



An
Bord
Pleanála

Inspector's Report ABP 312894-22.

Development

Minor elevational amendments from previously granted ref. 99/2676. Change of use from office unit to residential apartment on 1st floor, alteration to overall 1st floor layout from previously granted planning ref 99/2676 (granted 6 apartment units) into 8 apartments, alteration to 2nd floor layout from previously granted planning ref. 99/2676 (granted 8 apartment units) into 7 apartment units.

Location

Clarina Village, Ballybrown, Clarina, Co. Limerick.

Planning Authority

Limerick City and County Council

Planning Authority Reg. Ref.

21701

Applicant

Muriel Sheehan

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal	First Party
Appellant	Muriel Sheehan
Observers	None
Date of Site Inspection	16 th of June 2022
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is located within the village of Clarina. It is situated approximately 10km to the west of Limerick City. The N69 National Secondary Route which links Limerick City and Tralee runs through the village.
- 1.2. The site with a stated area of 0.478 hectares contains a large two-storey building with accommodation the attic space. The stated floor area of the building is 1,839sq m. The area surrounding the building is hard surfaced. Construction works are ongoing at the premises.
- 1.3. The Cois Carraig housing estate is situated to north of the site. It comprises an unfinished housing estate of retirement homes and adjoins a partially completed housing estate which is an adjunct to the village. There is a hair and beauty salon on the neighbouring site to the east. Further to the east and on the opposite side of the road there is a service station and convenience retail store.

2.0 Proposed Development

- 2.1. Permission is sought for minor elevational amendments from previously granted ref. 99/2676. Change of use from office unit to residential apartment on 1st floor, alteration to overall 1st floor layout from previously granted planning ref 99/2676 (granted 6 apartment units) into 8 apartments, alteration to 2nd floor layout from previously granted planning ref. 99/2676 (granted 8 apartment units) into 7 apartment units.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reason.

1. Having regard to the planning history of the site and in the absence of a comprehensive proposal for surface water disposal, the proposed development does not comply with the requirements of the Limerick County Development Plan specifically Objective IN O41: Sustainable Urban Drainage

Systems. Therefore, the proposal would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further Information was sought in relation to the following;

1. Address the matter of the location of the site within Flood Zone A and the proposal to change the use of the first floor resulting in additional apartments
2.
 - (i) The applicant shall submit a revised proposal to soften the side and front of the scheme which faces onto the main entrance into Clarina Village. This proposal shall include a low level boundary wall topped with a railing system and semi-match street tree stands to break up the high level of car parking at this location. The rear parking shall also be broken up through hard landscaping and tree stands. Submit revised details to include schedule of number and species and planting and plans and elevations for the wall and railing system.
 - (ii) The bin store shall be relocated to the rear of the building;
 - (iii) Given that the apartment unit will not have the required private open space requirements set out under the guidelines and the applicant is strongly requested to rethink the amenity space to the rear of the building and its disconnected location i.e. this area shall be made bigger and connect to the building.
 - (iv) The applicant is requested to look at how the front faced of the building could be sorted through the use of a canopy elements over the entrance points to the retail units – this is required to help simulate the building visually into the village.
3. A Revised Landscaping Scheme is required.
4. Submit evidence of an Irish Water 'pre connection enquiry' response from Irish Water confirming connection feasibility.

5. Submit a Refurbishment Demolition Asbestos Survey of the existing building.
6. Address matters concerning sightlines
7. Address matters concerning car parking
8. Address matters concerning traffic and pedestrian access
9. Address matters concerning public lighting
10. The applicant was required to submit a revised Surface Water Disposal Layout Plan showing the existing and proposed. The layout shall include the following;
 - All manholes clearly numbered,
 - Cover/invert level,
 - All surface water pipelines and direction flow,
 - Discharge location,
 - Clear legend
 - All parking areas shown as permeable paving or porous asphalt, shall be clearly coloured on the layout and included in the legend. The layout shall show how all the permeable parking spaces are connected together shall have an overflow system to the main internal surface water system.

