



An
Bord
Pleanála

Inspector's Report

ABP-309879-21

Development	Complete the turning area, access road and associated site development works and build 4 dwelling houses and all associated site works
Location	Cluain Doire, Cahirdown, Listowel, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20742
Applicant(s)	Patsy O Sullivan.
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Cluain Doire Residents Association CDRA.
Observer(s)	None.
Date of Site Inspection	28 th June 2021
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. The appeal site relates to an infill site of 0.19ha located within an established residential area, to the eastern side of Listowel in Co Kerry. The site is located at the termination of the existing cul de sac road serving the Cluain Doire Estate a low-density development of nine detached dwellings. The appeal site is currently grassed and enclosed by mature landscaping. It is bounded by residential development to north south and west a roadway to the east.

2.0 Proposed Development

- 2.1. The application as initially submitted described the proposed development as permission to build 4 dwelling houses and all associated site works. During the course of the application the development description was revised to include the following “complete the turning area, access road, and all site development work and build 4 dwellinghouses and all associated site works.”

3.0 Planning Authority Decision

3.1. Decision

By order dated 9th March 2021 Kerry County issued notification of the decision to grant permission and nineteen conditions in two separate schedules were attached including the following of particular note.

Schedule 2(A) relating to Permission to complete the turning area access road and associated site development works.

Condition 2. Development Contribution €5000.

Schedule 2(B) Relating to Permission to build 4 dwelling houses and all associated site works.

Condition 8 Development Contribution €6,000 in accordance with the Council's Development Contribution Scheme.

Condition 15. The owner of the development on each site shall become a member of the Management Company (if existing) which governs the site developments for the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's initial report notes that development description should include for site development works. Further information required as per report of Housing Estates Engineer. Second report sought clarification regarding boundary treatment and vehicular movement.

Final report recommends permission subject to conditions.

3.2.2. Other Technical Reports

Housing Estates Unit. Questions whether the development relates to the green area serving the existing estate and whether the development been taken in charge. Details of access road, visitor parking, services, broadband ducting. Bond required in the event of permission.

Roads Report. Proposed parking arrangement involving vehicles reversing onto access road is not acceptable. Final report indicates no objection subject to conditions.

3.3. Prescribed Bodies

- Irish Water- No objection subject to connection agreement. Subject to capacity arrangements. Development in compliance with Irish Water Codes of practice.
- Transport Infrastructure Ireland TII – No observations

3.4. Third Party Observations

3.4.1 Submission from the following local residents

- Edith McGuire, 6 Cluain Doire
- Patrick O Connor 3, Cluan Doire
- Peter & Mary McGrath, 9 Cluain Doire
- J Tarmey, 8 Cluain Doire
- Gillian Sheehan & Kevin McDonald, 7 Cluain Doire
- Agnes Andrews, 4 Cluain Doire
- T Carey, 2 Cluain Doire
- Patrick O Connor, Chairman Cluain Doire Residents Association.

3.4.2 Submissions raise common concerns.

- Site notices not erected till 27/7/2020.
- Traffic hazard and roads safety issues.
- Semi-detached dwellings are out of character.
- Street lighting inadequate.
- Residents maintain this area by way of annual subscription.
- Land was never part of Cluan Doire and should be accessed from Oakdene Estate.

4.0 Planning History

19/169 Permission consequent on grant of outline permission 16/5 to build two dwellinghouses and all associated site works on sites 10 and 11. Granted 17/4/2019

16/5 Permission granted to retain house and domestic garage / store within revised site boundaries. Permission for the completion of the turning area and associated site works on sites 10 and 11.

5.0 Policy Context

5.1 National Policy

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual') (2009).

Design Manual for Urban Roads and Streets (DMURS) (2019).

Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018).

5.2 Development Plan

The Kerry County Development Plan 2015-2021 and Listowel Town Development Plan 2009-2015 as extended and varied refer.

The site is zoned Existing Residential/Town Centre Area and Built-Up Areas (R2/M2/M4) It is the policy of the Local Authority to facilitate development that supports in general the primary land use. Development that does not support or threatens the vitality or integrity of the primary use of these existing built-up areas shall not be permitted.

5.1. Natural Heritage Designations

The Lower River Shannon SAC occurs within 250m to the south of the site.

5.2. EIA Screening

- 5.2.1. An Environmental Impact Assessment Screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,

- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.2.2. It is proposed to construct 4 dwellinghouses. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.19 ha and is located within an existing built-up area but not in a business district. The site is therefore well below the applicable threshold of 10ha. The site is located within an established residential area. The introduction of infill residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site and there is no hydrological connection present such as would give rise to significant impact on nearby water courses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Kerry County Council, upon which its effects would be marginal.

