



An
Bord
Pleanála

Inspector's Report ABP 309269-21

Development	5 serviced sites and ancillary site works.
Location	Manor Brook, Graigue, Adare, Co. Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	20/1101
Applicant	Craterside Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Eithne O'Riordan and Others
Observer(s)	None
Date of Site Inspection	29/03/21
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.7597 hectares, is located to the south of Adare village and is accessed from a cul-de-sac road via a signalised junction off the N21. The road terminates at the Adare Recreation and Community Complex (Manor Fields) which comprises a mix of playing facilities and includes a playground. The road is served by a footpath and lighting. The road also serves a pitch and putt course, 2 no. housing estates, individual dwellings and a gated entrance to Adare Manor grounds.

The site which is roughly rectangular in shape, forms the southern most section of a partially completed residential development 'Manor Brook' comprising of a mix of semi-detached and two storey dwellings. The lands immediately to the south are undeveloped on which permission was refused for 68 dwellings under ref. 20/1165.

2.0 Proposed Development

Outline permission for 5 no. serviced sites for 5 no. detached dwellings and permission for services, roads and open spaces.

3.0 Planning Authority Decision

3.1. Decision

Grant outline permission and permission for the above described development subject to 18 conditions. Of note:

Condition 2: Section 48 financial contribution requirements.

Condition 4: Individual designs to comprise a mixture of house types with common themes.

Condition 5: Submission of revised site layout plan showing footpath widths, internal road widths, driveway dimension and gradients, junction radii, turning circle, road markings, signage including house numbers, cycle lane along front boundary and dishing of footpaths.

Condition 8: Stormwater infrastructure requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Area Planner's report notes the planning history on the site. The current site layout plan follows the same format as the previous permission ref. 15/978.

Contributions to be applied at permission consequent stage. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Fire Authority has no objection.

Environmental Technician has no objection subject to a condition.

Executive Engineer, Operations and Maintenance Services in a report dated 09/12/20 recommends further information seeking a revised site layout plan showing compliance with DMURS and provision of a cycle lane along the front boundary, surface water disposal details, car parking and public lighting.

3.3. Prescribed Bodies

Irish Water has no objection subject to conditions.

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those as set out in the 3rd Party appeal summarised in section 6 below. Reference is also made to compliance with Adare LAP in terms of community facilities and need for Traffic and Transport Assessment, sufficiency of lands zoned residential in Adare and storm water/surface water runoff.

4.0 Planning History

As per the details given in the Area Planner's report:

19/284 – permission granted for changes to previous permission 15/978 for 40 dwellings.

16/1171 – permission granted for change to storm water sewer layout granted under ref. 15/978.

15/978 – permission granted for 40 dwellings and 5 no. serviced sites.

Adjoining Site

20/1165 – permission refused for 68 dwellings on the lands immediately to the south for 3 reasons pertaining to density not consistent with zoning provisions for low density and serviced sites, insufficient estate/legal interest to provide wastewater pumping station and insufficient evidence that connection can be made to public services and inadequate details on roads and services.

5.0 Policy Context

5.1. Development Plan

Adare Local Area Plan 2015-2021

The site is zoned Residential Serviced Sites Phase 1 with the estate of which it will form part and which is partially constructed (to the north) within Residential Development Area Phase 1.

Residential Serviced Sites - Residential serviced sites offer a real alternative to individuals wishing to build and design their own houses in an urban setting with established services rather than the open countryside. Suitable edge-of-town lands have been identified within the LAP boundary that provide the opportunity to cater for these lower densities, so as to provide an alternative to sporadic development in the rural areas. Proposals for the development of serviced sites shall comply with objective H3 in Chapter 4 of this plan.

Objective H3: Serviced and low density sites:-

a) Promote lower density serviced sites in specified edge of village locations zoned 'Residential Serviced Sites', of no less than 0.1 hectares each. Larger sites than these will generally be required for houses exceeding 250 square metres or where the sites are of awkward configuration.

b) Require a masterplan/design brief for all serviced and low density sites and encourage within this, a high standard of design. The masterplan will show the

overall layout, infrastructure, services and landscaping for the whole of the serviced site development.

c) Ensure development of sites in Phase 2 can only proceed when at least 50% of all development in Residential Serviced Sites zoned areas Phase 1 is completed.

5.2. Natural Heritage Designations

The site is c. 1.5km to the south of the nearest point of the Lower River Shannon SAC.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Leahy Planning Ltd. on behalf of the 3rd party appellants can be summarised as follows:

- The proposal does not take due cognisance of changes in government policy since outline permission was granted under ref. 15/978 with particular emphasis on housing density. The proposal will result in a density of less than 6 houses per hectare which is approx. 10% of the suggested standard of 65 units per hectare recommended in the 2009 Guidelines on Sustainable Residential Development. The proposal is in clear breach of section 28 guidelines.
- Since the original permission considerable development has taken place in the provision of Manor Fields community facilities. This has not been recognised. No contribution has been sought in respect of defraying the costs of same.
- The layout will be dominated by its road network contrary to DMURS. It introduces an unnecessary new access point to the main access road.
- Excessive access points onto the main access road are not desirable and, given Manor Fields facilities to the south which is a substantial amenity and accessed by large number of children and pedestrians, the proposed entrance must be considered as contributing to the potential for traffic hazard. The

main access road was provided as a result of voluntary effort. The developer has benefitted from same and has made no contribution to its upkeep.

