



An  
Bord  
Pleanála

## Inspector's Report

### ABP-310863-21

<b>Development</b>	Construction of a two-storey dwelling house, the construction of a new single-storey garage, site landscaping and ancillary site works
<b>Location</b>	Main Street, Adare, Co. Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	21241
<b>Applicant(s)</b>	Tony & Victoria Treacy.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Iseult Murphy.
<b>Observer(s)</b>	Dunraven Estates Company.
<b>Date of Site Inspection</b>	16 <sup>th</sup> September 2021.
<b>Inspector</b>	Bríd Maxwell

## **1.0 Site Location and Description**

- 1.1. This appeal relates to a site located within the village of Adare Co Limerick. The appeal site has a stated area of .18hectares and comprises a backland site located circa 48m to the south of the Main Street N21. The appeal site is irregular in plan and is bounded by the rear garden of The Thatched House (RPS 879) to the north, a parking area to the rear of commercial units fronting onto Main Street to the west. To the south are two storey dwellings and agricultural land and agricultural lands lie to the east. A two-storey corrugated outbuilding adjoins along the short southern boundary.
- 1.2. Appeal site boundaries are defined by mature trees to northeast and south with a 2m high historic rubble stone boundary wall to the northern edge. Adjacent to the northern boundary but within the site of The Thatched House is a mature sycamore tree. There are shed structures located on the northern and western boundaries while a rock outcrop is located towards the centre of the site. There is a semi-detached historic garage structure located at the north-western corner of the site. Access is indicated via a right of way over a laneway shared with the adjoining thatched dwelling to the north and the commercial building to the west which is also within the landholding. The laneway access is approximately 1.6 metres wide. The western appeal site boundary is formed by a rubble stone wall.
- 1.3. The striking Thatched House to the north (owned by the appellant) is Protected Structure RPS Reference 869 (NIAH Ref 21824036 of Regional Rating and described therein as detached thatched house built c1800, comprising four bay two storey block with lower two-bay single storey block to east incorporating single storey timber porch to front (north) of four bay block and having canted bay to east. Hipped thatched roof with red brick chimneystack. Rendered walls with cut stone plinth course. Timber post walls to porch. Square headed openings with multiple paned timber windows and cut stone sills. Cobbles to site. Rubble stone boundary walls with cur stone copings. Cut stone square profile piers to pedestrian entrance with cast iron gate.

## **2.0 Proposed Development**

- 2.1. The proposal involves the construction of a two storey dwellinghouse, a single storey garage, site landscaping and ancillary site works.

- 2.2. The proposed dwelling is sited towards the northern and eastern part of the site in the location of the existing rock outcrop. Finishes include render, slate with standing seam zinc to single storey pitched elements.
- 2.3. Access is proposed via an opening in the existing western boundary wall as well as by an enlarged opening within the garage structure.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1 By order dated 22/6/2021 Limerick City and County Council decided to grant permission for the development subject to 12 conditions which included the following:

Condition 2. Development Contribution €5,500.

Condition 3. Finished floor level shall not exceed existing ground level by more than 200mm.

Condition 4. External finish of house shall consist of mainly plaster dash. Stone shall be local and limited to areas as shown in submission 1/3/2021.

Condition 5. Mitigation measures as set out in Architectural Heritage Assessment report to be adhered to.

Condition 6. Ground disturbance / vibration monitoring.

#### **3.2. Planning Authority Reports**

- 3.2.1. Planning Reports

- 3.2.1.1 Planner's initial report notes the concerns of the conservation officer regarding design, height and impact on the adjacent Thatched House. Need for two site access points was questioned. A request for additional information issued seeking clarification regarding access, impact on car parking layout in respect of adjoining commercial development and a demonstration of sufficient legal interest. An Architectural Impact assessment and elevation drawing to address protected structure Ref 869 Thatched House to be provided as well as photomontage depiction and mitigation proposals.

A historical study including full archival standard photographic study of established buildings and cartographic and plan record as well as a statement of conservation philosophy and justification of works was also to be provided. A detail specification of services was also requested.

3.2.1.2 Final planning report recommends permission subject to conditions consistent with the subsequent decision.

### 3.3 Other Technical Reports

3.3.1 Mid-west National Road Design Office. No observations.

3.3.2 Area Engineer – No objection subject to road opening license and measures to prevent surface water runoff to roadway.