5.2.3 Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for residential development under the provisions of the Listowel Town Development Plan, and the results of the strategic environmental assessment of the Listowel Town development Plan , undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,

- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by Patrick O Conner on behalf of Cluain Doire Residents Association, CDRA. Grounds of appeal are summarised as follows:

- CDRA formed in 2000 to enhance the estate. An active body as evidenced by winning of best kept small estate on five occasions
- Proposed semi-detached houses out of character with the aesthetics of the estates.
- No consultation took place between the applicant and the residents.
- Traffic congestion and road safety issues.
- Elimination of green area within the estate.
- Original plans did not envisage 4 houses. No objection to two houses.

6.2. Applicant Response

6.2.1 The applicant did not respond to the grounds of appeal.

6.3. Planning Authority Response

6.3.1 The Planning Authority response to the appeal notes:

- Land is serviced and located within the town boundary zoned existing residential.
- Permission previously granted for two detached dwellings.
- Scale of the proposal is considered modest with adequate car parking and amenity space.
- Proposal will integrate with the surrounding area and make appropriate use of serviced land within the town.

7.0 Assessment

7.1 In light of national and local planning policies which support residential consolidation and sustainable intensification within serviced urban areas in the interest of efficient use of resources and economies of scale, I consider that the principle of increasing the density on the site is acceptable subject to compliance with normal planning considerations. I note that permission was previously granted for two dwellings on the site therefore the principle of development of the site for residential purposes is established.

7.2 As regards the site capacity and the standard of amenity provided by the proposed dwellings, I note that the proposed two bed dwellings are modest in floor area 74sq.m I consider that the proposed layout with regard to open space and residential amenity space both internally and externally are acceptable and that an adequate standard of residential amenity is achieved.

7.3 The third-party appellants outline concern that the proposed semi-detached dwellings are out of character given the prevailing low density detached dwelling norm within the existing Cluain Doire Estate. I concur with the local authority planner that the proposed semi-detached pairs conform in terms of building scale and form with the established character and are complimentary in terms of providing for an appropriate mix of house types within this area. The design of the proposed dwellings is considered acceptable and having regard to the siting, single storey design and scale no issues arise in terms of overlooking or overshadowing.

7.4 The site is serviced with access to foul services and public water supply and no specific concerns arise in this regard. As regards traffic and road safety it is my view that the level of traffic arising will not give rise to significant impact on the adjacent road network and I am satisfied that the proposed development is acceptable from a traffic and parking perspective. Construction impacts can be readily mitigated by standard good construction practices.

7.5 As regards the issue of Appropriate Assessment, the site is within a fully serviced area of housing. The River Feale to the south which is included within the Lower Shannon SAC is separated from the site by buildings, infrastructure and fields. The site is not the subject of any source/pathway/receptor route to the River. Having regard to the nature, scale, and location of the proposal, the nature of the receiving environment, and the proximity to the nearest European Site, it is concluded that no Appropriate Assessment issues arise as the proposal would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

7.6 Recommendation

7.6.1 The proposed development on lands zoned existing residential is acceptable in terms of land use planning and sustainable development. The design and scale of the development is regarded as appropriate having regard to the context of the site and nature of impacts arising in the surrounding area. Having regard to the

foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and consideration and subject to the conditions set out below:

Reasons and Considerations

Having regard to the planning history on the site, the zoning objective for the area, the central location, the design and form of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be generally in accordance with the Listowel Town Development Plan 2009-2015 as extended and varied, would not seriously injure the amenities of adjacent residential neighbourhoods or of the property in the vicinity, would not be prejudicial to public and environmental health 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.

Conditions

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further information submitted on 11th day of November 2020 and further information submitted on the 21st day of January 2021 except as may otherwise be required in order to comply with the following conditions

Reason: In the interest of clarity.

2. Prior to the commencement of development details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and in the interest of visual amenity.

3. Water supply and drainage arrangements, including 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 and to ensure a proper standard of development.

4. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

5. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard ducting shall be provided to facilitate the provision of broadband infrastructure within the development.

Reason: In the interest of orderly development and the visual amenities of the area.

6. 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 interests of amenity and public safety.

7. 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 residential amenities of property in the vicinity.

8. 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 “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.

- 9 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. The plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction and demolition waste.

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

- 10 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, water mains. 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.

11. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the 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. 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 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contributions Scheme made under section 48 of the Act be applied to the permission.

Bríd Maxwell
Planning Inspector

1 July 2021