed Development

- 2.1.1. It is proposed to demolish the existing buildings on site and to construct 9 new residential apartments. The submitted layout as originally submitted (21/06/19) showed the dwelling units laid out in two main blocks, which would be set back from the main road and would face each other across a proposed green area in the centre of the site. Block 1 would provide five units comprising a single storey unit at the

front with a 2-storey block of four apartments to the rear, two on each floor. Block 2 would provide four units in a 2-storey structure with a single-storey storage building to the front and a pergola over a courtyard area adjacent to the store.

- 2.1.2. It is proposed to provide a new boundary treatment to Blackabbey Road, which would incorporate a centrally located entrance to the site. The proposed boundary treatment comprises railings with stone pillars, which would be set back behind a brick-paved path. It is proposed to provide 13 parking spaces for the proposed dwellings which would be located just inside the new boundary wall and railings. The entrance gate would be automated.
- 2.1.3. The proposed units would be orientated in an East-West direction, with west-facing and east-facing living rooms and associated gardens and balconies. Hedges would be provided at garden level between the private amenity areas. The buildings would be clad with a textured lime render finish and would be trimmed with cut limestone copings, window surrounds, plinths etc. The roofs would be shallow hipped roofs of blue/black slate.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The P.A. decided to grant planning permission subject to 22 conditions including:

**Condition 2:** Development contribution of €16,740.00.

**Condition 3:** Payment of a bond

**Condition 10:** Waste management plan

**Condition 11:** The front boundary treatment and site entrance to be constructed as shown on Site Layout Plan submitted to the P.A. on 23<sup>rd</sup> September 2019.

**Condition 16:** Requirements to enter connection agreement with IW and no development to commence until connection agreement signed.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planner's initial report noted that the site is zoned residential and is fully serviced. However, it was considered that further information was required in respect of car parking space dimensions, public lighting, sightlines at the entrance, revised road layout and removal of gate at entrance, drainage details.

3.2.2. **Further information** was requested on **14<sup>th</sup> August 2019**. A response was submitted on **23<sup>rd</sup> September 2019** which provided FI in respect of the following

- Public lighting design provided by Litho-Circuits and Drawing no. H021L-013 P1 showing public lighting layout.
- Revised drawing showing sightlines from a point 2.4m back from the public road with 70m in each direction, and service poles not impacting on sightlines (Drawing H021L-002 P2).
- Revised site layout with autotrack layout, bollards along front to prevent parking on brick paved area, entrance gate omitted, dished footpaths, tactile paving and road markings etc. (Drawing H021L-002 P2).
- Clarification of drainage details including Design Criteria for Storm drainage, including a 5-year storm return instead of a 2-year return for design of pipes. Also included were longitudinal sections of the attenuation tank, information on the interceptor, maintenance plan and levels for pipes etc. It also included legal documentation regarding the proposal to construct a pipeline under the adjoining property by means of a wayleave
- In response to the letter of objection from the owners of the Old Creamery, it is stated that the developer is fully committed to providing any structural stabilising elements to the remaining party wall and to weatherproofing what will become the exposed party wall.
- A landscaping drawing was submitted – P364-101. It was stated that mature trees are suggested to address overlooking, but these can be removed if required to do so by P.A. The distance between Units 4/5 and the boundary wall is given as 6.2m.

- It was advised that the applicant has a right-of-way through the adjoining site, which is recorded in the land registry.
- A survey report regarding the assessment of the presence of asbestos on the site, which confirmed that there is no asbestos present on the site.

3.2.3. The **Further Information Response (23<sup>rd</sup> September 2019)** was considered to be inadequate and clarification was required on the **16<sup>th</sup> October 2019**. Clarification was required in respect of public lighting details, junction radii, cobble paving, a revised autotrack with a fire tender and further details regarding drainage proposals. It was stated that the presence of an existing building over a section of the surface water pipeline is unacceptable, as the building appears to have been constructed on the wayleave, which would make access for maintenance impossible.

3.2.4. A response to the Clarification of FI request was submitted on **6<sup>th</sup> December 2019**. The FI was considered to be satisfactory by the Area Planner. The FI included the following response in respect of the surface water disposal arrangements

The developer confirms that planning permission had been previously granted (07/2842) for 14 no. residential units on the site on 6<sup>th</sup> February 2006. This permission was granted subject to a condition that a final storm water proposal would be agreed with the planning authority before development commenced on the site. The developer seeks a similar condition in this instance.

