



An
Bord
Pleanála

Inspector's Report ABP 314009-22.

Development	Retention and completion of a road.
Location	Lismulbreeda, Darragh, Ennis, Co. Clare.
Planning Authority	Clare County Council.
Planning Authority Reg. Ref.	21598
Applicant	Ennis Vehicle Centre Limited
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant	Micheal and Brigid Neylon
Observer	None
Date of Site Inspection	22/11/2022
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The site is located in the townland Lismulbreeda, Darragh. Co Clare. Lismulbreeda lies approximately 8km to the south of Ennis. The site is situated circa 178m to the west of N68. The N68 is a national secondary road which links Ennis with Kilrush to the south-west.
- 1.2. The site has a stated area of 0.5103 hectares, and it comprises a section of private roadway which extends for 310m. This section of constructed road links two points on the local road L- 4224. The L-4224 is cul-de sac which serves a number of residential properties, farm holdings, a quarry and a commercial premises which operates as a testing centre for large vehicles.

2.0 Proposed Development

- 2.1. Permission is sought to retain the existing hardcore road and permission to complete the road construction together with signage, road markings and ancillary works. The road which is sought to be retained is 310m long and connects the local road L-4224 to the private road currently serving private dwellings and commercial properties. The road is to upgrade the access to commercial properties in this area through the by-passing of a winding narrow section of the existing private road.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant retention permission subject to 8 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further Information was requested on the 3rd of August 2021 in relation to the following;

1. Submit a Stage 1 & 2 and Stage 3 Road Safety Audit (RSA). The RSA should be carried out by a suitably qualified RSA team, approved to perform RSA's by the TII. The RSA shall be carried out in accordance with the TII publication "TII GE-STY-01024-Road Safety Audit."
2. Submit a Traffic Impact Assessment, prepared by a suitably qualified consulting engineer, the holder of professional indemnity insurance.

The objective of this Traffic Impact Assessment report is to assess the impact the proposed development will have on the existing road network, and in particular the L-4224 and L4224-1. This report will calculate the expected volume of traffic that will be generated by the proposed development and assess the impact that this traffic will have on the operation capacity of the road network in the vicinity of the development.

3. In relation to items 1 & 2 above, the applicant shall consider the following aspects that may result in alterations to the development as set out in the submitted documents.

The Planning Authority is concerned that the proposed development includes the creation of alteration between the existing junction between major/minor roads (L-4224-0 & L-2241-0 respectively), which would require a change to the national road schedule. Such a change would required the approval of the Roads Authority (Clare County Council). Please submit your comments in this regard.

The standards found in DN-GEO-0306 'Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated and compact grade separated junctions' apply to the proposed development. The accesses for the proposed development are from the L-42241-0 and L-4224-0. There is particular concern that the junction layout at the CVRT centre may cause a point of conflict. Please refer to section 5.3.3 of the DN-GEO-0306 in this regard. At each of the 2 new junctions being formed by the subject roadway, the achievement of maximum sightlines and sight stopping distances from a setback of 2.4m at eye height of 1.05m to an object height of 0.256m are required to comply with the above mentioned standards. Please

submit revised site layout plans and corresponding cross-section drawings which demonstrate compliance with the above requirement.

Please provide vehicle tracking output drawings for the proposed roadway and junctions in respect of a single deck bus and a rigid truck, in order to demonstrate that movements can take place within the road widths/corner radii. It is noted that the Autotrack analysis submitted with the application shows the articulated vehicle crossing over the existing road edge. Please submit details as to how this issue can be mitigated.

3.2.2. Planning Report – dated 8/6/2022: Following the submission of a response to the further information the Planning Authority were satisfied with the details provided and permission was granted for the proposal.

3.2.3. Other Technical Reports

Roads Design Office –

3.2.4. West Clare Municipal District (Kilrush LEA): Report dated 16/7/2023 – It is stated that they do not condone the approach taken by Mr Haugh in building his private road. There appears to be planning issues involved and these are a matter for our colleagues in Planning. There are neighbouring residents who may not have been consulted and the map shows a ring fort to the line of the new private road.

