



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313636-22

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<b>Development</b>	Demolish shed, and construction of house with granny flat and detached garage new access associated works.
<b>Location</b>	Site adjacent to 20, The Hawthorns, Limerick Road , Co. Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	22215
<b>Applicants</b>	Michelle Sheehan + Derek Madison.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Keren McWeeney
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> December 2022.
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. This appeal site is in a southern suburban residential enclave south of Ennis. The site relates to a vacant site of 0.118ha adjacent to a large, detached dwelling located at the end of a cul-de sac of semidetached houses in The Hawthorns housing development. It is part of a large residential area of varying house styles to the west of the R458 (Limerick Road/Clare Road) from which it is accessed and is north of the southern orbital stretch of the N85. The site is backed onto by a row of two storey dwellings to the north (including no.19 The Hawthorns – the appellant), and is adjoined by public open space (overlooked by a row of houses- Bramble Lane) to the south and undeveloped lands to the west.
- 1.2. The site is presently under grass and a small shed is in the south west corner - the point of interconnection with the curtilage of no.20 The Hawthorns - the host site.
- 1.3. The site, as presently delineated by hedges and boundary walls, is approx. 39m x 28m with an additional triangular protrusion extending across the front drive of no20 and accordingly providing road/footpath frontage of c.11m.

## 2.0 Proposed Development

- 2.1. The application involves permission for the demolition of a shed and construction of a large detached one and two-storey 4-bed dwelling with an interconnecting single storey 2-bed granny flat and a detached garage. The overall ridge height is 8m. The house is diagonally aligned facing north west in direction and overlooking the side and front of the host dwelling at no.20.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Clare County Council by order dated 28<sup>th</sup> April 2022 decided to **GRANT** permission subject to 13 conditions requiring:
  - In accordance with plans.
  - Section 48 contribution

- Specification of materials for roof, no neo Georgian windows, Restriction on stone and pointing and floodlighting.
- Drainage details
- Underground ducting
- Hight of entrance walls
- Restriction on garage
- Part V compliance
- Construction hours
- Restriction on granny flat
- Bathroom windows specification
- Height restriction on boundary hedging.

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

- 3.2.1. Planning Report (28/4/22) Objections are noted as are the provisions of the development (2017-2023) and notably the residential zoning of the site. The principle of the dwelling with a granny flat is considered acceptable . In respect of residential amenities the proposal was assessed having regard to overlooking potential, overshadowing and overbearance, boundary treatment and visual impact and no adverse impacts are considered to arise. There are no AA or EIA issues.

### 3.3. **Technical Reports**

None

### 3.4. **Prescribed Bodies**

Irish Water: No objections subject to conditions.

IAA: No observations regarding safety regulations for aerodromes.

### 3.5. **Third Party Observations**

- 3.5.1. There were 6 objections lodged by neighbouring residents and others. Issues relate mainly to excessive scale and massing and impact on residential amenities and character of the area, traffic safety at a point where there is supposed to be a

hammerhead/turning area and overflow parking, boundary treatment and procedural and infrastructural issues.

## 4.0 Planning History

- 4.1. PA ref 98/570 refers to the original permission for The Hawthorns. A subsequent application by the developer to retain alterations to the permitted cul-de-sac hammerhead was refused (PA ref 1693 and PL.03122229) .
- 4.2. PA ref P00/2335 refers to permission for domestic alterations to no. 20. The Hawthorns (in pouch at back of file)

## 5.0 Policy Context

### 5.1. Clare County Development Plan 2023-2029 (effective 20<sup>th</sup> April 2023)

The site is zoned – Existing Residential in Volume 3a - Ennis Municipal District. As per volume 1, it is an objective in such areas to conserve and enhance the quality and character of the area.

The site is within the Clonroad More neighbourhood. (section 2.9 of Vol.3a)

Opportunities for consolidation are stated in the plan to occur mostly in the southern half of this neighbourhood. The strategy, therefore, is to provide residential zoned land at a number of locations in Clonroad closer to existing housing which will assist in the consolidation of the neighbourhood.

Land to the west ( of 2.43 ha) is zoned strategic residential reserve (SR9) and is classed as Tier 1 lands with indicative accesses from the distributor road in the Hawthorns nearer its junction with the R458 and also directly off the R458. There is also frontage onto Brambles Lane/open space.

The ministerial direction regarding the development plan does not impact directly on the subject site or adjacent lands. It relates to Knox Bridge site (LDR2) which is at the northern tip of this neighbourhood.

### 5.2. National Planning Framework (February 2018),

5.2.1. This framework plan supports a strategy of carefully managing the sustainable growth of compact cities, towns and villages in a manner that will add value and create more attractive places in which people can live and work.