Planning report: Following the submission of response to the further information the Planning Officer concluded that in the absence of a comprehensive proposal for surface water drainage on site, the Planning Authority cannot be satisfied that the development would not be prejudicial to public health. It was concluded that the development as proposed does not comply with the requirements of the Limerick County Development Plan specifically Objective IN O41: Sustainable Urban Drainage Systems and would therefore be contrary to the proper planning and sustainable development of the area. It should be noted that surface water proposals permitted under 99/2676 for the overall development (that this site formed part) and amended permissions granted under plan ref 15/221 and 15/813 remain outstanding. It was stated that the matter is a major concern and that it needs to be addressed before the proposal can be permitted. A refusal of permission was recommended.

3.2.2. Other Technical Reports

Roads Section report dated 5/7/2021 – further information requested.

Roads Section report dated 20/1/2022 – further information not sufficiently responded to. In relation to surface water proposals, it is not clear how and where the roof water and surface water from the site is proposed to be disposed of.

Environment Section report dated 26/1/2022 – The further information response is noted and it is recommended that conditions be attached to a grant of permission.

Physical Section report dated 5/7/2021 – further information requested.

Physical Section report dated 26/1/202 – No objections. It is recommended that a condition be attached that an emergency plan be submitted and that the plan should consider the requirements associated with both overtopping and breach of the existing embankment.

Fire Authority – no comment

3.3. Prescribed Bodies

Irish Water – Comment provided

Transport Infrastructure Ireland – No comment

Mid-West Roads – No comment

3.4. Third Party Observations

- 3.4.1. The Planning Authority did not receive any submissions/observations in relation to the application.

4.0 Planning History

ABP Ref: RP91.RP2138 – Referral - Points of Detail in dispute, Whether the proposed means of attenuation satisfies condition no. 18 of planning register ref. no.15/221 or should the applicant be required to submit a further planning application. The Board determined that the proposal for attenuation, as submitted in support of this referral, satisfies the requirements of Condition 18 of planning authority register reference number 15/221 in relation to surface water attenuation.

PA Ref. 15/221 – Permission granted for the completion of the construction of 48 no. retirement houses currently in various states of construction along with associated site works. The 48 no. units were originally granted planning permission under 99/2676 (which was extended under 12/7106 until 2017) and construction commenced with amendments to the principal permission under 07/1252 & 07/3472.

PA Ref 07/3472 – Permission granted for changes to internal layouts.

PA Ref. 12/7106 – Permission extended until the 20th November 2017.

Planning register reference number 071252. Permission granted for changes to elevations.

PA Ref. 99/2676 & ABP Ref PL13.129104 – Permission granted for 196 housing units, childcare centre, offices, business and technology park, supermarket, restaurant, retail units, hotel, communal and community halls, temporary wastewater treatment plant and foul sewerage pumping station.

5.0 Policy Context

5.1. Limerick Development Plan 2022 – 2028

- 5.1.1. The appeal site is located with the defined boundary of Clarina Village.
- 5.1.2. Clarina is located within the Limerick Shannon Metropolitan Area
- 5.1.3. Clarina is a Level 5 Village in the settlement hierarchy. Having regard to National Policy Objective 3c, a growth target of 28% has been incorporated into the Core Strategy. Development in Clarina shall accord with the objectives for the Level 5 settlements as set out under Section 2b below.
- 5.1.4. Section 3.8 refers to Level 5: Small Villages - These are smaller settlements generally ranging in population from 150 – 500 people with a range of infrastructural, social and community facilities. These settlements have some essential infrastructure (i.e. Irish Water’s water and/or sewage facilities) and a range of community infrastructure that provide for convenience and daily needs of the local population and surrounding area. They also provide some small-scale employment opportunities and local level community facilities, such as primary schools, churches, local sporting facilities and a community hall. In line with National Policy Objective

3c, 30% of all new homes targeted within Level 5 settlements shall be within their existing built-up footprints.

5.1.5. Objective CGR O17 – Development within Level 5 Settlements

It is an objective of the Council within these settlements to facilitate development, subject to compliance with the following:

(a) The scale of new residential schemes shall be in proportion to the pattern and grain of existing development and shall be located within the development boundary, thus avoiding ‘leap frogging’ of development and delivering compact growth and providing for the organic and sequential growth of the settlement. Infill and brownfield sites will be the preferred location for new development. In this regard, any development shall enhance the existing village character and create or strengthen a sense of identity and distinctiveness for the settlement.