3.2.5. However if Retention Permission were granted and the private road authorised there would be undoubted Road & Traffic Safety benefits.

- HGV's would no longer use the L-8336 and L-4190 ("back entrance" to the quarry);
- HGV's would access the Cliff Quarry area via a long wide and straight section of public and private road. A narrow and winding section of the L-4224 would no longer be subjected to HGV traffic. This section of the L-4224 is probably not suitable to carry the volume of HGV traffic that is being generated at the Cliff Quarry area.
- Clare County Council could access their depot safely and conveniently.

3.2.6. If the decision is to grant retention it is suggest that a Stage 1 & Stage 2 Road Safety Audit is required at both private road junctions with the public road and also at the junction of the L-4244 & the N68. Given that the N68 is a National Secondary Road,

it is suggested that the scope of the audit should be agreed with the Road Design Section. It is also suggested that a Traffic Impact Assessment should be requested and that given the proximity of the N68 that it should be scoped by the Road Design Section.

3.2.7. West Clare Municipal District (Kilrush LEA): Report dated 25/5/2022 – The FI comprises a stage 1 Road Safety Audit. Assessment of this Audit is really a matter for our colleagues in the Road Design Section. It is recommended that the FI is forwarded to the Road Design Section for their comments.

3.2.8. The previous comments in relation to the approach taken by the applicant are reiterated.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

3.4.1. The Planning Authority received two submissions/observations in relation to the application. The main issues raised are similar to those set out in the appeal.

4.0 Planning History

- None

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative development plan for the site is the Clare County Development Plan 2017 – 2023 (As varied).

5.1.2. Map 13A: Landscape Designations - The subject site at Lismulbreeda, Darragh. Co Clare is located on lands which are identified as Working Landscape.

5.1.3. Chapter 8 of the Development Plan refers to Physical Infrastructure, Environment and Energy

5.1.4. Section 8.2 – Access and Movement

5.1.5. Chapter 13 of the Development Plan refers to Landscape

4.2.6. CDP13.3 – Western Corridor Working Landscape

It is an objective of the Development Plan:

- A. To permit development in these areas that will sustain economic activity, and enhance social well-being and quality of life - subject to conformity with all other relevant provisions of the Plan and the availability and protection of resources;
- B. That selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design, are directed towards minimising visual impact;
- C. That particular regard should be given to avoiding intrusions on scenic routes and on ridges or shorelines. Developments in these areas will be required to demonstrate:
 - i That the site has been selected to avoid visually prominent locations;
 - ii That site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, public amenities and roads;
 - iii That design for buildings and structures reduce visual impact through careful choice of form, finishes and colours and that any site works seek to reduce visual impact of the development.

5.1.6. Appendix 1 – Development Management Guidelines

5.1.7. A1.9 – Transportation

5.2. Natural Heritage Designations

- 5.2.1. Newhall and Edenvale Complex SAC (Site Code 002091) is situated 4.8km to the north-east of the appeal site.
- 5.2.2. Lower River Shannon SAC (Site Code 002165) is situated 4.6km to the south-east of the appeal site at the closest point.
- 5.2.3. River Shannon and River Fergus Estuaries SPA (Site Code 004077) is situated 4.6km to the south-east of the appeal site at the closest point.

5.3. EIA Screening

- 5.3.1. The proposed development is of a type that falls under the threshold of a class under Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 for the purposes of environmental impact assessment i.e. Class 10 (dd), which refers to Infrastructure projects, private roads which would exceed 2000 metres in length. The subject private roadway which extends for 310m is therefore under this specified length of road as set out in the regulations.
- 5.3.2. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was submitted by Micheal and Brigid Neylon. The main issues raised are as follows;

- It is incorrect to refer to the road as replacing a private road.