### 5.3. **Natural Heritage Designations**

5.4. The nearest sites are the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA c. 1.1km away.

### 5.5. **EIA Screening**

5.5.1. The proposed development is a small-scale urban development. Having regard to the nature of the development, the absence of features of ecological importance within the site, I consider that the necessity for submission of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

6.1.1. Michael Duffy, CEng, MIEI has submitted an appeal on behalf of Karen McWeeney of 19 the Hawthorns a neighbouring property of the subject site. The grounds are based on:

- Blackland nature- over development of site - Not in accordance with the proper planning sustainable development of the area
- A single-family unit would be more in keeping.
- Traffic safety and cul-de-sac arrangement.
- Design: uncharacteristic design by reason of scale nature and height .
- Injury to residential amenity by reason of overlooking, overshadowing and overbearing impact.
- Flooding.
- Boundary concerns.
- Invalid application by reference to unauthorised development (garage, shed and road layout).

## 6.2. **Planning Authority Response**

6.2.1. In a letter dated 13<sup>th</sup> June 2022 the PA comments on the appeal grounds. The letter clarifies the scope of the proposal and notably refers to the acceptable nature of the proposal having considered the road layout and traffic safety, the principle of the development, the location not being in a flood risk zone and potential impacts regarding the location of the site and its relationship with surrounding properties. The statement of overdevelopment is disputed.

## 6.3. **Applicant's Response.**

- None received.

## 7.0 **Assessment**

### 7.1. **Issues**

7.1.1. As this is a residential zoned site in a serviced area, the principle of infill housing is I consider not in question. The issues relate primarily to overdevelopment, density, scale and design and impact on residential amenities and traffic hazard. Procedural issues are also raised in relation to unauthorised development and a fundamental restriction on permission. Appropriate Assessment is also a mandatory consideration.

### 7.2. **Unauthorised status**

7.2.1. It is explained in the grounds of appeal that the cul-de sac arrangement in the vicinity of houses 19 and 21 was not in compliance with approved plans and that permission by the developer to regularise this was refused and a subsequent remedy, acceptable to the Roads Department, was deemed to require planning permission. The appellant makes the case that the criteria by which the initial departure from plans was refused and deemed not to be proper planning still stands. This is relevant to the appellant who is directly affected by the adjoining road layout and development of a site accessed off it.

7.2.2. The planning authority explains that the road has since been taken in charge which I consider a material change in circumstances. The change in road layout, aside from the interface with the site boundary, is a matter for the Roads Authority. The

arrangement which provides for access and on-street perpendicular parking is not being altered and it is now under the control of the County Council and this I consider safeguards against traffic hazards. Furthermore, the site, at no.20 together with the site as delineated, provides generously for safe access particularly having regard to the cul-de-sac location and low volume of traffic. A condition requiring the exact setting out of the front boundary and access for the existing and proposed dwelling would provide for orderly and safe development. In view of these circumstances I do not consider the road layout to constitute grounds for refusal.

### **7.3. Overdevelopment**

- 7.3.1. The appellant is most concerned about the introduction of a second dwelling onto the house site of no 20 and considers it of a substandard and backland nature. The appellant had an expectation of only one house at no.20.
- 7.3.2. The site comprises a large rectangular enclosed grassed space separated from the house and its curtilage by a mature boundary with open lands to the side and backed onto by rear gardens. I consider this standalone site capable of providing self-contained dwelling . The existing and proposed front gardens and driveway are of generous proportions which can adequately provide independent access.
- 7.3.3. The appellant makes the case that the garden area was never envisaged as an independent dwelling site. While that may be the case that does not preclude consideration of and consent for future development pursuant to current criteria. The merits of the case must be assessed on current planning policy in addition to the pattern of development. In this regard, national policy, as reflected in the development plan, strongly advocates efficiency of serviced land by compact forms of development.
- 7.3.4. If there was criticism regarding density, I consider it more related to underdevelopment of a serviced site by itself or potentially as part of an adjoining strategic residential land reserve. Notwithstanding, I accept that the immediate context and relationship with the two storey dwellings with gardens necessitates a transitional form of development between the established lower density and possibly higher densities. Accordingly, I consider the nature of a single large residence with ancillary granny flat accommodation constitutes an appropriate form of development which can be adequately accommodated within the site subject to

detailed design criteria. Having regard to the prevailing density, I do not agree that the development of one dwelling on 0.118 hectares can be described as overdevelopment.