3.2.5. A **grant of permission** subject to conditions was recommended.

### 3.3. Other Technical Reports

3.3.1. **Operations and Maintenance Services (Roads) Report (17/07/19)** – Additional details were required in relation to matters such as footpath surfaces, turning bays, access road finish and cross section, location of services, public lighting and road markings/signage. Concern was also expressed regarding the proposal to provide a gate at the access point to the site and the availability of sightlines at the entrance. It was noted that hydraulic modelling had been undertaken but clarification was required regarding the details of the design of the storm water system, including maintenance. It was recommended that Further Information be required.

3.3.2. **Fire Officer:** no objection.

3.3.3. **Archaeology:** site outside Recorded Monument for the historic town of Adare. Site is brownfield in nature and consequently no archaeological issues.

3.3.4. **Environmental Services (10/07/19)** – asbestos survey required. A Waste Management Plan should also specify waste permit holders and waste facilities for disposal/recovery, as well as estimates of tonnage of construction and demolition waste by type.

### 3.4. **Prescribed Bodies**

3.4.1. **Development Applications Unit - Nature conservation (22/07/19)** – Bats may be present in the buildings. All bat species are protected by the Wildlife Act and are listed on Annex IV of the Habitats Directive. Thus, a Bat Survey should be carried out by a suitably qualified ecologist, prior to a decision being made. A copy of the report should be forwarded to the Department prior to making a decision.

3.4.2. **Irish Water (15/10/19)** stated that further information would be required in respect of the means by which it is proposed to connect to both public water mains and sewer. It was pointed out that there shall be no building over public water mains, common pipes or sewers and if found, the applicant must contact IW with a proposal to alter it at the cost of the applicant. It was stated that the developer would need to enter into a connection agreement with IW.

### 3.5. **Third Party Observations**

An objection was received from the third-party appellant at the Old Creamery to the immediate west of the site. The issues raised are comparable to those summarised in section 6 below. The concerns raised related to the following issues

- **Overlooking and overshadowing** - The living dining areas contain large glazed areas with triple sliding doors and large glass balconies that directly overlook the neighbouring property. The front of the adjoining property has windows facing east which will be completely overlooked.
- **Location of trees** – the provision of 3.7m high trees will impact on the natural light to the east-facing windows of the Old Creamery.

- **Treatment of party wall** – the removal of the building will leave only internal walls exposed. There is no clear indication how the party wall and roof is to be treated structurally and to achieve weather resistance. Clarification required.
- **Wayleave** – it is proposed to construct a new 225mm diameter storm sewer pipe and outfall to the rear of the adjoining property. A wayleave is indicated through their property which is for existing services only. There is no legal arrangement for this.
- **Distance from rear boundary wall** – it is requested that the proposed building is located at the required distance from the boundary wall, particularly Units 4 and 5.

## 4.0 Planning History

- 4.1.1. **P.A. 07/2842** – permission granted by P.A. for demolition of existing buildings and construction of 14 residential apartments, construction of new boundary walls, piers and railings, new pedestrian entrance gates and a new vehicular entrance fronting Blackabbey Road.

## 5.0 Policy Context

### 5.1. National Planning Framework 2018

The NPF seeks to focus growth in cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date.

**NP Objective 33** seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

**NP Objective 35** seeks to increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of old buildings, infill development schemes, area or site-based regeneration and increased heights.

## 5.2. **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)**

In order for small towns and villages to thrive and succeed, it is stated that their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past. New development should contribute to compact towns and villages and offer alternatives to urban generated housing in unserviced rural areas. The scale should be in proportion to the pattern and grain of existing development. In terms of densities, centrally located development in small towns and villages could achieve densities of up to 30-40 dw/ha., whereas edge of centre sites should achieve 20-35 dw/ha.

## 5.3. **Limerick County Development Plan 2010-2016 (as extended)**

5.4. Limerick County Development Plan 2010-2016 (as extended). Adare is designated as a Tier 3 Town Centres on Transport Corridors in the Settlement Strategy for County Limerick.

5.5. **Objective SSP8** seeks to encourage and facilitate sustainable, balanced development and for Tier 3 towns to act as a primary focus for investment in infrastructure, housing, transport, employment, education, shopping, health facilities and community. Other relevant policies and objectives include: -

**Policy SSP2** – to support the sustainable development of settlements within tiers 2-6

**Obj. SS01** – scale of such development should be in proportion to pattern and grain of existing development.

**Obj. SS02** – Design, layout and character of new development shall relate to the local character and heritage of existing towns and villages and shall enhance the existing village character and create or strengthen a sense of identity and distinctiveness in the settlement.

**Policy HOU P3 and HOU P6 (a)** seek to promote high quality living environments in new and existing residential areas in the interest of quality of life and sustainable communities, and which has regard to the pattern and grain of existing development.

Section 10.5.5 sets out the **Development Management Guidelines for Residential Infill Development in Urban Areas, Towns and Villages** – such development is



particularly encouraged by the L.A., especially on small gap sites, unused or derelict lands and backland areas.