- In view of the current application for 68 dwellings on a site to the south there are concerns about haphazard/inappropriate development. It is queried whether adequate assessment has been carried out on the development in this area.
- The application does not contain any proposals for the improvement of local community facilities. The developer should make a special contribution towards the community costs involved in the Manor Fields project.

6.2. Applicant Response

The submission by McGill Planning on behalf of the applicant can be summarised as follows:

6.2.1. *Zoning Provisions and Density*

- The proposal accords with the Serviced and Low Density Sites zoning for the site and objective H3 of the Adare LAP.
- It accords with the Sustainable Residential Development in Urban Areas Guidelines in terms of objectives for the development of small towns and villages. The more recent section 28 guidelines are complementary and do not seek to supersede the earlier guidelines.
- The cited density of 65 units per hectare is not stated anywhere in national policy.
- The proposal, coupled with the housing units developed to the north, equates to a density of 16 units.
- The proposal does not constitute haphazard development. The proposal on the lands to the south for 68 dwellings was refused permission for reasons including contravention of the Residential Serviced Sites Phase 1 zoning.

6.2.2. Access and Traffic

- The internal roadways and open spaces of the overall development were designed and laid out under the original 15/978 permission with full regard to the DMURS guidelines in place.
- The layout of the development complies with DMURS (where relevant) and with the objectives of the LAP with further provision for connectivity to adjacent 'back-lands'.
- The proposed site entrance and access roadway are already permitted under ref. 15/978 and are currently under construction in the delivery of phase 2 (18 no. units).
- The entrance roadway has been upgraded, widened, provided with additional footpaths, landscaped verge and lighting over the entire frontage of the development. This greatly improves and enhances the existing access, safety and security for the benefit of residents and the broader community.
- The claims of excessive access points creating a traffic hazard are without basis. It is widely acknowledged that the provision of frequent junctions has a traffic calming effect.

6.2.3. Community Facilities

- The scheme provides the necessary private and public open space.
- Permission ref. 15/978 includes financial contributions and special contributions. Both have been paid.
- Condition 2 to the permission requires a financial contribution, a proportion of which is to fund 'community facilities' in the area.

6.2.4. Conditions attached to the Planning Authorities Decision

- Condition 5(b) cycle lane – the development of the overall site is significantly advanced and it is not possible to provide the cycleway at this stage. The

introduction of a short section along the appeal site frontage would be of little merit.

- The access road is not in the ownership of the applicant and is not within its authority to provide the space provision for the cycleway.
- Condition 14(a),(b) 2 metre privacy wall – the scheme developed to date provides for an open format in terms of front boundaries. The rear and side boundaries are solid walls. It is proposed to retain this approach.

6.3. **Observations**

None

6.4. **Section 131 Notice**

It was considered that the proposal might have significant effects on the Lower Shannon SAC. Certain prescribed bodies were invited to make a submission.

No responses received.

7.0 **Assessment**

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

- Policy Provisions and Density
- Access and Traffic
- Financial Contributions
- Other Issues
- Appropriate Assessment

7.1. **Policy Provisions and Density**

In this instance I consider that the planning history on the site is a substantive consideration in the assessment of the suitability of the proposal.

The site forms the southern extent of the Manor Brook residential scheme which was originally granted permission in 2016 under ref. 15/978 and provided for 40 dwellings

including outline permission for 5 no. serviced sites. Phase 1 of the scheme has been completed with works undergoing on Phase 2. The appeal site comprises the said 5 no. serviced sites. The outline permission therein was for 3 years by which an application consequent to same was required to be lodged. No such application was made, thus the outline permission expired in 2019.

The overall lands of the permitted residential scheme straddles two zoning objectives as delineated in the Adare LAP. The majority of the estate is zoned Residential Development Area Phase 1 with the appeal site itself zoned Residential Serviced Sites Phase 1. The purpose of such provision is to offer an alternative to sporadic development in the rural areas with objective H3 seeking to promote lower density serviced sites in specified edge of village locations zoned 'Residential Serviced Sites', of no less than 0.1 hectares each. The layout, infrastructure, servicing and landscaping of the sites formed part of the original permission and can be seen to comply with the requirements of the objective in terms of a masterplan/design brief. Such provision is in line with the Sustainable Residential Development Guidelines which allows for such type residential development in controlled circumstances in the outskirts of small towns and villages as an alternative to the provision of single houses in surrounding unserviced rural areas.

It is also reasonable to assume that the principle and acceptability of the overall scheme of which the current proposal is inextricably linked, would have been assessed in the context of the said Sustainable Residential Development Guidelines. I also consider that the calculation of the density for the site in isolation without any regard to the overall scheme of which it forms part is not appropriate. The overall scheme would equate to a density of 16 units per hectare which is within the 15-20 unit per hectare range allowable in such locations.