(b) New commercial developments shall generally only be located within the core area and shall contribute positively to the village streetscape.

(c) New community and social facilities shall be provided in conjunction with residential development as required.

(d) The development of these centres shall provide for serviced sites and a variety of other house types and densities as appropriate.

(e) Where there is no treatment plant or limited capacity in the existing treatment plant, sewerage treatment shall generally be by means of individual treatment systems, subject to satisfactory site assessment and compliance with EPA guidelines. All systems shall be constructed so as to allow connection to public sewers in due course when capacity becomes available.

5.1.6. Section 11.3.11 of the Plan refers to SuDS (Sustainable Drainage Systems)

5.2. Natural Heritage Designations

5.2.1. Lower River Shannon SAC (Site Code 002165) is located circa 2.1km from the site.

5.2.2. River Shannon and River Fergus Estuaries SPA (Site Code 004077) lies circa 2.1km from the site.

5.3. EIA Screening

- 5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted by RDF Architects and Planning Limited on behalf of the applicant Muriel Sheehan. The issues raised are as follows;

- The parent permission for the overall development was granted under Reg. Ref. 99/2676.
- The subject building was constructed in 2005 and has been vacant for the past 17 years. A portion of the ground floor of the building was previously rented to a company operating a laundromat however that subsequently went out of business.
- In 2021 the applicant decided to develop the property for residential accommodation which is stated will provide much needed in housing.
- A section 130 application was made for a change of use of ground floor units from retail to residential.
- The current applicant seeks to increase the apartment numbers for the two top floors of the building and to improve the overall apartment provision to comply with Sustainable Urban Housing: Design Standards for New Apartments.
- The Planning Authority in their assessment of the application sought further information. The applicant submitted a response on the 23rd of December 2021. It is stated that the further information request required

additions/amendments to the scheme. It is submitted that the applicant made a satisfactory proposal.

- Regarding item no. 10 of the further information, it refers to surface water disposal system. It required that the applicant submit a revised Surface Water Disposal Layout Plan showing the existing and proposed. The layout shall include the following;
 - All manholes clearly numbered,
 - Cover/invert level,
 - All surface water pipelines and direction flow,
 - Discharge location,
 - Clear legend
 - All parking areas shown as permeable paving or porous asphalt, shall be clearly coloured on the layout and included in the legend. The layout shall show how all the permeable parking spaces are connected together shall have an overflow system to the main internal surface water system.
- In response to the matter the applicant submitted that the building has been in existence since 2005 and that therefore no further impact on the existing scenario was proposed.
- It is considered that as the building is constructed therefore there is no further impact regarding SUDS or flood risk elsewhere. The applicant considers that the Council should have sought clarification of further information if the response was not considered satisfactory.
- It is stated that the applicant was advised that permission would be refused and that they had the option of withdrawing the application and resubmitting an application to address the Sustainable Urban Drainage System. The applicant requested that the Planning Authority grant permission and condition that they submit SUDS proposals for their agreement.
- It is submitted that the matter could have been dealt with by condition. The appeal is accompanied by a SUDS report and proposal which it is considered satisfactorily addresses the matter.

- A letter of support from Senator Maria Byrne was included with the appeal.
- DRA Consulting Engineers prepared a Surface Water Drainage Report dated 18/02/2022
- It is set out in the report that the drainage design is to incorporate Sustainable Urban Drainages Systems measures. All surface water run-off from the development will be attenuated, controlled and managed in accordance with Greater Dublin Strategic Drainage Study.
- The existing drainage servicing the development does not currently incorporate SUDS measures. This drainage currently connects at several separate locations to an existing surface drain passing through the site. The surface water which passes through the site serves other developments upstream of the site.
- It is proposed to revise the existing surface water drainage separating it from the existing surface water drain and adding new SUDS measures. It is proposed to reconnect part of the site to the surface water drain passing through the site. It is stated that the area being reconnected will be attenuated upstream of the connection point. It is proposed to drain the remaining areas to soakaways. It is stated that an existing unfinished area at the rear of the site is not currently connected to the surface water drain. It is proposed to drain the remaining areas to soakaways.
- Regarding the existing unfinished area at the rear of the site which is not connected to the surface drain passing through the site, it is proposed to landscape this area to provide communal open space. It is proposed to allow this area free drain into the ground by finishing with free draining soils and other water permeable finishes.
- The design approach will ensure no flooding will occur on site during the 30 year storm event. No internal property flooding will occur during the 100 year storm event. Only flooding of the proposed surface water network will occur during the 100 year storm. There will be no overland flooding of adjacent areas from this development.

