



An  
Bord  
Pleanála

## Inspector's Report ABP-307848-20

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<b>Development</b>	Permission for the construction of two detached houses and connection to on site water services.
<b>Location</b>	Hillcrest Manor, Rossary More, Newport, Co. Tipperary.
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	20/65
<b>Applicant(s)</b>	McKeogh Brothers (Ballina) Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party(s) V Grant
<b>Appellant(s)</b>	(1) Emmet & Majella Maher (2) Karen & Darren Bourke (3) Shane & Fiona Murphy (4) Patrick & Yvonne O'Neill
<b>Observer(s)</b>	None received.
<b>Date of Site Inspection</b>	23rd October 2020
<b>Inspector</b>	Fergal O'Bric

## **1.0 Site Location and Description**

- 1.1 Newport is a town in north-west Tipperary, located approximately 18 kilometres west of Limerick City and approximately 6 kilometres south-east of Castleconnell, close to the Limerick county border. The town is located west of the Silvermines Mountains and Slievefelim Mountain and in the foothills of Keeper Hill. The appeal site is located to the south of the town and is accessed via an internal access road serving the Hillcrest Manor residential development, which in turn is accessed off a local county road, within the 60 km/h speed control zone.
- 1.2 The appeal site has an area of 0.19 hectares and is located approximately one kilometre south of the town centre. The appeal site is located within the northern part of the residential development, and comprises an on-site builders compound area, serving the Hillcrest development which is substantially complete, in that forty one dwellings are constructed and the majority are occupied.
- 1.3 To the east and north-east of the site are two-storey detached dwellings within the Hillcrest development. To the west are numbers 1-4 Hillcrest and a stand-alone two storey dwelling outside of the Hillcrest development, and to the north are undeveloped agricultural zoned lands. To the south is an area of landscaped open space which is largely to remain in situ under the current proposals, though a portion of same (67.5 square metres) will be incorporated within the curtilage of the single storey dwelling

## **2.0 Proposed Development**

- 2.1 The development proposal comprises:

Construction of two dwellings, one a two-storey detached dwelling, immediately west of number 41, Hillcrest and another, a single storey dwelling to the rear of numbers 1-4 Hillcrest. The existing internal access road would be extended to serve the two dwellings, and the development would connect into existing on-site water services and associated site works.

- 2.2 The two-storey dwelling would have a ridge height of 8.4 metres and a floor area of approximately 172 square metres (sq. m.). The single storey dwelling would have a maximum ridge height of 5.2 metres and a floor area of approximately 146 sq. m. External finishes would comprise rendered plaster and concrete roof tiles/slates, consistent with the finishes within the residential development.
- 2.3 The layout would continue the established built form around the perimeter of a central public open space area, of 4,700 sq. m., with another landscaped open space area (320 sq. m) in front (south-east) of the proposed single storey dwelling. The existing watermains and foul sewer network within the development would be utilised.
- 2.4 Access is proposed from the existing internal service road serving the Hillcrest Manor residential development. The development is served by two-metre wide footpaths and street lighting. It is proposed to continue the internal footpath and streetlighting along the frontage (south) and side of the proposed dwellings. Two on-site car parking spaces per residential unit would be provided.
- 2.5 Further information was submitted in relation to: Detailing open space provision for the two units and the Hillcrest development as a whole; Design and siting of the single storey dwelling; Details of the boundary treatment for the single storey dwelling; Auto-track analysis for the extended internal access road; Details of off-street parking for both residential units.
- 2.6 Clarification of further information was submitted in relation to: Relocation and re-orientation of the single storey dwelling within the site; Separation distances between the flanks of the residential units; Provision of a ten metre wayleave to provide an access to lands to the north in the future; Boundary treatments and landscaping within the appeal site.

## **3.0 Planning Authority Decision**

### **3.1 Decision**

The Planning Authority granted planning permission for the development subject to fourteen planning conditions. The following are considered to be the relevant planning conditions:

Condition number 1 (c) Permission is granted for Site Layout option B1, on drawing number 81/57-02-01, as submitted to the Planning Authority on the 22<sup>nd</sup> day of June, 2020.

Condition number 2: Developer to enter water and wastewater agreement with Irish Water.

Condition number 11: Submission of a Construction Traffic Management Plan.

Condition number 13: Development Contributions.

Condition number 14: Insurance bond.

## **3.2 Planning Authority Reports**

3.2.1 The Planner's Report dated the 10<sup>th</sup> of July 2020 set out the following:

- Accepted the principle of residential development on this section of the site, comprising the on-site compound.
- Recommended that permission be granted for the two residential units as submitted on foot of the response to the clarification of further information request, subject to the conditions as summarised in Section 3.1 above.

## **3.3 Technical Reports**

Roads & Transportation and Public Safety: No objection, subject to conditions.

District Engineer: No objection, subject to conditions.

## **3.4 Prescribed Bodies**

Irish Water: No objections, subject to complying with condition number thirteen of original planning permission on site in under Planning Authority reference number 04/51/1611. This condition pertained to the submission of wayleave agreements to traverse lands for the disposal of foul and surface water.