On this basis the proposal is seen to accord with the applicable zoning provisions with the density in accordance with current policy provisions. Thus the contention that it constitutes haphazard development is unwarranted. The fact that permission has been refused by the planning authority for 68 dwellings on the lands immediately to the south under ref. 20/1165 for 3 reasons pertaining to density, insufficient estate/legal interest to provide wastewater pumping station and inadequate details on roads and services, does not undermine this conclusion.

7.2. Access and Traffic

The site is accessed from a road off the N21 which terminates at the Manor Fields recreational area to the south with a footpath and lighting along its length. In addition there is a footpath along the frontage of the Manor Brook residential scheme (as constructed to date).

The access arrangement proposed is the same as that permitted under the original permission. Construction has commenced on same as part of phase 2. The adequacy of the arrangement in terms of compliance with DMURS, as applicable, and potential for creation of traffic hazard would have been assessed at that juncture. The said access will provide access to 8 no. dwellings in Phase 2 (units numbers 33-40) and the 5 no. serviced sites subject of this application. I submit that the arrangement is acceptable and would not give rise to a traffic hazard. Pedestrians accessing the recreational grounds to the south would more appropriately avail of the continuous footpath on the opposite side of the road.

I would concur with the applicant that the retrospective requirement in terms of provision of a cycle lane along the residential scheme's frontage is unreasonable and would further concur that its provision along the frontage of the appeal site, only, would result in a small stretch of isolated infrastructure which would be of little benefit. I recommend that the requirements of condition 5 (b) be omitted.

7.3. Financial Contributions

The appellants consider that the developer should be required to make a special contribution towards the costs incurred in the provision of the Manor Fields recreational facilities to the south.

Conditions 3 and 4 attached to permission ref. 15/978 required the payment of financial contributions in line with the relevant section 48 development contribution scheme in respect of public infrastructure and facilities benefitting the scheme. Condition 4 specifically refers to the 5 no. serviced sites stating that the amount due would be at the rate applicable when the decision to grant is made on the permission consequent to the outline permission. I cannot identify the special contribution alluded to in the appeal response.

I note that the current contribution scheme, in setting what is covered by *public infrastructure and facilities*, cites *the provision of open spaces, recreational and community facilities and amenities and landscaping works*.

As to when a planning authority may require the payment of a Special Contribution is covered in Section 48(2)I of the Planning and Development Act 2000, as amended, with Section 7.12 of the Development Management Guidelines, 2007 providing guidance with respect to same. It is clear that such a request should only be made in respect of a particular development whereby demands likely to be placed on public services and facilities are deemed to be exceptional thereby incurring costs not covered by the General Development Contribution Scheme of the Council. I submit that this is not the case in this instance. The Manor Fields recreational area is for the benefit of the wider community within Adare and does not serve the residential development, only. I therefore consider the application of the general contribution scheme to be appropriate in this instance.

7.4. Other Issues

In terms of the requirements of condition 14 (a) and (b) I consider it appropriate that the treatment of the front boundaries of the 5 no. sites should match the open format developed throughout the remainder of the estate. I consider that this can be addressed by way of condition..

7.5. Appropriate Assessment

The River Mague which forms part of the Lower River Shannon SAC is 1.5 km to the north of the site. Having regard to the nature and extent of the proposed development on zoned and serviced lands and to the south of Adare village, centre it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

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 provisions of the Adare Local Area Plan, 2015, to the planning history of the site and to the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity 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, 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. Prior to the commencement of construction of any future proposed dwelling, the road, footpaths, watermains, drains, lighting, other services and landscaping shall have been completed to the written satisfaction of the planning authority.

Reason: In order to ensure the co-ordinated provision of site development works/services for the proposed development.

3. The internal road network serving the proposed development shall comply with the detailed standards of the planning authority for such road works.

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

4. Plans and particulars to be lodged for permission consequent on this grant of outline permission for the dwellings on the 5 no. serviced sites shall include:

- i. Contemporary house designs which shall reflect traditional principles of scale, proportion, detail and finish and which shall have due regard to the design and character of existing residential development in the vicinity.
- ii. Rendered external finishes, only
- iii. Roof colour shall be blue-black or black in colour, only
- iv. Front boundary treatments shall match those developed in the Manor Brook estate of which it shall form part.

Reason: In the interest of clarity and to define the subject matter for consideration at permission consequent stage.

5. Rear garden boundary walls and screen walls shall be two metres in height. Plans and details to provide for these requirements, including materials and external finishes, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

7. The 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. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

9. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the “Recommendations for Site Development Works for Housing Areas” issued by the Department of the Environment and Local Government in November, 1998.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

10. Proposals for an estate name, 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. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority’s written agreement to the proposed name.

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

11. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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 the Environment, Heritage and Local Government in July, 2006.

Reason: In the interest of sustainable waste management.

13. The construction of the development shall be managed in accordance with a Construction and 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, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in

connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

15. 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.

Pauline Fitzpatrick
Senior Planning Inspector

April, 2021