- It is stated that it is unauthorised development and that it has led to interference with their boundary and that a mature Ash tree has fallen as a result of the development carried out.
- The matter of road safety is raised. Concern is expressed at the removal of road signs.
- The appellants raised the matter that the subject development facilitates access to a Clare County Council yard.
- Concern is raised that the granting of retention permission for the subject road will enable further development in the area.
- It is stated that the removal of traffic from the front of their house is only visual and it just switches the problem from the front of their house to the side which is of no benefit. The matter of noise and dust generated by the use of the subject road is raised.
- The appellants state that they have concerns regarding the volume of HGV movements relating to unauthorised development in the area.
- The appellants suggest an option to reroute the subject road in order to separate the commercial traffic from residential traffic. An underpass could be included in the design to avoid the creation of a junction on the L4224-1 road west.
- An oral hearing was requested.
- The appeal submission includes a copy of the submission/objections which was received by the Planning Authority from the appellants. The matters raised include the following.
- They object to the further intensification of commercial and light industrial development in the area.
- They consider that the existing section of local road L-4224 is relatively straight and level section of roadway for approximately 265m before it turns north and begins to gradually ascent. They consider that this section of road cannot be considered 'narrow and dangerous.'

- Concern is expressed that Clare County Council are also a beneficiary of the development and therefore they cannot be impartial in dealing with the application.
- The matter of sightlines at the two junctions between the proposed section of road and the existing road is raised.
- They refer to the location of the Ringfort-Rath CL 041-093 approximately 25m north of the subject road. They question whether a buffer zone of 25m is adequate.
- The location of Ballymacooda Lough circa 1.22km north of the site and the location of Inch River 1.4km north-west are noted. It is queried whether there is a requirement for Appropriate Assessment or Environmental Impact Assessment to be carried out.

6.2. Applicant Response

A response to the third party appeal has been submitted by P. Coleman & Associates on behalf of the applicant Ennis Vehicle Centre Limited. The issues raised are as follows;

- In relation to the content of the third party appeal it is noted that there are items raised which are not planning matters and are not relevant to the proposed development.
- A substantial element of the appeal relates to their claim regarding negative impacts on their residential amenities from a number of unauthorised developments at Lismulbreeda and their concerns regarding any further intensification of their use. It is stated that these unauthorised developments are a matter for Planning Enforcement.
- In relation to the legal status of the road the appellants state that it was incorrect to suggest that the road was replacing a private road as stated in the application.
- The applicant in response contends that the section of the L4224 road (local road) which has been formally taken in charge by Clare County Council extends from the N68, Kilrush Road as far as the cross at the appellant's

property only and that the remaining part of the road as far as the Cliff Quarry site was never formally or correctly taken in charge and that this is where the reference to “private” originated from.

- A letter from Clare County Council dated 1st November 2007 to McMahon & Williams Solicitors confirming the status of the L4224 is included with the appeal response.
- The applicant confirms that the full extent of the L4224 was never formally taken in charge. It is noted that the status of the road was not raised by Clare County Council in relation to the assessment of the application. Therefore, they are satisfied that the wording of the application is therefore correct.
- The lands subject of the application are governed by the provisions of the Clare County Development Plan 2017-2023. The subject lands are located in the open countryside and are not zoned for any purposes. The lands are within an area defined as the “Western Corridor Working Landscape”, where policy CDP13.3 applies.
- This states - Development Plan Objective: Western Corridor Working Landscape. It is an objective of the Development Plan:
 - To permit development in these areas that will sustain economic activity, and enhance social well-being and quality of life - subject to conformity with all other relevant provisions of the Plan and the availability and protection of resources;
 - That selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design, are directed towards minimising visual impact;
 - That particular regard should be given to avoiding intrusions on scenic routes and on ridges or shorelines. Developments in these areas will be required to demonstrate:
 - That the site has been selected to avoid visually prominent locations;
 - That site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, public amenities and roads;