## **3.5 Third Party Observations**

A number of third-party submissions from neighbouring residents were received which included similar issues to those raised within the appeal submissions.

## **4.0 Planning History**

4.1 The following is considered to be the relevant planning history pertaining to the appeal site:

Planning Authority reference number 19/60/0078. In 2019, planning permission was granted to retain substructures for four dwelling units and to complete these houses as previously permitted.

Planning Authority reference number 12/51/0037. In 2012, planning permission was granted for retention and completion of amended dwellings previously permitted on site.

Planning Authority reference number 06/51/1293. In 2006 planning permission was granted for amendments to the previous permission, in the form of additional sunrooms, amended numbering and an additional house.

Planning Authority reference number 04/51/1611. In 2004 planning permission was granted for the development of thirty-nine two storey dwelling houses, service road, entrance, and all associated site development works.

## **5.0 Policy Context**

### **5.1 Development Plan**

5.1.1 North Tipperary County Development Plan 2010-2016 (as varied).

Within the Newport Settlement Plan (as set out within Part 2 of the Development Plan), the site is zoned as existing residential where the objective is: To preserve and enhance existing residential development and residential amenity and provide for additional facilities where gaps are identified.

### **5.2 Natural Heritage Designations**

None relevant.

## 6.0 The Appeal

### 6.1 Grounds of Appeal

6.1.1 Appeals against the decision to grant planning permission have been submitted by four of the neighbouring residents from within the Hillcrest development. The main issues raised by the appellants may be summarised as follows:

#### Design & layout:

- Under a previous planning application, a two-storey unit was removed as part of a further information response.
- The single-storey dwelling would be out of character with the established pattern of two storey development within the Hillcrest residential scheme.
- The existing development is low-density, and this character should be maintained.
- The appeal site should be developed as an area of public open space.
- The layout as presented, does not represent the most sustainable use of the lands.
- The proposed development will result in a loss of public open space.
- The most recent purchasers within the development understood there would be no further development within the scheme.

#### Residential Amenity:

- The proposed two storey dwelling will block light and overshadow the existing neighbouring dwelling.
- The residential amenities of neighbouring dwellings would be unduly impacted upon.
- That LED bulbs in the street lighting would impact upon the amenities of adjacent residents.
- The existing public lighting within the development is already too strong.
- The proposal would result in the devaluation of neighbouring residential properties.

- The development of the two houses would result in unacceptable noise and fumes being experienced by neighbouring residents arising from the construction works.
- Public open space within the development has not been completed.

#### Access, traffic and Car Parking:

- There is no specific mention of a road access within the public notices.
- The unsightly access road meets a dead end at a ditch.
- The bend in the proposed extended internal access road could result in the creation of a bottleneck.
- The proposals will result in greater traffic congestion on the local rural roads.
- The proposals will result in a loss of shared car parking and greater pressure on the shared car parking within the development.
- Safety of children crossing from one green area to another would be compromised.
- The proposals provide for an access road to potential future development of an existing agricultural field.
- There is no footpath or public lighting connecting the development to the town.
- The entrance to Hillcrest development is on a bend and has no capacity to cater for additional development.
- There is only one car parking space proposed for the single storey dwelling.
- The proposed turning area is not consistent with the turning areas within the remainder of the development.
- Access would be restricted for emergency vehicles.
- The development would result in parking on footpaths within the development.
- The road layout represents a traffic safety concern, traffic calming measures would be required.
- The layout would cause difficulties for bin lorries and other service deliveries/collections.

Other Issues:

- The proposals are being brought forward to apparently comply with the provisions of Project Ireland 2040 in terms of increased densities but, would not comply with densities outlined within the Newport Settlement Plan.
- The date the site notice was erected differs from the date set out on the site notice.

## **6.2 Planning Authority Response**

6.2.1 The Planning Authority made the comments in relation to the planning appeal.

- The development was permitted in accordance with the North Tipperary Development Plan 2010 (as varied).
- The Site is zoned: Existing Residential within the settlement boundary of Newport.
- The design of the dwellings would not negatively impact upon the amenities of adjoining dwellings.

## **6.3 First Party response to appeal submissions**

6.3.1 A response was received from Michael Barker, Chartered Architect, on behalf of the applicants, McKeogh Bothers (Balina) Limited in relation to the issue raised by the appellants. It includes:

Design & Layout:

- The area to the rear of units 1-4 was not well designed within the original permitted scheme.
- The proposals will make use of otherwise unused serviced land, will provide for a variation in house types within the development, more suitable for residents with mobility issues.
- Under the proposals, soft screening will be provided to the rear boundary walls of numbers 4 and number 43.



- The angle of the ridge height of the single-storey dwelling has been reduced, reducing the ridge height to approximately five metres above ground level.
- Number 42 will continue the building line of two storey dwellings to its east, and would be 26 metres from the nearest dwelling to the west and forty metres from the nearest dwelling to its south.
- The existing residential density is 11.8 units per hectare, the current proposals will increase the density to 12.4 units per hectare.