#### 5.6. **Adare Local Area Plan 2015 – 2021 (as extended)**

Adare Local Plan was extended by Variation 1, which was adopted in December 2018 and came into effect on 24<sup>th</sup> January 2019. This Variation replaces the zoning maps and many of the other maps of the original Development Plan. The site is shown on the Zoning Map as being located in an area zoned as '**Existing Residential**'. The zoning objective for this zone is -

Ensure that new development is compatible with adjoining uses and to protect the amenity of existing residential areas.

Adare is a **Tier 3** town and it is stated (1.4.3) in the LAP that such towns are to be promoted as secondary centres for significant future development. It is stated that 33.98 hectares of land residentially zoned lands are required in Adare to accommodate the population target for the town of 1,855 by 2021.

**Chapter 4 – Housing (4.2)** states that new housing development is required to be of a good quality design, accommodate a mixture of house types and to integrate with the existing village. It seeks to ensure that development is in proportion to the pattern of existing development and is as close to the village centre as possible, avoiding leapfrogging of development.

**Policies H1 and H2** seek to ensure that growth of the village is sustainable and that all residents can enjoy a safe and accessible environment. All development should be of a high quality which maintains a sense of place and distinctiveness in established and new development areas. **Policy UD1** seeks to promote a high-quality design and to ensure that Adare is guided by principles of best practice and sustainability.

**Objective H2** seeks to promote the concept of a 'compact district by encouraging appropriate densities in suitable locations, ensure that the density of housing is appropriate to the housing type, and that a wide range of house types, sizes and tenures are provided to meet varying population requirements and needs.

## 5.7. Natural Heritage Designations

The site is located within 650m of Lower River Shannon SAC (site code 002165) and is within 5-7km of a further four European sites. Curraghchase Woods SAC (000174), River Shannon and River Fergus Estuary SPA (Site code 004077), and Askeaton Fen Complex SAC (002279) are situated to the north and northwest of the site and Tory Hill SAC (000439) is located to the south-east.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A Third-Party Appeal has been received from the owners of the Old Creamery immediately to the west of the site. The submission can be summarised as follows:

- **Residential amenity** – The site is zoned Existing Residential in the Adare LAP, the objective of which is to ensure that new development is compatible with adjoining uses and to protect the amenities of existing residential areas. The layout of the proposal does not respect the adjoining development as there are large balconies and living areas with sliding doors overlooking the private amenity space of the appellants' property. It is submitted that the layout and size of the apartments could be altered to avoid overlooking of the adjoining site.
- **Height of proposed landscape mitigation unacceptable** – It is submitted that the developer has effectively acknowledged the issue of overlooking and has proposed landscape mitigation in the form of a box hedge which would be 3.7m high. Objection is raised to the height of this hedging which would overshadow their property, and in particular, their principal amenity space.
- **Reduction in privacy** – the extent and siting of the proposed balconies will have a detrimental impact on the appellant's property. Amenity areas should not be provided in this form where they overlook adjoining properties. The view of the planner is disputed as there would be serious levels of overlooking from the large glass balconies. It is submitted that the garden depths of the

proposed development are inadequate as they should be 11m unless specific design solutions have been employed.

- **Impact on curtilage of Protected Structure** – The Blackabbey Creamery is an historic building and is listed as a Protected Structure. It has not been used as a creamery since the 1970s. It is submitted that the long building to the north, which is proposed to be demolished, forms part of the curtilage of the PS, as it was one of the outbuildings of the Creamery. As a good example of historic semi-industrial building, the historical significance and integrity of the original layout should be respected.
- **Impact on fabric of Protected Structure** – the demolition of the building, which will expose an internal wall to the elements, will necessitate weatherproofing as well as roof flashing.
- **Wayleave and surface water disposal** – it is proposed to lay a new 225mm drain through the appellants' site for the disposal of surface water. A copy of the deed of conveyance is enclosed. This wayleave is for the purpose of the “free passage of water and effluent through the septic tank, sewers, drains and ducts...together with power for the vendor.....to enter to cleanse and repair said pipes....” There is no reference to any right to enter the property for the purposes of providing new or larger drains. The P.A. has not addressed this matter adequately. No planning permission can be granted without the means for disposal of surface water and any alternative means should be furnished to the Board.
- **Interference with future development of Old Creamery** – the appellants have purchased the property to the west in order to renovate it as a residence for themselves. The existing layout is such that in order to minimise disruption to the internal layout and fabric of the protected structure, it will be necessary to ensure that the main living rooms face east. As such the main amenity space will be overlooked by the proposed apartments (Units 4 and 5 in particular).
- **Management of roads, footpaths and services** – there is no reference to a Management company and concern is expressed regarding who would be responsible for roads and services as well as sewerage, water supply,

electrical supply. Condition 21 assigns responsibility for the payment of public lighting bills but there is no further condition requiring the establishment of such a management company.