3.3.3 Environment Section – no objection

3.3.4 Executive Archaeologist. – Noting location within the Recorded Monument LI021-032 classified as the Historic Town of Adare, Section 17:3 of application form has been incorrectly filled out. The site is greenfield and is large for its village centre location. Applicant should carry out an archaeological assessment of the development site and submit as further information.

3.3.5 Conservation Officer's initial report as reported in Planner's report sought additional information. Report following further information outlines that if permission is granted development should be strictly in accordance with submitted details and subject to ground disturbance / vibration monitoring to eliminate any threats to protected structures. Samples of materials to be submitted for written approval.

### 3.4 Prescribed Bodies

3.4.1 Submission by Transport Infrastructure Ireland TII indicates no observations on the application.

3.4.2 Irish Water submission. No objection subject to connection agreement and in accordance with the Irish Water Capital Investment Programme. Wayleaves to be maintained.

### 3.5 Third Party Observations

- 3.5.1 Submission from Iseult Murphy owner of 'Thatch House' Main Street objects to the proposal. Concerns that the applicant will not adhere to planning conditions. Concerns also in respect of impact on foundations of the protected structure. No historical or conservation impact assessment provided. Overshadowing and loss of privacy. Concerns regarding impact on garage. Question entitlements with regard to use of access. Proposal is out of context in village centre location. Concern regarding impact on privacy and negative impact on property values. Intensification of traffic on substandard laneway. Damage to roots of mature sycamore tree of concern. Gerald Griffin Grotto in the vicinity of the mature sycamore tree is in danger due to proximity to development. Concerns regarding fire and emergency services access.
- 3.5.2 Submission from Dunraven Estates Company owner of adjacent land and right of way access. No right of way has been granted to extend the laneway into the yard. Given the heritage status of the village a stronger emphasis should be placed on curbing unnecessary new buildings.

## 4 Planning History

**DC-154-20** Warning letter issued in respect of demolition of wall. (Location of the proposed vehicular entrance to the appeal site)

**17/759** Permission granted for variation of permission PL91-245243 15/136 for changes 2 no duplex apartments stairways to access to second floor from the apartments previously permitted on the 1<sup>st</sup> and 2<sup>nd</sup> floor along with necessary changes to the elevations.

**PL91.245243 15/136** The Board overturned the decision of Limerick County Council to refuse permission on the basis of loss of on street parking spaces and granted permission for change of use of office to retail, renovate and alter dwelling on upper floor to 2 apartments and extension to rear ACA. Condition 2 required that the rear garden area be retained for the use of the residential units and required the submission of revised layout plans including a detailed landscaping plan. Condition 5 required that the car parking be limited to 3 no spaces to serve the residential element of the development only.

## 5.0 Policy Context

- 5.1 National Planning Framework - National Policy Objective 6: 'Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.' 2. National Policy Objective 11: 'In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.'
- 5.2 Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) Section 5.9 relates to inner suburban / infill developments, promoting the provision of additional dwellings in such locations where it can assist in revitalising an area and utilise the capacity of social and physical infrastructure. For infill development (which includes backland areas) the Guidelines advise that a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.
- 5.3 Architectural Heritage Protection, Guidelines for Planning Authorities, Department of Environment Heritage and Local Government 2004
- 5.4 Urban Design Manual A best practice Guide. May 2009.
- 5.5 Design Manual for Urban Roads and Streets, DMURS
- 5.6 The Planning System and Flood Risk Management (including the associated 'Technical Appendices') Dept. Environment Heritage and Local Government November 2009.