- That design for buildings and structures reduce visual impact through careful choice of form, finishes and colours and that any site works seek to reduce visual impact of the development.
- It is submitted that the proposed development to be retained complies with this policy.
- It is highlighted that this area has a number of existing established extractive and commercial uses including Cliff Quarry, Vehicle Testing Centre, Clare County Council yard and storage shed for machinery and storage use these are permitted and well established businesses.
- The appeal refers to the appellants issues with any further intensification of commercial and light industrial type of development in the area. In response to this they state that any future applications for any use or intensification of use in the area will be considered on their own merits.
- The applicant, Ennis Vehicle Centre Limited together with other businesses in the area lodged a submission to the Draft Clare County Development Plan 2023-2029 seeking the new plan to provide for open storage yards for plant and machinery. The nature of these businesses is that they require large land area to store their equipment.
- It is stated in the appeal that the removal of traffic from the front of their property is only visual. The first party consider this is not a reasonable view.
- It is put forward by the first party that if approved that the proposal will significantly reduce the traffic passing the front of the appellant's property as the only users of this part of the road will be the appellants and the owners of the other dwelling to the north and agricultural property owners.
- The usage of the proposed road will reduce the visual impact and the noise impact and it will make the appellant's property much safer through the removal of most heavy traffic which the appellants have an issue with. It is submitted that the proposed development will be safer for all road users.
- Traffic using the existing road network in the area includes use of the L-4190 and L-8336 by agricultural machinery serving the various farms, private cars, trucks, lorries using the Vehicle Testing Centre, Clare County Council are

yard and Cliff Quarry. It is noted that presently stone aggregate is not produced at the quarry however that stockpiled stone which has accumulated on the site over a number of years is sold and distributed from the quarry.

- The traffic movements in the area are estimated as to the Vehicle Test Centre 100-150 vehicular movements per day. To the Council Quarry/Atlantic Plant Hire 20 vehicular movements per day. To the storage yards/compound at the rear of the Vehicle Test Centre 100 vehicular movements per day.
- Therefore, it is highlighted that the level of traffic is long established. It is noted that on occasions large vehicles travelling in opposite directions cannot safely pass each other on the narrow section of the road identified as between point 'B' and point 'E' as indicated on figure 1. It is indicated on Drawing No. 6115-3-107 from section 'A' to section 'B' at the appellants property.
- The appellants agree that the road is not suitable for heavy vehicular traffic.
- The principal reason for the provision of the new road the subject of the application is to remove heavy vehicular traffic from this section of the road. A previous planning decision in the area is cited. Under Reg. Ref. P18/113 permission was refused to retain reclaimed agricultural lands, gravel on said lands and for permission to erect machinery storage area. The reason for refusal referred to "... And having regard to the narrow nature of the public road and its poor horizontal and vertical alignment would endanger public safety by reason of traffic hazard."
- Accordingly, it is submitted that part of the present access road which serves the applicant's business and other businesses is unsatisfactory and unsafe. The subject road if approved will provide a solution to the issue of traffic safety along this section of the roadway.
- It is stated that the modifications to the junction at 'B' make it a much safer junction for all road users.
- The report of the West Clare Municipal District Engineer in their assessment of the application stated that there would undoubtedly be road and traffic safety benefits of retention is granted for the proposed road. They noted that;

- HGV's would no longer use the L-8336 and L-4190 ("back entrance" to the quarry).
- HGV's would access the Cliff Quarry area via a long wide and straight section of public and private road. A narrow and winding section of the L-4224 would no longer be subject to the HGV traffic.
- This section of the L-4224 is probably not suitable to carry the volume of HGV traffic that is being generated at the Cliff Quarry area.
- Clare County Council could access their depot safely and conveniently.
- It is submitted that the proposed development would not create any additional traffic volumes and movements.
- The proposed development would take existing heavy vehicular traffic using the applicants business and traffic associated with the Clare County Council yard and Cliff Quarry in the future from the existing local road which currently passes directly in front of the appellant's property.
- It is noted that when the appellants constructed their house the Cliff Quarry was in full operation.
- The appellants raised the issue of sightlines in their original submission on the application. The further information provided in response provided details in relation to sightlines. Drawing No. 6511-03-102, (Visibility Splays – Horizontal), illustrates the achievement of maximum sightlines and sight stopping distances from a set back of 2.4m at eye height of 1.05m to an object height of 0.26m so as to comply with the standards as required as part of the further information requested.
- Adequate sightlines are achieved by the new road design showing that it is safe and provides a significant improvement on the existing road network. It is highlighted that the Planning Authority and the Road Authority deemed the sightlines acceptable.
- The appeal refers to traffic safety associated with road construction works carried out to date. The applicant's Consultants P. Coleman & Associates cannot comment on the works which took place in the past as they did not act on behalf of the applicant prior to August 2020.