## 6.2. Applicant Response

The submission from the applicant (28/01/20) is mainly in the form of a rebuttal of the grounds of appeal. The submission can be summarised as follows:

- (1) Principle of development** - The site is zoned residential and is located on serviced lands and that apartments are 'Generally Permitted'. Permission has previously been granted by the Board for a residential development on the site in 2008, Ref. PL13.228114 consisting of 14 no. apartments.
- (2) Residential amenity**
  - The Old Creamery is not in residential use and neither of the appellants reside there. The objection is based on residential land-use zoning and the alleged effect relates to the amenity of any future use of the property and not on any existing use or residential amenity of it. The Creamery is a commercial property and its last use was as a shop. There is no permitted or established use of the property as residential (or otherwise). The objection is therefore based on future speculative considerations.
  - Notwithstanding the foregoing, the proposed development fully complies with current planning policy and does not prejudice, hinder or obstruct any future development of the appellants' site.
  - The proposed development does not result in direct overlooking. Units 1-3 achieve 11m between the proposed building and the boundary line, and the developer is confident that 22m separation distance could be achieved between opposing windows. Units 4-5 achieve 6.2m distance to the boundary, but this is consistent with the Development Management advice in the CDP (10.1) in respect of innovative schemes where "it can be demonstrated that adequate levels of privacy, natural lighting and sunlight can be achieved."
  - The layout indicates that Units 4-5 do not directly face any window of the adjoining 'Old Creamery', which will be left intact with a solid gable wall as

part of this permission. The likelihood of any windows being permitted in the gable wall in the future is highly unlikely, given that it will form the boundary.

- The development management standards of Limerick CDP have been met and the provision of additional planting would serve to enhance the amenity of both properties in lieu of the standard 2m block and rendered wall.
- The planting consists of pleached hornbeam specimen trees, which would be planted along the western boundary. This is a deciduous broadleaf species. A pleached arrangement will provide an annual cover of foliage which is an appropriate screening mechanism which also provides for increased biodiversity.

### **(3) Protected Structure**

- Curtilage - No evidence is provided to substantiate the claim that the structure to be demolished forms part of the curtilage of the P.S. Nothing in the RPS description (Ref. 882) suggests that the curtilage of the PS extends beyond the immediacy of the Old Creamery structures which are described as “single-storey block to the south” and “the five-bay double height half-hipped block to the north”
- It is submitted that the site does not form part of the curtilage of the P.S. and that the proposal does not give rise to any adverse effects to the heritage value or amenity setting of Blackabbey Creamery. The gable wall will be restored including attention to structural stability and weather proofing.
- The Board has previously granted permission for re-development of the site under PL13.228114. This included demolition of the same structure which adjoins the northern Old Creamery, and no impact was identified on the heritage value or amenity setting of the PS, despite the same designation.
- No objections or comments have been made by the Dept. of Culture, Heritage and the Gaeltacht in respect of heritage grounds.

### **(4) Wayleave**

- The developer has proposed an alternative method of surface water disposal. It is proposed to collect and discharge surface water through a proposed surface water pipe which shall discharge directly to the existing 300mm

surface water pipe that runs along the public road. This existing pipe runs alongside the front boundary of the site. Drawing No. H021L-001 RevP4 refers.

- The revised arrangement does not require any third-party consent as it does not run across any third-party lands yet satisfies the requirements for surface water disposal.

### **6.3. Planning Authority Response**

The P.A. has not responded to the grounds of appeal.

## **7.0 Assessment**

I consider that the issues arising can be assessed under the following headings:

- Principle and density of development
- Design, scale, layout and mix of development
- Residential amenity
- Impact on Protected Structure
- Adequacy of drainage arrangements
- Environmental Impact Assessment
- Appropriate Assessment

### **7.1. Principle and density of development**

- 7.1.1. The site is located on lands which are zoned Existing Residential, although neither the appeal site nor the site to the west are in residential use. However, the site is a brownfield agricultural/industrial site and the adjoining site (Old Creamery) was also last used as a commercial site (shop, preceded by a creamery). The overall area is however characterised by established residential development, but the area is transitional in nature with a semi-rural character and there are several agricultural fields and one-off houses in the vicinity. Nevertheless, the site is within easy walking distance of the main street of Adare and the site to the east, between it and the town

centre, has recently been developed as a small cul-de-sac housing estate. Adare is a Tier 3 town which is earmarked for growth at a sustainable level.