## 5.7 Development Plan

- 5.7.1 The Limerick County Development Plan 2010-2016 as extended, and Adare Local Area Plan 2015-2021 refer. Within the Local Area Plan the site is zoned Village Centre. The purpose of this zoning is to protect and enhance the character of Adare village centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the village centre while guiding the development of an expanded and consolidated village centre area.
- 5.7.2 Objective H4: Infill Development, Restoration and Town Renewal It is an objective of the Council to: a) Encourage living in the village centre by the promotion of residential uses over businesses. b) Promote sensitive infill developments on sites in the town centre that are not developed and are not required for access to backlands. 29 c) Ensure that any proposed alterations to the thatched structures shall require the maintenance of their essential architectural character, retention of features of special interest and respect for the structure's fabric, plan, form and setting. d) Ensure that in any proposed alterations to the streetscape of the village centre, adequate consideration is given to conservation, restoration and reconstruction, where it would affect the settings of protected structures, or the integrity of the nineteenth century streetscapes. e) Consider on their merits proposals for residential development of rear plots where they can be adequately accessed, and where they would not affect existing or proposed private amenities, storage or parking requirements. Such proposals should in general be part of larger masterplans involving contiguous plots.
- 5.7.3 Within the Local Area Plan the site is south of the designated ACA 4 19<sup>th</sup> Century Core – Southside of Main Street. The site is located within the Adare Village Architectural Conservation Area as listed in the Limerick County Development Plan 2010-2016
- 5.7.4 The site boundary forms part of the curtilage of protected structure No 869 Thatched House.
- 5.7.5 The site is within the Zone of Archaeological potential of the historic town (L1021-032).

**Objective EH O25:** Preservation of the Archaeological Heritage It is the objective of the Council to seek the preservation (in situ, or at a minimum, preservation by record)

of all known sites and features of historical and archaeological interest. This is to include all the sites listed in the Record of Monuments and Places as established under Section 12 of the National Monuments (Amendment) Act 1994.

**Objective EH O26:** Preservation of the unrecorded/newly discovered archaeological heritage It is the objective of the council to protect and preserve (in situ, or at a minimum, preservation by record) all sites and features of historical interest discovered subsequent to the publication of the Record of Monuments and Places.

**Objective EH O35:** Protection of Architectural Conservation Areas a) The Planning Authority will seek to protect buildings of merit that demonstrate past design or construction practices within an Architectural Conservation Area as this can damage the integrity of an area. b) Conservation, restoration and reconstruction is the preferred approach in Architectural Conservation Areas. c) The Planning Authority will not permit insensitive developments that compromise the character or integrity of Architectural Conservation Areas and will seek to have large-scale developments respect the morphology and layout of a town or village. d) Development proposals on sites in the vicinity of an Architectural Conservation Area will only be permitted where it can clearly be demonstrated that the development will not materially affect the special character or the integrity of the area, its amenity and setting. The special character of an area includes its traditional building stock and material finishes, spaces, streetscape, landscape and setting.

## **5.8 Natural Heritage Designations**

The appeal site is not within a designated area. The Lower River Shannon SAC occurs within circa 500m to the north while the River Shannon and River Fergus SPA occurs within 6.5 km to the north.

## **5.9 EIA Screening**

- 5.9.1 The proposed development is of a class but substantially under the threshold of 500 units to trigger the requirement for submission of an Environment Impact Assessment Report and carrying out of Environmental Impact Assessment. The subject development is for a single house, on a site of 0.18ha, falling well below both



applicable thresholds for mandatory EIA, as set out at Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended). In respect of sub-threshold EIA, having regard to the limited nature and scale of the proposed development, which comprises the construction a single house on serviced land, the absence of features of ecological importance within the site, it is considered that 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.

## **6 The Appeal**

### **6.1 Grounds of Appeal**

6.1.1 The appeal is submitted by Iseult Murphy, Thatch House Main Street Adare. The appeal submission includes a report Mr Michael Gary, Arbor Care and a report by Alison McQueen and Associates, Archaeological and Architectural Heritage Consultants. Grounds of appeal are summarised as follows:

- The Thatched House (Protected Structure 869) is one of the foremost historic properties in Adare. The appeal site should not solely be viewed as an infill site rather the rear curtilage of a protected structure
- The application site incorporates approximately half of an outbuilding deemed to be within the original curtilage of the Thatched House.
- Report by Alison McQueen and Associates sets out an Archaeological and Architectural impact assessment of the proposal, and concludes that the proposal will have a negative impact on protected structure The Thatched House and its setting and a negative impact on shared boundary wall and Gerald Griffin Grotto.
- The proposed alteration and change of use of a portion of the outbuilding deemed to contain historic fabric and located within the curtilage of a protected structure is insensitive to the physical appearance, character and setting of the outbuilding and in contravention of the legislation.