- Drawing no: 21267 – 101A indicates drainage proposals and SUDS measures. 2 no. 3m wide swales incorporating soakaways on the north and western side of the building are proposed. The access road, cycle path, footpath, pebbled area and gate shed on the west side of the development is to connect to the west swale. The existing parking at the rear of the building and the rear small building and a small section of the new communal open space is connected to the north swale.
- Swales can be planted with suitable grasses or incorporate other suitable landscaping measures to provide new habitats for bees and other insects.
- Soakaways with storage are proposed under the length of both swales. The soakaway design includes a Wavin Aqua Cell which free drains to surrounding ground. Soakaways have been designed to store the 30 year storm with 20% for climate change.
- It is proposed to install 1 no. attenuation tank with oil interceptor, silt trap and flow control device to be provided at the south side of the building. Surface water from this system will connect to the existing public sewer which passes through the site.
- The existing building roof and east and south parking and footpaths is to connect to this system. The oil interceptor is proposed on the upstream side of the flow control chamber. A silt trap is to be provided in the form of a sump in the manhole on the upstream side of the oil interceptor.
- The rainfall data used in the design was obtained from Met Eireann for the area local to the site. Surface water calculations have been assessed with an additional allowance include for 20% increase for climate change as stated in the GDSDS Technical Documents, Climate Change.

6.2. Planning Authority Response

- None received

7.0 Assessment

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Surface water drainage
- Proposed elevational amendments and change of use
- Appropriate Assessment

7.1. Surface water drainage

- 7.1.1. The Planning Authority refused permission for the scheme which sought for minor elevational amendments from the previously granted development under Reg. Ref. 99/2676 and the change of use from office unit to residential apartment on the first floor, with alterations to overall 1st floor layout and second floor layout.
- 7.1.2. Permission was refused by the Planning Authority on the basis that having regard to the planning history of the site and in the absence of a comprehensive proposal for surface water disposal, that the proposed development does not comply with the requirements of the Limerick County Development Plan specifically, Objective IN O41 which refers to Sustainable Urban Drainage Systems.
- 7.1.3. In the interim since the Planning Authority refused permission the Limerick Development Plan 2022-2028 was been adopted by the Elected Members of Limerick City and Council's on the 17th of June 2022. The Plan came into effect on the 29th July 2022. On the 28th of July 2022, Limerick City and County Council received notification from the Minister for Housing, Local Government and Heritage of his intention to issue a Direction pursuant to Section 31 of the Planning and Development Act 2000 (as amended). In accordance with Section 31(4) of the Planning and Development Act 2000 (as amended), those parts of the Limerick Development Plan 2022-2028 referred to in the notice shall be taken not to have come into effect, been made or amended. Having regard to this notice from the Minister for Housing, Local Government and Heritage, I note that it refers to a number of specific zonings and that it does not refer to the subject site at Clarina

Village, Limerick. Accordingly, I am satisfied that the provisions of the Limerick Development Plan 2022 – 2028 apply to the subject site. The site is located within the defined development boundary of Clarina which is designated a level 5 small village under the provisions of the plan. Section 11.3.11 of the Limerick Development Plan 2022 – 2028 refers to SuDS (Sustainable Drainage Systems). It states that all new developments will be required to manage and minimise surface water runoff by the use of Sustainable Drainage Systems (SuDS), unless otherwise agreed with the Planning Authority and previously developed sites which are being redeveloped should aim to achieve greenfield run off rates.