- 7.1.2. National policy, as expressed in the National Planning Framework (2018) and Sustainable Residential Development in Urban Areas Guidelines (2009) emphasises the need to make the most efficient use of zoned and serviced lands, which are close to towns and villages, with a good range of services and facilities. In such circumstances, there is strong support for increased densities. It is considered that the appeal site is one which could support increased densities in principle, in accordance with national policy, as it is situated within walking distance of the town centre (140m) and the wide range of facilities on offer.
- 7.1.3. It is further noted that the Guidelines on Design Standards for New Apartments (2018) regards locations that are within reasonable walking distance of town centres (Intermediate Urban Locations within 800-1000m) as ones that are generally considered suitable for medium-high density residential development of any scale but broadly >45 dwellings/ha. As the site is zoned 'Established Residential' in the Adare Local Area Plan and is within 400m of the town centre, the density of the proposed development at an estimated 39 dwellings/ha at this location, is in accordance with the objectives of the National Planning Framework, the Design Standards for New Apartments Guidelines (2018) and the Sustainable Residential Development in Urban Areas Guidelines (2009), and would facilitate the achievement of the objectives of the Development Plan and Local Area Plan for the area. The proposed development is, therefore, considered to be acceptable in principle.
- 7.1.4. The prevailing density and character of the lands in the vicinity is, however, considerably lower. The lands to the east and southwest are generally more consistent with an edge of town location, (20-35dw/ha) but the lands to the west and south are generally one-off houses in a linear form of low-density development. The proposed density of 39dw/ha. would however be well within the recommended density for more centrally located sites of 35-50dw/ha, such as this one, which is considered to be a medium density. It is also noted that the site is a brownfield site which has lain vacant for many years and that the building on the site to the immediate west is a large detached structure which is also a vacant commercial building. The appeal site was also the subject of a planning permission,

(PL13.228114 - now withered), which was for a development with a much higher density. Thus, it is considered that the density proposed is appropriate in this instance.

## **7.2. Design, scale, layout and mix of development**

- 7.2.1. The site is a brownfield site with generous road frontage, in which the existing buildings are set well back from the road. The agricultural/industrial structures do, however, directly adjoin the rear sections of the western and eastern boundaries and the entire rear (northern) boundary. The removal of these industrial type structures, which do not appear to have any architectural merit, is a positive element of the proposed development, as they have been vacant for many years and detract from the amenity of the area. The proposed development of apartments in two blocks is consistent with the permission granted by the Board on the site in 2008 for 14 apartments (228114). Although the layout and number of apartments differs, an apartment development was accepted in principle by the Board on the basis that it provided for a mix of units in an overall area that has hitherto been developed for individual housing units, particularly in light of the close proximity to the town centre.
- 7.2.2. The scale of the development has been reduced significantly from 14 no. apartments permitted in 2008 to 9 no. apartments currently proposed. The height of the blocks is generally consistent with established development in the vicinity but the scale, bulk and mass of the proposed blocks deviates from the pattern of existing residential development in the area. It is noted that the layout of the previously permitted scheme had directly addressed Blackabbey Road with a smaller front setback, (similar to that of the Old Creamery), and that the parking area was accessed by means of an arch through the development.
- 7.2.3. The layout of the current proposal is more akin to the orientation of the detached Old Creamery building which is orientated on a North-South axis with the principal elevation facing east. The scale and bulk of each block is also similar to that of the Old Creamery building. However, the proposed development is setback by 13.3m from the front boundary with the parking provision in the foreground. It is considered that this allows for a layout which respects the prominence of the Old Creamery in the streetscape and fits in with the boundary treatment of the adjoining development to the east. It also removes the parking bays from the apartment blocks which allows



for an innovative layout with a central landscaped strip. It is considered, however, that should the Board be minded to grant permission, a condition should be attached requiring more robust screen planting, such as hedging, along the roadside boundary in the interests of visual amenity.

- 7.2.4. The proposed layout provides for private amenity space mainly in the form of east or west facing gardens and balconies with a centrally located public open space that would be overlooked and readily accessible by all apartments. There is also a shaded/covered area of open space with seating in the form of a pergola covered area. It is considered that the provision of open space and private amenity areas is of a high standard. It is further noted that the previously permitted development had included a mix of balconies and courtyards as well as a centrally located area of public open space.
- 7.2.5. The design of the apartment blocks introduces a new form of development to the streetscape. The blocks are quite bulky with a dense massing, and are both tall and imposing. Their scale, mass and bulk are accentuated by the orientation of the blocks with the longer side elevations presenting to the street. The use of a homogenous material with smooth-rendered stone coloured walls further highlights the scale of the buildings. It is considered that a combination of the shallow and hipped roof profile, the siting of the single-storey structures in the foreground and the setting back of the development from the roadside boundary help to reduce the scale and bulk of the blocks. However, this would be further improved by robust screen planting along the roadside boundary and by breaking up the homogeneity of the side elevations facing the street. This could be achieved by a variety of means, (such as use of colour, texture, ornamental details or additional fenestration), details of which could be agreed with the Planning Authority, should the Board be minded to grant permission.
- 7.2.6. It is considered, therefore, that the proposed development, in terms of its scale, bulk, mass, height, design and siting, would be readily absorbed into the existing built form within the overall site and on adjoining lands, subject to the amendments suggested above. It is further considered that the proposal would not result in overdevelopment of the site or in a visually obtrusive element in the streetscape and would not injure the visual amenities of the area.