- The visibility of the proposed modern two storey house will potentially have a significant negative visual impact on the protected status of the thatched house and its setting in addition to the overall negative impact this could have on the surrounding ACA.
- Alteration and change of use of a portion of an outbuilding deemed to contain historic fabric and which is located within the curtilage of a protected structure is insensitive to the physical appearance, character and setting of the outbuilding and in contravention of the legislation that is designed to protect it. The entire building curtilage and associated outbuildings of a protected structure are protected in terms of its physical form and visual setting. Justification for alteration of part of the protected structure to facilitate a second site entrance / drive through facility is not warranted.
- Report of Mr Michael Gary, Arbor Care notes that the proposal will involve significant excavations within the root protection zone of the mature sycamore tree (9m Radius). The loss of trees will have a significant negative impact on the village setting where existing trees reinforce the arboreal backdrop to the Thatched Cottage.
- The proposal will interrupt the setting and will only be screened for part of the year by a mature sycamore tree and other smaller trees located on the thatched property.
- Legal entitlement in respect access has not been demonstrated. Validity of the application is questioned on this basis and the application lacks clarity regarding nature and extent of works.
- Location within the historic town of Adare L1021-032 necessitates pre-development archaeological investigations.
- No permission for modern entrance to the site.
- Application is deficient in terms of the failure to provide a tree survey.
- Noise and visual impacts and impact on residential amenity and privacy in particular significant negative impact on the ground floor bedroom of Thatched House.
- Insufficient details have provided regarding traffic volumes. Proposal will give rise to traffic hazard.

## 6.2 Applicant Response

6.2.1 The First Party Response submission compiled by James Corbett Architects is summarised as follows:

- There are established openings in both the northern and southern walls of the garage structure. As noted within the Architectural Heritage Impact Assessment Report the existing garage door openings are not original to the structure. The proposal is to widen the opening which are not original to the structure by 500mm and remove the incongruous mass concrete alterations dating from circa 1980 so that the structure can be renovated in keeping with its context.
- Amendments to widen existing openings do not represent an alteration to an original historic opening nor does it obstruct the reading of the original façade. Notably the appellant has installed a roller shutter door.
- Widening the opening to the outbuilding is a negligible alteration which will have no effect on the appreciation of the cultural and visual amenity of the Adare ACA.
- Arborist Mr Pdraig Farran was engaged to conduct a survey and study of the mature Sycamore including investigation of mass of root system. Although the position of part of the dwelling lies within the root protection area of the tree the excavation works will not impact the trees capacity to remain stable. The tree as it stands has a number of concerning issues that would need to be addressed. While it holds a good degree of amenity value, because of its issues and situ its amenity value time is limited.
- The only trees to be removed as part of the development will be scrub saplings in the undercroft of the existing tree line and two leylandii hybrids in the north-eastern corner. All other trees will be retained.
- Applicant has legal right to use the laneway for all purposes under the right of way agreement.
- Access for Construction Machinery and Personnel will be mitigated
- Increase in traffic volumes arising from single dwelling is not significant and will not have an adverse impact on the protected structure. There are no works proposed to the adjacent boundary wall which addresses the shared access lane.
- Architectural Heritage Impact Assessment Report concludes that any alterations or material additions to the structures on the site are of no particular significance and have degraded the reading of the original building form,

- Entrance to the site is currently subject of enforcement action and appropriate regularisation procedures. Appellant's heritage report is incorrect in statement that the wall is within the Adare ACA.
- Regarding the curtilage of the Thatched House the legal subdivision of the garage occurred in 1978 predating the establishment of the RPS. No notification was received by the owner regarding inclusion within the RPS.
- Regarding archaeological impact assessment this was not requested in further information nor in conditions. If the Board deems archaeological excavation or supervision to be required during construction the applicant is willing to facilitate it.
- Photomontages provided along with comprehensive architectural drawings more than adequately communicate the position and visibility of the proposed dwelling.
- Regarding visual impact the two-storey element is set back over 53m from Main Street and 39m from the rear elevation of The Thatched House.
- The Thatched House is bookended by structures of a significantly higher ridge line. The ridge height of the proposed two storey element is by contrast comparable to that of the Thatched House and therefore would be the lowest neighbouring edifice. The proposed height of the dwelling in combination with its significant distance from Main Street means it is unlikely that the Thatched House and its historical setting will be dwarfed by its presence.
- There is adequate tree cover even with limited leaf coverage to screen the development from the street.
- Proposed dwelling is contemporary in nature but respectful to historical context.
- Planning and Development Act does not prohibit works to protected structures, the land and structures within their curtilage or to structures adjacent to such structures or lands. Instead it establishes a framework for such development to be sought and assessed. The applicant has adhered to all relevant planning procedures and policies in seeking permission for this development. The applicant has demonstrated through thorough and nuanced assessment of the protected structure and its environs that the construction of the proposed dwelling will have negligible impact on the cultural amenity of the Adare ACA and 'The Thatched House'.