- However, in relation to any construction work associated with the completion of the road it is stated that if granted permission the applicant has confirmed that this will be carried out in accordance with relevant road safety planning conditions which would be attached. Condition no. 3 of the decision of Clare County Council to grant permission requires the submission of a Construction and Environmental Management Plan (CEMP) be submitted for the agreement of the Planning Authority prior to commencement of any further development on this road. The applicant will comply with this should the Board decide to attach a similar condition.
- The Stage 1 Road Safety Audit prepared by Bruton Consulting shows that there are no recorded collisions in the vicinity of the site. The Audit noted that there was one fatal collision on the N68 south of the property junction in 2009.
- There will be no increase in traffic on the N68 or on the local road as a result of the proposed development.
- The appellants stated that the works undertaken on the proposed development (a) have interfered with their boundary resulting in a tree falling onto the appellants garden shed (b) interfered with and partly removed the alleged site entrance without consent (c) trespassed on the appellant's property and that part of the appellant's boundary was removed.
- In response the applicant refutes these claims and states that these matters have been dealt with by the legal teams of the appellants and the applicant.
- The appellants make reference to a side entrance to their property. They stated there was always an entrance at that location and that it formed part of the original road and that it has been used as a site entrance since they purchased the lands in 1999.
- Reg. Ref. P15/220 refers to the permission granted to M. Neylon the appellant for retention of dwelling house, domestic garage/store, septic tank with percolation area and site entrance on revised boundaries previously approved under Reg. Ref. P00/1298.
- It is noted that the Site Layout Plan approved under this permission shows complete hedge and foliage and no entrance to this location on the site. The

first party state that there is no evidence that any permission has been granted for the provision of a side entrance. They consider the entrance is dangerous to road users and that it should be closed up.

- Regarding the materials used in the construction of the road, following sample testing it was found that a small section of substandard fill was used. If permission is granted it is proposed to remove it and replace it with suitable fill.
- The applicant has widened a section of the L4224 from the N68 Kilrush Road as far as the appellant's property and has dedicated the widened road to Clare County Council.
- It is stated in the appeal that the proposed development will allow for increased traffic volumes and movement from the intensification of businesses in the area which will impact negatively on their residential amenities.
- The proposed development if approved will significantly reduce the traffic passing the front of the appellant's property. The traffic would be reduced to that generated by the appellants, the owners of the dwelling to the north and agricultural property owners along this section of road.
- It is submitted that the proposal would reduce visual impact and noise impact and will make the appellant's property much safer because most heavy traffic will be accommodated on the new section of road to the west of the appellant's property.
- The appellants have provided an alternative road proposal. In response to this they suggest that the new road should be relocated a substantial distance to the south. The appellants want the new road to take all commercial traffic and presumably are seeking to retain the existing L4224 and road east and north of their property to be retained for domestic traffic.
- The first party state that this is not reasonable, feasible or safe and that it would create confusion for road users with an additional access onto the N68 in close proximity to the existing junction. It is stated that the cost in providing

a new road from the N68 to the applicant's property with the provision of an underpass would be excessive and unreasonable.

- Regarding environmental issues raised by the appellants it is responded that the proposed development will not result in any additional traffic in the area.
- Regarding the issue of noise it is responded that the level of noise which affects the appellants property will be reduced substantially by removing 90% of traffic from the front of their house.
- It is noted that the appellants property has high mature foliage at the west and north side. Furthermore, the additional screening proposed as part of the application between the new road and the appellant's property will serve to reduce noise effects on their property.
- Therefore, it is submitted that the noise from the proposed development will not have any negative effect on the appellant's property.
- Any potential air pollution associated with traffic using the existing road system will be reduce by relocating the existing traffic away from the appellant's property.
- Regarding the matter of light pollution there is substantial foliage growth on the southern boundary of the appellant's property which will reduce any light intrusion. Substantial tree screening is proposed between the proposed road and the appellant's property. The screening is indicated on drawing no: 6511-03-101. It is highlighted that there is substantial screening in front of the appellant's dwelling to prevent light pollution reaching the property. It is when vehicles presently turn right in front of the appellant's property that the effect of vehicle lights will impact on their property.
- It is the view of the first party that the proposed new section of road will reduce the vehicle lights substantially due to the widening of the road from the N68 to the appellant's property and the removal of the substantial amount of traffic from travelling in front of the appellant's property.
- In relation to the matter of archaeology, there are no recorded monuments on the subject site. There is a recorded monument to the north-east of the site. Recorded monument Ref: CL041-093 is classified as "Ringfort-rath". It is