### 7.3. Residential amenity

- 7.3.1. The appellant has expressed concern regarding the loss of privacy from the proposed glass balconies on the western elevation and loss of light from the proposed pleached hedging along the common boundary, which is intended to mitigate any loss of privacy. The appellant's property is a substantial part single-storey, part two-storey former industrial building with a pitched roof, which is a Protected Structure. It is L-shaped and is set back from the common side boundary wall by approx. 9.5-11.0 metres, apart from the northern section at the rear, which is attached to one of the barn structures. The boundary is defined by a masonry wall which runs along the entire length of the boundary with the appeal site. The principal elevation of the southern section faces east, towards the appeal site and the principal elevation of the northern block faces south with the eastern end of this block being integrated into or attached to the barn structure on the appeal site.
- 7.3.2. It has been pointed out by the developer, however, that the building is not in residential use and that a refusal on the grounds of potential injury to future speculative interests would be inappropriate. It is further pointed out that the layout of the proposed development achieves c.22m window-window distance at this location. It is conceded that the northernmost block, which is sited 6.2m from the boundary, would face the gable wall of the adjoining property, but it is submitted that there is little prospect that windows would be inserted into this gable wall in the future as it is on the boundary.
- 7.3.3. I would agree that the proposal would not, therefore, give rise to any significant degree of overlooking from the balconies, apart from the first-floor unit of the middle block (Unit 4 on Drg. No. 19-031-206), as Unit 1 is single storey. I would also agree with the third party, however, that the height of the proposed pleached hedge (3.7m) could give rise to some overshadowing of the open space area to the east of the Old Creamery. The proposed hedging extends along the boundary to the rear of Block 1, including the single-storey dwelling. It is considered that alternative means of landscape screening should be used which would address the potential overlooking from the balcony yet not extend along the boundary at such a height. Notwithstanding this, given the separation distances and relative heights, together with the location and height of the boundary wall, it is considered that the proposed

apartment block would not give rise to any significant level of overshadowing of the property to the west. It is considered, therefore, that the residential amenities of adjoining properties would not be unduly affected by the proposed development, subject to the amendments discussed above.

- 7.3.4. The main provision for private amenity space is in the form of private rear gardens and patios for the ground floor units, with balconies for first floor units. The garden areas vary in size with the largest areas to the rear of Block 1 (Units 1-3). However, each garden is in excess of 48m<sup>2</sup>. The County Development Plan (2009 as extended and varied) does not specify a minimum garden size for infill residential development of for apartments, but states it will be assessed on a site-specific basis. The Design Standards for New Apartments Guidelines (2018) requires 7sq.m to 9sq.m for 2- and 3-bedroom apartments (respectively). Table 10.1 of the CDP requires a distance of 22m between dwellings (rear garden depth) to protect privacy, sunlight and to avoid overlooking, but reductions can be considered in respect of single-storey dwellings and in innovative schemes where these issues can be satisfactorily addressed. Thus, it is considered that the proposed private amenity space provision for the 2-bedroomed units is generally in compliance with these standards.

#### **7.4. Protected Structure**

- 7.4.1. The appellant has raised concerns regarding the impact of the proposed development on the Old Creamery Protected Structure. It is submitted that the appeal site forms part of the curtilage of the Old Creamery and that the future stability of the party wall was in question, as it would be exposed to the elements following demolition. The developer contends that there is no evidence to suggest that the appeal site forms part of the curtilage of the Old Creamery site and that the proposed development would not adversely affect the character or integrity of the Protected Structure. It is pointed out that the DCHG has not raised any objection to the proposed development.
- 7.4.2. Objective EH3 of the Adare LAP seeks to protect Protected Structures and to resist their demolition (in whole or in part), removal/modification of features of architectural importance and development that would adversely affect their settings. The northern portion of the Old Creamery Protected Structure appears to be physically attached to one of the barn structures that it is intended to demolish. The gable wall of the 2-

storey pitched roof structure is attached to the end of the barn, but a small section of the southern elevation of the barn appears to be rendered and painted the same colour as the Old Creamery building and there is a window on the first floor of it. The roof of the barn also extends as far as the gable wall of the older building. However, apart from that anomaly, the barn structure does not form part of the fabric of the Protected Structure. I would agree that no evidence has been provided that the appeal site forms part of the curtilage of the Protected Structure. Notwithstanding this, given the close proximity of the sites and the attachment of the barn to the northern section, I would accept that it may have formed part of the attendant grounds at some point in the past. In any case, the proposed development must be considered in terms of any impact it may have on the setting of this Protected Structure.