## **6.3 Planning Authority Response**

### **6.3.1 The Planning Authority did not respond to the appeal.**

## **6.4 Observations**

6.4.1 Observations are submitted by Dunraven Estates Company owner of land adjacent to the proposed development including the right of way access. Permission was given by Dunraven Estates Company to the owner of the Thatched House and owner of the original post office building (now Earls and Pearls and two upper flats) to use the laneway and small yard area as a common area for both parties. The recently provision of a new entrance through an ancient heritage wall from the yard area to the garden was made without permission. No right of way has been granted extending through the yard area or garage area and this is a shared space with owner of the Thatched House. Proposal is considered inappropriate given its location within an Architectural Conservation Areas and Heritage Village.

## **6.5 Further Responses**

6.5.1 Response by the Appellant to the first party response to the appeal includes a response by Alison McQueen and Associates to the archaeological and architectural impact and response by Arbor Care regarding impact on landscape features is summarised as follows:

- Works were previously carried out without consultation.
- Use of the garage as a drive through is inappropriate and detrimental to the adjoining garage.
- Notably the right of way over laneway has not been demonstrated.
- Question the need for the dwelling.
- Response by Alison McQueen and Associates maintains that the proposed two storey dwelling will interrupt the arboreal setting and will only be screened for part of the year provided that the roots remain undamaged during rebreaking of the limestone outcrop known locally as the Cragg.
- Proposed dwelling has a ridge height of 8m and is higher than the ridge of the protected structure

- No photomontage views provided from ACA to show the predicted impact from October to March.
- Two storey northern elevation will have a significant negative visual impact on the protected thatched structure from late autumn through winter and into early Spring. 9 windows visible in the elevation at first floor level as viewed from the thatched property and from Southside of ACA. Windows are at eye level and will not prevent overlooking.
- Photomontage from Main Street across the side and rear garden of The Thatched house is necessary to show context. This is crucial to determine a realistic visual impact of the proposal on the protected structure and ACA.
- Site is within ACA as demonstrated in County Development Plan. ACA associated with Adare Manor Demesne
- Existing car parking facility in the communal area of the historic laneway. Collective traffic volume is now significant given the restricted historic laneway 2.53m in width formed between the gable of the Thatched House and former post office. Restricted access route not designed for modern vehicles.
- The garage is within the curtilage of a protected structure and within an ACA and directly abutting a second ACA.
- The concept of using one half of shared garage as an entrance is neither workable, practical, realistic or safe. Height restriction for larger vehicles and construction traffic and clearance is insufficient to allow passage of emergency vehicles.
- There is no guarantee that the primary unauthorised entrance will be sanctioned as a retention application. Proposal has leapfrogged retention application.
- Traffic management issues arise given the presence of car parking spaces adjacent to the proposed entrance. Permissions granted under 15/136 PL91.245243 and 17/459 in relation to parking layout for former post office building. Permission 17/759 permission granted for parking layout of five contiguous spaces 1-5 arranged nose to tail along the western side of the rear plot. Spaces were provided perpendicular. Use of shared garage as an entrance is not practicable with existing car parking spaces immediately adjacent. Use of the unauthorised entrance is not feasible as it is currently subject to enforcement.

- Archaeological impact assessment as requested by County Archaeologist in consultation with National Monuments was not included in the request for additional information nor is this addressed in the decision.
- Significant excavations within the root protection area of the mature sycamore tree will destabilise the tree and leave it unsafe and unsuitable for retention. Due to the lack of a tree survey the impact assessment report and tree protection plan there is a lack of clarity and evidence to determine what the impact of the development will be on the large mature sycamore on the adjoining site and to the large mature trees on the proposed site.