stated in the response that there is an adequate buffer space between the new road to be retained and the Ringfort to ensure that the proposed development will not negatively impact on the integrity of the recorded monument. It is noted that the application was referred to the Archaeologist, Arts Council, Conservation Officer, Heritage Council, Heritage Officer and no responses were received by the Planning Authority.

- In conclusion, it is reiterated that the new road will not create additional traffic but that it will substantially improve the safety of existing road users and property owners in the area. It is considered that the appellants will have much improved and safer access and their environment will be improved through the relocation/diversion of existing traffic away from their property. It is submitted that the proposed development is in accordance with the proper planning and sustainable development of the area.

6.3. Planning Authority Response

- The Planning Authority notes the third party appeal.
- The Planning Authority requested further information to address the issues raised by Clare County Council's Roads Design Office. The response received adequately addressed the issues.
- The Planning Authority also noted the two third party objections and took them into consideration when assessing the planning application.
- The Planners report on file sets out the rationale for the decision and the Planning Authority has no further comment to make on the appeal at this time.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal, and it is considered that no other substantive issues arise. The issue of appropriate assessment screening also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of development
- Traffic Safety
- Residential amenity
- Archaeology
- Appropriate Assessment

7.1. Principle of development

- 7.1.1. The proposed development includes the retain the existing hardcore road and permission to complete the road construction together with signage, road markings and ancillary works. The road which is sought to be retained is 310m long and connects the local road L4224 to the private road currently serving private dwellings and commercial properties. The road is to upgrade the access to commercial properties in this are through the by-passing of a winding narrow section of the existing public road.
- 7.1.2. The subject site at Lismulbreeda, Darragh. Co Clare is located on lands which are in a rural area which is outside lands zoned for any purposes. The site is located in an area which is identified as Working Landscape as indicated on Map 13A: Landscape Designations of the Clare County Development Plan 2017-2023 (As Varied). Working Landscape is defined in the development plan as – intensively settled and developed areas within Settled Landscapes or areas with a unique natural resource. Development Plan Objective CDP 13.3 refers to Western Corridor Working Landscape. It is an objective of the Development Plan to permit development in these areas that will sustain economic activity and enhance social well-being and quality of life subject to conformity with all other relevant provisions of the Plan and the availability and protection of resources. It is advised that the selection of sites for development in this landscape together with siting and design should be directed towards minimising visual impact and that particular regard should be given to avoiding intrusion on scenic routes and on ridges or shorelines.
- 7.1.3. In terms of the location of the proposal within the context of the Working Landscape, the subject roadway is situated circa 277m to the west of the N68 and is therefore within the vicinity of this transport corridor. Furthermore, I note the surrounding land

uses which include a quarry and a commercial premises. Accordingly, I am satisfied that proposed road is acceptable in terms of its location with this landscape as it can be absorbed into the landscape in the context of surrounding land uses and infrastructure.

- 7.1.4. The first party have provided a justification for the subject section of road on the basis that it would remove the existing heavy vehicular traffic from the section of the L-4224 to the north which extends for circa 450m. It is submitted by the applicant that this cited section of existing road due to its narrow width, poor horizontal and vertical alignment and condition is unsatisfactory and unsafe to accommodate the existing traffic which is generated by their premises Ennis Vehicle Centre at Lismulbreeda, Darragh situated immediately to the west of the subject road. I consider that the applicant has present a satisfactory justification for the proposed roadway. I shall examine the matter of traffic safety under section 7.2 of this report.
- 7.1.5. Therefore, having regard to the relevant development plan policy as discussed above, I consider the principle of development is acceptable subject to those planning considerations further discussed below.