- 7.4.3. In this respect, it is noted that the Board had previously granted permission for the demolition of the industrial/agricultural buildings (228114) and for the construction of a development of 14 no. apartments. It is considered that the existing structures on the site do not contribute in a positive manner to the setting of the protected structure as they are not of any architectural merit and are in a neglected and poor state of repair. The derelict nature of the site detracts from the setting of the historic structure and their removal would be appropriate. The proposed apartment development is sufficiently removed from the Old Creamery building and its design and appearance is such that it does not detract from or compete with the Protected Structure.
- 7.4.4. Given that it is proposed to remove the majority of the barn structure that is currently attached to the northern portion of the Old Creamery, it is considered that measures should be taken to ensure that the retained wall which will become the north-eastern gable wall of the Old Creamery is appropriately weather-proofed and stabilised if necessary. The developer has given a commitment (letter to P.A. dated 27<sup>th</sup> August 2019) that he “is fully committed to providing any structural stabilising elements to the remaining party wall and to weatherproofing what will become the exposed party wall”. It was envisaged that this would be enforceable by means of a planning condition on any permission. It is considered that a detailed method statement should therefore be required to be submitted for the approval of the planning authority prior to commencement of construction works, and that a bond be required to ensure that the works are carried out in accordance with such details.

7.4.5. Thus, should the Board be minded to grant permission for the proposed development, it is considered that suitably worded conditions should be attached requiring the retention of the existing or construction of a new gable wall which shall be weather-proofed, together with the submission of detailed structural drawings and a method statement indicating the means proposed to ensure the structural stability of the wall to the P.A. for its agreement, as well as the payment of a bond.

#### **7.5. Adequacy of drainage arrangements**

7.5.1. The developer's response to the grounds of appeal (3<sup>rd</sup> March 2020) included a revised drawing (H021L-001 Rev P4) and a revised proposal for drainage arrangements. Instead of relying on the wayleave through the adjoining site, it is now proposed to collect and discharge surface water directly through the appeal site by means of a proposed surface water pipe which will discharge directly to an existing 300mm diameter surface water pipe which runs along the public road. The revised arrangements are accompanied by a letter from the project engineer which states that he is satisfied that the proposed method of collection and discharge has sufficient capacity to accommodate controlled discharge of surface water from the development.

7.5.2. The first party has advised that it had come to light following discussions with Limerick City & County Council subsequent to the P.A. decision, that there is an existing 300mm public stormwater pipe running along the roadway to the south of the site, which discharges to a watercourse to the south-west of the site. It was further advised that it is proposed to attenuate the stormwater collected within the site and that it would be released into the public storm water sewer in a controlled manner at greenfield rates, using a hydro-brake flow control device. Thus, the revised arrangements would avoid any need to traverse the appellants' lands. It is considered that should the Board be minded to grant permission, appropriately worded conditions should be attached which require the developer to comply with the requirements of Irish Water and the planning authority.

## 7.6. Other matters

- 7.6.1. **Need for Management Company** – although several conditions of the P.A. decision refer to the need to carry out certain works and for maintenance until such time as the development is taken in charge, I can find no reference in the submissions as to whether it is intended that the development will be taken in charge. Neither is there any condition requiring the establishment of a Management Company. However, Condition 14 requires the establishment of a management scheme for the adequate on-going maintenance of open space areas, bin storage, roads, footpaths etc. and the submission of details for the approval of the P.A., and the reason given is to ensure adequate future maintenance of this private development.
- 7.6.2. It is considered, therefore, that a Management Company is required. I would agree that should the Board be minded to grant permission that a condition requiring the establishment of a Management Company should be attached to any such permission in order to ensure that the communal areas are appropriately managed and that the payment of a bond should be required, as discussed in 7.5 above.
- 7.6.3. **Nature conservation – Bats** – the Dept. of Culture, Heritage and the Gaeltacht (NPWS) advised (22/07/19) that bats may be present in the buildings and stated that a bat survey should be carried out by a suitably qualified ecologist prior to making a decision on the application. However, no such survey was submitted to either the P.A. or to the Board. It is considered that the matter could be addressed by means of a condition of any permission requiring the developer to submit detailed measures for the protection of any bats/bat roosts that might be present to the P.A. for approval prior to the commencement of development.
- 7.6.4. **Part V Social and Affordable Housing** – the application was accompanied by an Exemption Certificate in respect of Social and Affordable Housing.