6.5.2 Response submission on behalf of the Observers Dunraven Estates Company by Sellors Solicitors in response to the first Party response is summarised as follows:

- Right of way was granted for use by The Thatched Cottage and the former post office. No grant of a right of way for the purposes of accessing a property to the rear of these lands.
- Substantial additional traffic to the site is inappropriate and will result in hazard.
- Application is flawed and should be rejected.

## **7 Assessment**

7.1 Having inspected the site and considered the contents of the appeal and all submissions in detail, the main planning issues in the assessment of the appeal can be reviewed under the following broad headings:

- Principle of development
- Archaeological Impact
- Impact on the Protected Structure and the Adare Architectural Conservation Area.
- Access and Servicing
- Impact on residential and other amenities
- Appropriate Assessment.

### **7.2 Principle of Development**

7.2.1 The proposed development is consistent with the zoning objective village centre as set out in the Adare Local Area Plan 2015-2021. Policy Objectives 6 and 11 of the National Planning Framework promote development patterns which result in more people and activity within existing cities, towns and villages and infill development to ensure the achievement of critical mass and the proposal is consistent with this policy. Objective H4 of the Limerick County Development Plan 2010-2016 - Infill development restoration and town renewal seeks to encourage living in the village centre, and to ensure that in any proposed alterations to the streetscape of the village centre adequate consideration is given to conservation, restoration and reconstruction where it would affect the settings of protected structures or the integrity of the 19<sup>th</sup> century streetscapes. Having regard to the policy context it is considered that the principle of development is acceptable and is in accordance with national and local policies subject to detailed matters.



### **7.3 Archaeological Impact**

**7.3.1** The appeal site is entirely within the Recorded Monument L1021-032 Historic Town of Adare. As noted above the Executive Archaeologist Limerick City and County Council recommended that in light of the size and greenfield nature of the site and its location within the village centre that the applicant should engage the services of a suitably qualified archaeologist to carry out an archaeological impact assessment of the development site and submit a written report in respect of same as further information. This was not however included within the Council's request for additional information nor is it addressed within the Planner's report or within the decision. I note relevant policies of the Limerick County Development Plan 2010-2016 as extended including Objectives EH025: Preservation of the Archaeological Heritage It is the objective of the Council to seek the preservation (in situ, or at a minimum, preservation by record) of all known sites and features of historical and archaeological interest. This is to include all the sites listed in the Record of Monuments and Places as established under Section 12 of the National Monuments (Amendment) Act 1994 and Objective EH 026 Preservation of the unrecorded/newly discovered archaeological heritage It is the objective of the council to protect and preserve (in situ, or at a minimum, preservation by record) all sites and features of historical interest discovered subsequent to the publication of the Record of Monuments and Places. I consider that in the absence of a detailed archaeological impact assessment it has not been demonstrated that the proposal would not be detrimental to archaeological heritage.

### **7.4 Scale design and layout and Impact on the Protected Structure & Architectural Conservation Area.**

**7.3.1** The discordant submissions of the first party and the third-party appellant with respect to the Architectural Heritage Designation context of the site arise from the discrepancy between the Adare Local Area Plan 2015-2021 and the Limerick County Development Plan 2010-2016 as extended. Within The Adare Local Area Plan the appeal site adjoins ACA 4 (19<sup>th</sup> Century Core – Southside of Main Street). Within the County Development Plan the appeal site falls within Architectural Conservation Area that directly adjoins ACA 4 comprising former lands associated with the Adare Manor Demesne.

7.3.2 The third-party appellant and first party also provide alternative comment and review regarding whether the outbuilding forming part of the proposed development falls within the curtilage of the protected structure The Thatched House (RPS 879). I note reference to the Architectural Heritage Protection Guidelines 13.1 where it is stated that “The definition of curtilage is not defined by legislation, but for the purposes of these guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure.”