7.2. Traffic Safety

- 7.2.1. The first party set out that the principal reason for the provision of the subject road is to remove heavy vehicular traffic from the section of the local road L-4224 which is narrow and substandard in terms of width and horizontal and vertical alignment.
- 7.2.2. The appellants had a query in relation to whether the subject road was correctly described as replacing an existing private road. In response to the matter the first party stated that the section of the L4224 road which has been formally taken in charge by Clare County Council extends from the N68, Kilrush Road as far as the cross at the appellant's property only and that therefore the remaining section of the road as far as the Cliff Quarry site was never formally taken in charge.
- 7.2.3. In relation design of the road the appellants raised the matter of sightlines at the junctions of the road and the L-4224. The Planning Authority in their assessment of the proposal sought further information on a number of issues concerning the road design. The further information required the submission of a Stage 1 & 2 and Stage 3 Road Safety Audit to be carried out in accordance with TII publication "TII GE-STY-

01024-Road Safety Audit. A Traffic Impact Assessment was also required. Specifically in relation to the junction design the applicant was required to submit revised site layout plans and cross-section drawings which demonstrate compliance with the standards set out in DN-GEO-0306 'Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated and compact grade separated junctions'. They were also required to provide vehicle tracking output drawings for the proposed roadway and junctions in respect of a single deck bus and a rigid truck, in order to demonstrate that movements can take place within the road widths/corner radii.

- 7.2.4. Drawing no: 6115-3-105 submitted as part of the further information response illustrates autotrack for a rigid lorry at the junction of the road at the northern end and opposite the Ennis Vehicle Centre. This indicates that a rigid lorry with dimensions 12m x 2.5m can safely make right and left turning manoeuvres from the subject road and into the vehicle access yard to the front of the Ennis Vehicle Centre. Drawing no: 6115-3-104 illustrates autotrack for an articulated lorry. This indicates that a HGV articulated lorry with dimensions 15.4m x 2.5m can safely make right and left turning manoeuvres from the subject road and into the vehicle access yard to the front of the Ennis Vehicle Centre
- 7.2.5. Drawing no: 6115-3-106 illustrates autotrack for a single decker bus. This indicates that a single decker bus with dimensions 15m x 2.5m can safely make right and left turning manoeuvres from the subject road and into the vehicle access yard to the front of the Ennis Vehicle Centre.
- 7.2.6. In relation to the provision of sightlines the further information response included horizontal visibility splays on drawing no: 6115-03-102 and vertical visibility splays on drawing no: 6115-03-103. These drawing indicate sightlines as required under the provisions of DN-GEO-0306 'Geometric Design of Junctions (priority junctions, direct accesses, roundabouts, grade separated and compact grade separated junctions'.
- 7.2.7. Regarding the design of the subject road in relation to its integration with the existing road the L-4224 & L-2241-0 the Planning Authority required the applicant to address their concerns that the proposed development includes the creation of alteration between the existing junction between major/minor roads (L-4224-0 & L-2241-0 respectively), which would require a change to the national road schedule. This

matter is addressed and as detailed on drawing no: 6115-03-101, Road Layout the details of the tie-in with the existing L4224 will be agreed with Clare County Council. In relation to the junction at northern end of the subject road it is proposed to close the section of road to the east and an embankment will be constructed to create this permanent closure. As indicated on this drawing it is proposed to construct a turning head for vehicles on the old road. This area is located within the site and in the ownership of the applicant. They propose that the turning head and associated section of road shall be dedicated to Clare County Council.