- 7.1.4. In response to the refusal of permission the applicant has submitted revised surface water drainage proposals. DRA Consulting Engineers prepared a Surface Water Drainage Report dated 18th of February 2022. It is set out in the report that Sustainable Urban Drainages Systems measures are proposed within the scheme and that all surface water run-off from the development will be attenuated, controlled and managed in accordance with Greater Dublin Strategic Drainage Study.
- 7.1.5. As detailed in the report of DRA Consulting Engineers the existing drainage servicing the development does not currently incorporate SUDS measures. In order to address this, it is proposed to revise the existing surface water drainage separating it from the existing surface water drain and adding new SUDS measures.
- 7.1.6. Drawing no: 21267-101, titled Surface Water Drainage Design was submitted with the appeal, 2 no. 3m wide swales incorporating soakaways on the north and western side of the building are proposed with an attenuation tank to the south-eastern side of the site. The site is proposed to be divided into three sections for the purposes of surface water drainage. The northern swale is proposed to accommodate surface water generated from the roof area of the bin store and the car parking area and access road to the rear of the building along with the permeable area surrounding the swale. The west swale is proposed to accommodate surface water generated from the access road, footpath and permeable area at this section of the site. Soakaways with storage are proposed under the length of both swales. The drawing indicates the attenuation tank located to the south-eastern corner of the site. The attenuation tank will accommodate surface water generated from the roof area of the main building and the footpath, access road and car parking area located to the front of the building.

- 7.1.7. It is also detailed in the report of DRA Consulting Engineers that it proposed to reconnect part of the site to the surface water drain passing through the site. It is proposed that the area being reconnected will be attenuated upstream of the connection point. It is confirmed in the report of DRA Consulting Engineers the approach taken in respect of surface water drainage will ensure no flooding will occur on site during the 30 year storm event and that the soakaways have been designed to store the 30 year storm with 20% for climate change.
- 7.1.8. Accordingly, having regard to the revised surface water drainage proposals provide by the first party with the appeal, I am satisfied that surface water generated within the subject scheme will be managed and minimised by the use of Sustainable Drainage Systems as required by the Planning Authority and set out in Section 11.3.11 of the Limerick Development Plan 2022-2028.

7.2. Proposed elevational amendments and change of use

- 7.2.1. It is proposed to change of use an office unit on the first floor to a residential apartment. As indicated on the drawings the proposed residential unit has an area of 76sq m and contains two bedrooms. It is located to the south-eastern corner of the building. The proposed change of use is relatively minor in nature having regard to the overall existing permitted use of the building for residential purposes. Furthermore, I note that the Planning Authority had no objection to the proposed change of use.
- 7.2.2. The proposed amendments to the scheme also include alterations to the first floor layout to provide for 8 no. apartment units. The scheme as permitted under Reg. Ref. 99/2676 included 6 no. apartment units at first floor level. At second floor level the revisions to the layout entail the provision of 7 no. apartment units in place of the 8 no. apartments as permitted under Reg. Ref. 99/2676. As detailed above the revisions to the layout involve the reduction in the number of apartments at second floor level by one and an increase in the number of apartments at first floor level by two. Overall, the amendments, to the scheme provides for an increase in the number of apartments by one unit. I consider this would be acceptable.
- 7.2.3. In relation to the elevational changes, it is proposed to retain two windows at second floor level to the western elevation which serve bedrooms within apartment no. 204.

In the front (southern) elevation of the building, it is proposed to retain 1 no. first floor window located to the centre of the building. Regarding these elevational changes they are all relatively minor in nature and accordingly I consider they are acceptable.

7.3. Appropriate Assessment

- 7.3.1. Having regard to the nature and scale of the proposed development within a serviced urban area and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission is granted for the proposed development in accordance with the following reasons and considerations:

9.0 Reasons and Considerations

- 9.1.1. Having regard to the provisions of the Limerick Development Plan 2022-2028, to the planning history of the site, to the nature and scale of the proposed development and to the pattern of existing 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 residential or visual amenities of the area or of property in the vicinity and would not be prejudicial to public health. 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 retained, carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 23rd day of December 2021 and by the further plans and particulars received by An Bord Pleanála on the 23rd

day of February, 2022, 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

4. 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.

Siobhan Carroll
Planning Inspector

17th of October 2022