7.3.3 It is evident from submissions that the motor house was sold to the owners of the former post office by the owners of the Thatched House in 1978. The first party addresses the stone outbuilding ‘shared garage’ in detail within the Architectural Heritage Impact Assessment report and further submissions in response to the appeal. It is outlined that the matter of curtilage is unclear. The first party also notes that the subdivision of the garage pre-dates the establishment of the record of protected structures no notification regarding the structure was received by the owner regarding the Record of Protected Structures. It is argued that in light of the clear and cohesive set of documents including drawings, photographic analysis and heritage assessment, the exclusion of the term ‘protected structure’ from the development description is justifiable in these particular circumstances and has no bearing on the planning outcome.

7.3.4 Having considered the submissions of the parties on this issue I am inclined to accept this position. As outlined in the application the proposal in respect of the garage building is to widen the existing opening by 500mm by removing mass concrete infill to the front and rear walls. It is proposed to line the openings with red stock brick to match the original detailing of the structure. In terms of the assessment of significance of the proposed alterations and evaluation of the impact on the historic structure I consider that it has been demonstrated that the proposed alterations are not significant and do not devalue the siting or significance of the Thatched House Protected Structure and will not impact on the cultural or visual amenity of the Architectural Conservation Area. The Architectural Heritage Impact Assessment report outlines in detail the conservation and design strategy with regard to renovation of the historic structure and boundary on the site in accordance with best conservation practice.

7.3.5 On the issue of scale and design of the proposed dwelling in the historical context I consider that the size and character of the site presents a significant opportunity in terms of allowing for the bespoke contemporary design. The proposed house is in my view an appropriate addition to the site and will not have any unacceptable impact on visual amenity or built heritage. I would concur with the first party that the relevant architectural heritage designations do not preclude the construction of a suitably designed modern addition. The evolving context of Adare village over time demonstrates its vibrancy and vitality. I consider that it given the set back of over 53m from Main Street and 39m from the rear elevation of the Thatch House the reading of its form and mass is limited from Main Street and the retention and reinforcement of landscaping and tree cover will lessen its visual impact. I consider that the proposed dwelling is sympathetic to the adjacent buildings and can be accommodated on this site.

7.3.6 As regards impact on established landscaping features I note the submissions of the third party appellant by Arbor Care Limited with respect to the potential impact on the mature sycamore tree located within the appellant's property. It is argued that the tree which has a root protection area of 9m will be destabilised as a result of significant excavations within the root protection area.

7.3.7 The response of the first party including report by Inspectatree.ie acknowledges that the proposal will involve works within the root protection area of the sycamore tree. It is noted that the tree has caused some significant cracks in the boundary wall and its context in an urban setting is noted as is the need for ongoing maintenance and management. It is asserted that the proposed excavation works would not greatly impact on the tree's capacity to remain stable.

7.3.8 The third party appellant submissions also contend that the loss of existing trees on the site will have a significant negative impact on the setting of the protected structure Thatched House and the character of the architectural conservation area. The first party sets out that the design and layout has sought to minimise tree removal and thereby retain the character of the setting and suitably mitigate the visual impact. I consider that a detailed landscaping scheme incorporating a focus on the retention of existing tree cover can appropriately mitigate impact.

7.3.4 As regards the potential for structural impacts on the protected structure arising from traffic and in particular, construction traffic I consider that any negative impacts can be appropriately mitigated. As regards vibration impacts arising particularly in relation to the proposal to remove the rock outcrop to facilitate house construction, I note that vibration monitoring is proposed. I consider that the design and layout of the proposed development is appropriate to its context and subject to the mitigation as outlined would not impact negatively on the character or setting of the protected structure or the Architectural Conservation Area.

## **7.4 Residential Amenity**

7.41 Concerns are raised by the third-party appellants with regard to negative impacts on residential amenity arising from traffic, noise and other disturbance nuisance. I consider that a single dwelling is unlikely to give rise to significant traffic noise or other nuisance and such activity would be expected within an urban built up area. Concerns are also raised with regard to overlooking from the windows on the northern elevation of the dwelling and particular concern regarding impact on ground floor bedroom within the Thatch House. I note that the second floor windows on the northern elevation serve circulation space and at 1.6m above floor level. I consider that overlooking opportunities are limited and appropriately mitigated. I consider that having regard to the context and size of the site the resultant setback from adjacent dwellings the proposal will not have an overbearing impact or give rise to significant overlooking.