## 7.7. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development within the development boundary of Adare town on serviced lands, 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.

## 7.8. Appropriate Assessment

- 7.8.1. The site is located within 650m of Lower River Shannon SAC (site code 002165) and is within 5-7km of a further four European sites. Curraghchase Woods SAC (000174), River Shannon and River Fergus Estuary SPA (Site code 004077), and Askeaton Fen Complex SAC (002279) are situated to the north and northwest of the site and Tory Hill SAC (000439) is located to the south-east. There are no known hydrological links to the protected sites. Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on a brownfield site and on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

## 8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be **granted** for the following reasons and considerations subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the planning history of the site, to the location of the site within the development boundary of Adare and in close proximity to Adare Town Centre, which is zoned 'Established Residential' in the Adare Local Area Plan (2015 - 2021, as extended and varied), and to the national and local policy objectives to encourage increased densities in such locations, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area and would be acceptable in terms of traffic safety and convenience. 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 to the planning authority on the 23<sup>rd</sup>

day of September 2019 and the 6<sup>th</sup> day of December 2019, and to the Board on the 3<sup>rd</sup> day of March 2020, 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 proposed development shall be amended as follows:-

(a) The revised front boundary treatment and entrance as shown on Site Layout Plan 19-031-202 Rev. B (submitted 23/09/19) shall be implemented with an additional hedgerow planted inside the railings to screen the car parking bays from the street.

(b) The proposed pleached hornbeam hedge along the western boundary shall be omitted and shall be replaced by two semi-mature specimen trees to the rear of the centrally placed units of Block 1 (Units 2-3 on Site Layout Plan 19-031-202 Rev. B).

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the residential and visual amenity of the area.

3. The remaining party wall on the north-eastern gable of the Old Creamery building which will form part of the western boundary of the site shall be retained and restored with weather-proofing and stabilisation where necessary as part of the proposed development. Detailed structural drawings and a construction method statement indicating the means proposed to ensure the protection of the structural stability of the wall to be retained shall be submitted and agreed with the Planning Authority prior to commencement of works on the site. These details shall include the methods proposed to protect the foundation system including an



underpinning, structural bracing and support and the method of construction and weather-proofing.

**Reason:** To ensure that the boundary wall is maintained and protected from any unnecessary damage.

4. Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water. No dwelling shall be occupied until water and sewerage services serving the development have been installed and functioning in accordance with the connection agreements made with Irish Water.

**Reason:** To ensure that satisfactory water and wastewater arrangements are in place to serve the development.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

7. The internal road network serving the proposed development, including turning bays, junctions, parking areas, 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 management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

9. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations 2001, or any statutory provision modifying or replacing them, no room in the proposed dwelling units shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission

**Reason:** In the interest of residential amenity.

10. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 21<sup>st</sup> day of June 2019, as amended by Site Layout Plans submitted to the Planning Authority on 23<sup>rd</sup> day of September 2019 and on the 6<sup>th</sup> day of December 2019 and by the terms of Condition 2 of this order. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

11. Prior to the commencement of development a bat survey shall be carried out by a suitably qualified ecologist. Detailed measures in relation to the protection of any bat roosts or bats that may be present shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

**Reason:** In the interest of wildlife protection.

12. 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. Such lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interest of amenity and public safety.

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 interest of visual and residential amenity.

14. The landscaping scheme on the drawing entitled Landscape Plan as submitted to the Planning Authority on the 21<sup>st</sup> day of June 2019, and as amended by the Site Layout Plans as submitted to the Planning Authority on the 23<sup>rd</sup> day of September 2019 and on the 6<sup>th</sup> day of December 2019, and as amended by the terms of Condition 2 of this Order, shall be carried out within the first planting season following substantial completion of external construction works.

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 5 years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, 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 interests of residential and visual amenity.

15. Proposals for an estate/street name, housing 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. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the

developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

16. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

17. Construction and demolition waste shall be managed in accordance with a construction waste management and demolition plan which shall be submitted to and agreed in writing with the planning authority prior to commencement of development on the site. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects" published by the Department of Environment, Heritage and Local Government in July 2006. The Plan shall include details of waste to be generated during site clearance and construction phases and details of the methods and location to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provisions of the Waste Management plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

18. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional

circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

19. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, off-site disposal of construction/demolition waste, dust suppression, pest control, bunding of oil containment facilities and measures for the prevention of silt/sediment from entering any watercourse of drainage system.

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

20. 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, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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.

21. 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.

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**Mary Kennelly**  
**Senior Planning Inspector**

**12<sup>th</sup> May, 2020**