



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308119-20

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<b>Development</b>	Permission for the construction of a dwelling house
<b>Location</b>	Newpark , Roslevan , Co Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	20396
<b>Applicant(s)</b>	Noel & Geraldine O'Rourke
<b>Type of Application</b>	Outline Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Noel & Geraldine O'Rourke
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> December 2020
<b>Inspector</b>	Mary Crowley

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## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.07ha is located within the settlement of Ennis to the north of Newpark Road and within the curtilage of an existing house two storey uninhabited house located to the south east. There is also a large 2 storey detached house on the adjacent site to the to the north west. The site is elevated above the adjoining road with a hedge interspersed with some tall trees to the front of the site. the general area is characterised by residential density of varying density from large individual linear plots to suburban residential housing estates. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

## 2.0 Proposed Development

- 2.1. Outline planning permission is sought for the construction of a dwelling house ancillary site works and a connection to the public services.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Clare County Council issued a notification of decision to refuse permission for reasons of character, overdevelopment and traffic safety as follows:

*Having regard to the site size and configuration, the established character and pattern of development in the vicinity of the site, it is considered that the proposed development which results in the creation of an independent residential unit on this site, would result in a form of development which is out of character with the existing pattern of development in the area, would constitute over development of the site, and would set an undesirable precedent for similar developments in this area. Furthermore, it is considered that the achievement of adequate sight distances at the proposed access point would result in the excessive removal of trees and hedgerow along the roadside boundary. The proposed development would therefore seriously inure the*

*residential amenities of the area, and depreciate the value of property in the vicinity, would have adverse impacts on traffic safety and the visual amenities of the area and would therefore be contrary to the proper planning and development of the area.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- The Case Planner recommended that permission be refused for reasons relating to character, overdevelopment and traffic safety. The notification of decision to refuse permission issued by Clare County Council reflects the recommendation.

### **3.2.2. Other Technical Reports**

- None

## **3.3. Prescribed Bodies**

### **3.3.1. None**

## **3.4. Third Party Observations**

### **3.4.1. None**

## **4.0 Planning History**

4.1. There is no evidence of any previous planning application on this site or subsequent appeal. There was a previous planning application across the road to the south east as follows:

- **Reg Ref 18/983** – Planning permission granted to Francis & Emily Cleary demolish an existing garage and to refurbish the existing house and to construct a living / dining / kitchen extension, a new garage and associated site works and to relocate the site road entrance.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Clare County Development Plan 2017 – 2023 (as varied) Ennis Municipal District**. The site is located within an area zoned as “**Existing Residential**” where the objective is *to conserve and enhance the quality and the character of the areas, to protect residential amenities and to allow for small-scale infill development which is appropriate to the character and pattern of development in the immediate area and uses that enhance existing residential communities.*

### 5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. It is noted that the Lower River Shannon SAC (002165) is located c.0.25 km to the south of the site.

### 5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The first party appeal has been prepared and submitted by Leahy Planning Ltd and may be summarised as follows:
- The proposal represents a sustainable pattern of development in an area in which services are available and which is close to the urban amenities of Ennis.
  - The site is fully serviced with the benefit of water mains and public sewer and accessed from the Newpark Road, where the 50km/h speed limit applies.

- Section 28 Government Guidelines have for the last 20 years or more stressed the importance of increasing densities in urban and suburban areas including the use of infill sites in suburban areas.
- The proposed development is entirely appropriate to its surroundings and will introduce a varied house type to the area which is in accordance with government guidance.
- The area of the site is 0.07 ha and is more than adequate to provide for a dwelling house together with a substantial amenity space for residents.
- The proposal discharges to a very lightly trafficked road and it can be accommodated without any risk to pedestrian or traffic safety. The planning authority received no adverse comments from the road authority.
- Significant developments have been allowed to access onto this road in the recent past.

## 6.2. Planning Authority Response

6.2.1. Clare County Council in their response set out the following:

- **Amenity Areas** – As per the Planners report it is considered that an adequate amenity area would be available for the dwelling and permission was not refused on this basis.
- **House Type** – It is noted that this is an application for outline planning permission and therefore details of the dwelling as set out in the application were therefore limited.
- **Integration with the Existing Built Environment** – The Planning Authority considers that the proposal would, in the context of its receiving environs, result in the over-development of the site, would result in the alteration of the existing settlement pattern of the area that is out of character with the area, and would set an undesirable precedent for other similar developments in the area.
- **Traffic Safety & Visual Amenities** – The removal of the roadside treeline would constitute the excessive removal of tree to accommodate the development and would have a significant adverse impact on the visual amenities and character of

this suburban area. Therefore, in the context of where the existing trees require retention the proposed access point would constitute a traffic hazard.