7.4 On the basis of the foregoing having assessed the implications of the proposed development on the established residential context I conclude that the proposed development would not have any undue negative impact on established residential amenity to warrant refusal.

## **7.5 Traffic and Servicing. Issue of Legal Interest**

7.5.1 On the matter of access and the potential for the proposal to give rise to traffic hazard I consider that notwithstanding the restricted capacity of the access the proposal would not represent an impediment to the development of the site for residential

purposes. The extent of traffic arising from a single dwelling is not significant in this village centre context. As regards construction traffic a suitably devised construction management plan can appropriately coordinate and mitigate traffic impact and access arrangements.

7.5.2 I do however note the questions posed by the third party with regard to the provision of the vehicular access along the western boundary and impact on established parking arrangements in relation to the former post office building now converted to retail use with two residential units. I note that whilst this issue was raised within the request for additional information and also within the grounds of appeal the first party has not clarified the matter in any detail. As noted within the submissions of the third-party appellant the layout of car parking as provided on the site differs in terms of orientation from that as permitted under planning reference 17/759. I further note the conflict with the previous Board decision which restricted the amount of car parking to be provided to 3 no spaces with a view to increasing the level of open space to serve the residential units. In terms of impacts on the established residential amenities of the area the proposal to provide an access also impacts on the nature and amount of open space provided to the residential units. In my view the application has failed to address these issues.

7.5.3 I also note that the third party has questioned the applicant's legal entitlement with respect to the access and the common access to the yard area. I note that the issue of legal interest are essentially a civil matter and not strictly a matter for determination within the scope of planning legislation and in this regard I would refer the parties to Section 34(13) of the Planning and Development Act 2000, as amended as follows: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development.*" However, as outlined above I do consider that based on the details submitted it has not been demonstrated that the proposal would give rise to conflict with the permitted layout on the adjoining site and impact on established residential amenity.

## **7.6 Appropriate Assessment**

7.6.1 The site is located within 500m of Lower River Shannon SAC (site code 002165) and within 5-7km of a further four European sites Curraghchase Woods SAC (000174), River Shannon and River Fergus Estuary SPA (Site code 004077), Askeaton Fen Complex SAC (002279) Tory Hill SAC (000439). There are no known hydrological links to the protected sites.

7.6.2 The development involves the construction of a two storey dwellinghouse and all associated site works on a site with a stated area of .18 hectares. The development site is an infill site within the existing urban area. The site is served by the public water and foul water networks. Foul drainage is proposed to drain to the public network and surface water is to be connected to the public drain.

7.6.3 Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on serviced urban lands, it is considered that no appropriate assessment issues are likely to arise. The development proposal would not generate any foul discharges or surface water pathways that would impact on the conservation objectives of the European sites. Having regard to the nature and scale of development proposed, to the absence of source pathway receptor link and the lack of effects on ex-situ designated species in relation to the Natura 2000 sites 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 Recommendation**

8.1 I recommend that permission is refused for the following reasons.

### **Reasons and Considerations**

It is a policy of the Planning Authority Objective EH025 to seek the preservation (in situ, or at a minimum, preservation by record) of all known sites and features of historical and archaeological interest. This is to include all the sites listed in the Record of Monuments and Places as established under Section 12 of the National

Monuments (Amendment) Act 1994. Policy Objective EH O26: is to protect and preserve (in situ, or at a minimum, preservation by record) all sites and features of historical interest discovered subsequent to the publication of the Record of Monuments and Places. The appeal site is located within the Recorded Monument L1021-032 classified as the Historic Town of Adare. It is considered that the archaeological significance of the site is such that any development of the site in advance of a comprehensive archaeological assessment, carried out to the requirements of the appropriate authorities, would be premature, would be contrary to the stated objectives of the Limerick County Development Plan 2010-2016 as extended and would, therefore, be contrary to the proper planning and sustainable development of the area.

Having regard to layout and configuration of the proposed development and to its implications on the parking, circulation space and open amenity space associated with in residential development on the adjoining site Planning References 17/759 and 15/136 PL245243, the Board is not satisfied based on the details submitted that the proposed development would not be prejudicial to established residential and other amenities of the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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Bríd Maxwell  
Planning Inspector

15<sup>th</sup> February 2022