#### Residential Amenity:

- The proposals will involve the development of a single storey dwelling which will screen the rear private spaces of units 1-4 and yet, not overlook them, by virtue of its low-level ridge height, at 5.2 metres.
- 21% of the site area is set aside as public open space within the Hillcrest development.
- The proposals will not diminish the privacy of existing dwellings, but address a flaw within the original design and layout.

#### Other Issues:

- The residential development was purchased two years ago by the current developers as an un-finished housing estate, and now the roads, open spaces and houses are nearing completion.
- The proposals will provide for an improved layout, will make use of zoned serviced land, allow for the completion of the Hillcrest residential development and, therefore, enhance values of the dwellings within the development.

## 7.0 Assessment

7,1 The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

Design and Layout.

Residential Amenity.

Access, Traffic and Parking.

Other Issues.

Appropriate Assessment.

## **7.2 Design and Layout**

- 7.2.1 From the planning history documentation submitted, it is apparent that the appeal site was originally designated as an area of public open space. However, its layout and configuration does not lend itself to use as public open space, given that the area is not directly overlooked by any of the existing dwellings within the development. It is also evident that the development is well served by a large area of centrally located public open space. It is, therefore, reasonable for the developer to seek to make a better and more sustainable use of this part of the overall residential scheme.
- 7.2.2 The proposed two-storey dwelling, on site number 42, would continue and complete the line of dwellings of similar design, along the northern and eastern boundaries of the development. The proposed single storey dwelling, on site number 43, would constitute a bespoke design, to best fit into the remaining part of the lands. It is a departure from the prevailing house type, however, I do not consider that it would be out of character in any negative sense. The additional houses would maintain the low-density nature of this development.
- 7.2.3 Therefore, I am satisfied that the proposed development is acceptable from a layout and design perspective, and, would accord with the proper planning and sustainable development of the area.

## **7.3 Residential Amenity**

- 7.3.1 In terms of amenity, it is acknowledged that the proposals will result in a reduction in public open space within the overall development. However, approximately 21% of the site area would remain as public open space, which is considered generous and exceeds Development Plan standards.
- 7.3.2 It is not considered that the issue of overshadowing/overlooking would arise in this instance, having regard to the orientation of dwellings within the development, the separation distances between dwellings, the existing and proposed boundary treatment, the proposed pitched roofs, and the pathway of the sun.

- 7.3.3 The proposals will allow for the completion of the residential scheme, and the removal of the on-site builders compound, and its removal will also coincide with the completion of construction works within the development, first permitted in 2004. This would result in the betterment of residential amenities for the residents of Hillcrest, in that construction noise, vibration, dust and fumes would be finally removed from their residential development.
- 7.3.4 Therefore, I am satisfied that the proposed design and layout would not negatively impact upon the amenities of neighbouring residential properties.

#### **7.4 Access, Traffic and Parking**

- 7.4.1 The layout as permitted by the Planning Authority, is site Layout B1, on drawing number 81/57-02-01, as submitted to the Planning Authority on the 22<sup>nd</sup> day of June 2020. From the documentation submitted, it is apparent that the latest roads layout came to fruition following consultation with the engineers from within the Local Authority. The roads layout and particularly the turning circle has resulted in an unconventional layout, particularly with regard to the front garden space of number 42. It would appear that this layout is dictated by the roads, foul and water services network routes. I note that neither the District Engineer nor the Roads and Transportation Sections of the Local Authority raised any objections to the proposed traffic/parking proposals.
- 7.4.2 There is an existing service road within Hillcrest Manor. The additional vehicular movements associated with the dwellings would not be material, relative to that generated by the existing residential development.
- 7.4.3 In conclusion, I am satisfied that the proposed residential development is in accordance with the Development Plan standards. I would not accept that the current proposal, in itself, would exacerbate traffic nor parking issues within the overall development.

#### **7.4 Other Issues**

- 7.4.1 It is noted that the site notice as submitted to the Planning Authority was deemed to be in accordance with the provisions as set out within Part 4, Sections 19 and 20, of the Planning and Development Regulations 2001 (as amended).

#### **7.5 Appropriate Assessment**

7.5.1 Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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

I recommend that planning permission be granted.

## 9.0 Reasons and Considerations

Having regard to the location of the site on residentially zoned lands in the Newport Settlement Plan, and to the development standards in the North Tipperary County Development Plan 2010-2016 (as varied), it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity. 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 by way of further information to the Planning Authority on the 30th day of April 2020, and as further amended by way of clarification of further information to the Planning Authority on the 22nd day of June 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 Permission is granted for:
- Site Layout Option B1, on drawing number 81/57-02-01, submitted to the Planning Authority on the 22<sup>nd</sup> day of June 2020.

**Reason:** In the interest of proper planning and sustainable development and residential amenity.

- 3 All rear gardens shall be bounded by block walls, 1.8 metres in height, capped, and rendered, on both sides, to the written satisfaction of the planning authority.

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

- 4 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.

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

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

- 6 Proposals for 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

7 Water supply and drainage arrangements, including 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.

8 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.

9 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.

10 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.

11 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 the two houses.

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

12 Prior to the 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.

- 13 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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Fergal Ó Bric  
Planning Inspectorate

23rd November 2020