6.3. The Planning Authority requests that the Board uphold the reasons for refusal.

#### 6.4. **Observations**

6.4.1. None

#### 6.5. **Further Responses**

6.5.1. None

### 7.0 **Assessment**

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Character
- Density
- Traffic Impact
- Property Values
- Appropriate Assessment
- Other Issues

#### 7.2. **Principle**

7.2.1. The appeal site is wholly contained within an area zoned “Existing Residential” where the objective is to *allow for small-scale infill development which is appropriate to the character and pattern of development in the immediate area.* Accordingly, I am satisfied that the principle of a new house at this location is acceptable.



### **7.3. Character**

- 7.3.1. As documented above Clare County Council refused permission at this location for a single reason relating to inter alia having regard to the established character and pattern of development in the vicinity of the site the proposed development would result in a form of development which would be out of character with the existing pattern of development in the area.
- 7.3.2. Permission is sought for a single dwelling house on a compact infill site that is zoned for residential development. The area is characterised as a mature residential suburb with detached houses of varying sizes and types on relatively large sites together with a more recent higher density residential housing estate to the east of the site. A house is a compatible use at this location and to permit same, albeit on a smaller site than adjoining properties is nonetheless an efficient use of serviced lands. Accordingly, I do not consider that to permit a dwelling house on this site would be detrimental to the character of the area. It is recommended that this element of the reason for refusal be set aside.

### **7.4. Density**

- 7.4.1. Clare County Council in the same reason for refusal stated that the proposed development would constitute over development of the site and would set an undesirable precedent for similar developments in this area.
- 7.4.2. This a small infill site located in an area characterised by large independently accessed dwelling houses of varying sizes and types. As documented previously the site is located within the development boundary of Ennis, on serviced lands zoned for residential development where national, regional and local planning policy seeks to focus development.
- 7.4.3. While this is a compact site it cannot be considered to be overdevelopment to permit such a development at this location. Overall, I am satisfied that it can accommodate a suitably sized dwelling house without setting an undesirable precedent. It is recommended that this element of the reason for refusal be set aside.

## **7.5. Traffic Impact**

- 7.5.1. The reason for refusal also related to the excessive removal of trees and hedgerow along the roadside boundary in order to achieve adequate sight distances at the proposed access point.
- 7.5.2. I refer to the site plan submitted with the application together with site photos. In order to achieve adequate sight distances at the proposed access point it will be necessary to remove the mature roadside boundary at the appeal site and to reduce the hedge / tress on the parent site to the south to 1050mm. These works will essentially result in the removal of the entire existing roadside boundary to the overall site (appeal site and parent site).
- 7.5.3. While I appreciate the position of the Planning Authority it was observed on day of site inspection that the hedge is overgrown with ivy, is poorly maintained and is relatively easy to permeate. No trees of any substantial maturity were noted. I do not consider that the removal of this hedge in order to achieve sightlines to be excessive or detrimental to the visual amenity or character of the area.
- 7.5.4. Subject to the works proposed I am satisfied that the vehicular movements generated by the proposed development would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area.
- 7.5.5. It is recommended that this element of the reason for refusal be set aside.

## **7.6. Property Values**

- 7.6.1. In their reason for refusal Clare County Council also stated that the proposed development would depreciate the value of property in the vicinity. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity. It is recommended that this element of the reason for refusal be set aside.

## 7.7. **Appropriate Assessment**

- 7.7.1. Having regard to the nature and scale of the proposed development and its distance to 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.

## 7.8. **Other Issues**

- 7.8.1. **Development Contribution** - I refer to the Clare County Council Development Contribution Scheme 2017-2023. Section D - Reductions & Exemptions is not applicable in this case. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

## 8.0 **Recommendation**

- 8.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be **GRANTED** for the following reasons and considerations

## 9.0 **Reasons and Considerations**

- 9.1. Having regard to the zoning objective of the area and the general pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the character or visual amenities of the area or of property in the vicinity 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.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity</p>
2.	<p>Plans and particulars to be lodged for permission consequent on this grant of outline permission shall include:</p> <ul style="list-style-type: none"><li>(i) A detailed landscaping plan for the entire site.</li><li>(ii) Proposals for the roadside boundary treatment.</li><li>(iii) Proposals to protect the privacy and amenity of existing adjacent properties.</li><li>(iv) Design proposals which have regard to the design and character of the built environment in the vicinity.</li></ul> <p><b>Reason:</b> In the interest of clarity and to define the subject matter for consideration at permission consequent stage</p>
3.	<p>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.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>

5.	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health</p>
6.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p><b>Reason:</b> In the interest of visual amenity</p>
7.	<p>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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>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.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
9.	<p>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 the 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</p>

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 Crowley**

**Senior Planning Inspector**

**25<sup>th</sup> January 2021**