#### **7.4. Impact on residential amenity.**

- 7.4.1. It is submitted that the development responds very poorly to its surroundings, particularly in relation to privacy, views and rights to light. Reference is also made to the garden depth and scale of and design of the granny flat.
- 7.4.2. As assessed by the planning authority the issue of overlooking is not significant having regard to the orientation and set back of the first floor as it relates to the rear of the dwellings at an oblique angle to the north. In terms of design and character I consider the unique nature of the site and its size allows for a unique and larger scaled design approach. The stepping down of height together with mature and augmented boundaries also bridges the different styles. Accordingly for these reasons I consider the different design can be assimilated into the local environs without unduly detracting from their character or amenities.
- 7.4.3. in terms of overdevelopment, I do not consider, the addition of a single dwelling in a housing estate in where there is extensive open space to amount to substandard development. The public open space is not being reduced or impinged in anyway by the subject site. The encroachment on the former permitted open space to the south of no.21 The Hawthorns is a separate matter. With respect to setbacks and private open space, the bedroom rooms at first floor are set back at arrange of 6-8m at an angle from the eastern boundary with the strategic residential reserve lands – a condition restricting exempted development extending the house would address potential overlooking in the future. Otherwise both the existing and proposed dwellings house have a generous provision of open space by current standards. I consider a sufficient balance has been struck between the reasonable protection of amenities and privacy of adjacent dwellings while also protecting the character of the area.
- 7.4.4. The proposed granny flat provides for internal connection through the hall. While it has a secondary access and has two bedrooms, and the board could consider replacing the independent access with a window, it is I consider readily assimilated into the larger house and is in scale within the overall site.



- 7.4.5. Accordingly having regard to the proposed design and pattern of development in the area, I consider the proposal to be acceptable in terms of visual and residential amenities.
- 7.4.6. While I note the residential housing guidelines advise of the need to respect existing character, for reason already stated, I consider the overall design can be absorbed into the site without unduly altering or impinging on the character of the area. I consider this to be an appropriate balance between providing for an efficient use of serviced land and according with a policy of directing development to create compact towns and village while respecting the low-density character of the area. In such circumstances, it accords with proper planning and sustainable development.

## 7.5. **Flooding**

- 7.5.1. The appellant raises concerns about flooding originating from the subject site, that the proposed development will exacerbate this matter and that the PA condition is insufficient.
- 7.5.2. The planning authority confirms the site is not subject to flood risk and I note this to be the case by reference to the publicly available flood risk maps. (Extract attached in file) . The appellant further raises the issue of storm water management and impact on the appellants property. The appellant is doubtful of the feasibility of assurances of the implementation of conditions in this regard given the lack of details. Having regard to the size of the site and its location in a serviced area I consider it reasonable that the surface water can be collected and disposed of within the site. Alternatives such as incorporating some sedum roofing or other attenuation can be considered if there is capacity issue. A restriction on limiting hard surface area by de-exempting its extension and other such normally exempted development would help to safeguard the permeability and natural drainage of the site. Drainage arrangements could be required to be agreed to the satisfaction of the planning authority prior to commencement of development. This I consider is a reasonable approach given the site characteristics.

## 7.6. **Other matters**

- 7.6.1. The appellant also refers to the unauthorised status of the shed which is the subject of demolition. I consider the application to seek its demolition regularises this matter.

## **7.5 Appropriate Assessment**

- 7.6.2. Having regard to the nature and scale of the proposed development and also noting the serviced nature of the site and its separation from the nearest European site, no Appropriate Assessment issues arise and it is not considered that the 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**

GRANT permission based on the reasons and considerations and subject to the conditions set out below.

## **9.0 Reasons and Considerations**

Having regard to the residential zoning objective for the site, provision for infill development in the Ennis Municipal District Area as part of the Clare County Development Plan 2023-2029, the pattern of development along in the area and the scale, nature and design of the development, it is considered that, subject to compliance with the conditions set out below, the development would constitute an appropriate form of infill development at this location, would be acceptable in terms of scale and design and would not seriously injure amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement

of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed family flat extension shall be used solely for that purpose, and shall revert to use as part of the main dwelling on the cessation of such use.

**Reason:** In the interest of clarity.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. (a) Screen walls shall be provided along the side boundaries of the site with existing properties, unless otherwise agreed with the owners of the respective dwellings. (For example timber post fencing and landscaping may be permitted to the screen the rear garden from the existing house at no.20 The Hawthorns). Such walls shall be less than a height of 1m to the front building line and 1.8m in height between the existing and proposed dwellings and extending to the rear boundary.

(b) Details of the layout, the materials, and external finishes of the screen walls and front boundary shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of construction of the dwellings.

**Reason:** In the interest of residential amenity, orderly development and traffic safety.

5. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwellinghouse without a prior grant of planning permission.

**Reason:** In the interest of residential and visual amenity.

6. The in-curtilage car parking spaces serving the dwelling house shall be provided with electric connections to the exterior of the house to allow for the provision of

future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** in the interest of sustainable transportation.

7. The site shall be landscaped, using only indigenous deciduous trees and hedging species and in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Existing boundary screening shall be suitably strengthened. Any plants which die, are removed or become seriously damaged or diseased, within a period of 4 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of visual amenity.

8. The footpath fronting the development shall be aligned and dished in accordance with the requirements of the planning authority. Details shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason :** In the interest of pedestrian and traffic safety.

9. All service cables associated with the proposed development shall be located underground.

**Reason:** In the interest of orderly development.

10. 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. Details shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of public health.

11. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

12. 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 housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) 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 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála 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 of the area.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure 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.

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Suzanne Kehely

Senior Planning Inspector

5<sup>th</sup> May 2023