- 7.2.8. A Road Safety Audit was prepared by Bruton Consulting Engineers, and was submitted as part of the further information. It is set out in the report that the existing road is a narrow local road which is unsuitable for the number and scale of heavy vehicles using it. The audit identified a number of problems with the design and layout of the subject road as constructed in relation to junctions. I note that these matters were raised by the Planning Authority in the further information request and have therefore been addressed by the applicant.
- 7.2.9. A Traffic Impact Assessment was prepared by Alan Lipscombe Traffic & Transport Consultant and was submitted as part of the further information. It is detailed in the TIA that the traffic movements in the area are estimated as to the Vehicle Test Centre 100-150 vehicular movements per day. To the Council Quarry/Atlantic Plant Hire 20 vehicular movements per day. To the storage yards/compound at the rear of the Vehicle Test Centre 100 vehicular movements per day. Therefore, the level of traffic generated by the surrounding uses is established and is primarily from the applicant's premises Ennis Vehicle Centre.
- 7.2.10. It is concluded in the TIA that the proposed new road and associated junctions comply with current TII design standards and that the road will accommodate all vehicle types that will require access to developments in the vicinity. The benefit of the proposed scheme is that it will result in traffic relief on the existing section of L4224 and that it will provide a direct and safe alternative to the existing development located off the existing L4224.
- 7.2.11. In conclusion, having regard to details set out above, I am satisfied that the proposed road will serve to improve traffic safety and specifically in relation to the heavy

vehicular traffic generated by the applicant's premises to the north-west of the road and also the other heavy vehicular traffic arising from Cliff Quarry to the west.

7.3. Residential amenity

- 7.3.1. The appellants have raised concern at the location of the subject road relative to their dwelling. They refer to impacts arising from the road and consider that it will result in increased traffic volumes and movement from the intensification of businesses in the area which will impact negatively on their residential amenities. The issues of noise and dust generation are raised. The appellants consider that the provision of the subject road only serves to remove traffic from the front of their property, and this is only visual.
- 7.3.2. In response to these matters the first party state that they disagree with the opinion of the appellants that the removal of the traffic from the front of their property is only visual. They set out that the subject road will significantly reduce the traffic passing the front of the appellant's property. They highlight that the only users of that part of existing road would be the appellants themselves and the owners of the other dwelling to the north and agricultural property owners.
- 7.3.3. In relation to the matter of intensification of traffic in the area the first party state that the subject road would not generate additional traffic but rather relocate the existing traffic which is generated by their business premises Ennis Vehicle Centre at Lismulbreeda along with the traffic generated by the other existing uses including Cliff quarry to the west. Regarding environmental issues raised by the appellants namely noise and dust the first party reiterated their response that the proposed development will not result in any additional traffic in the area. In relation to the issue of noise the first party stated in their response that the level of noise which affects the appellants property will be reduced substantially by removing 90% of traffic from the front of their house.
- 7.3.4. The appellant's dwelling is setback circa 14m at the closest point from the existing L-4224 to the east of the property. In relation to the subject road which is located to the south and west of the appellant's dwelling, I note that at the closest point it is circa 40m from their dwelling. Accordingly, the new road which would remove traffic from

the section of road to the front of their property is located further from their dwelling than the existing road.

- 7.3.5. In relation to potential visual impact, I note that the appellant's property is well screened by existing mature trees to the north and west. As indicated on the submitted Site Layout Plan drawing no: 6511-03-101 an area of tree planting is proposed between the road and the appellant's property. Having regard to the existing and proposed tree planting I am satisfied that the appellant's property is adequately screened to minimise and prevent undue light pollution reaching the property from vehicular movements on the subject road.

7.4. Archaeology

- 7.4.1. There is a recorded monument classified as a Ringfort-rath (Ref. CL041-093) located circa 27m to the north-east of the appeal site at the closest point. It is detailed on the National Monuments Service website and Historic Environment View that it is scheduled for inclusion in the next revision of the Record of Monuments and Places. The appellants raised the matter of the proximity of the feature to the subject road. In relation to the location of the eastern edge of the subject road relative to this archaeological feature I note that there is a clear physical separation between the road and the circular embankment of the feature.
- 7.4.2. In response to the matter the first party stated that there are no recorded monuments on the appeal site. They noted the location of the "Ringfort-rath" to the north-east of the site and stated that there is an adequate buffer space between the new road to be retained and the Ringfort to ensure that the proposed development will not negatively impact on the integrity of the recorded monument. They also noted that there were no internal reports from Council or prescribed bodies on file in respect of the proposal and the recorded monument.
- 7.4.3. Accordingly, in relation to this archaeological features having regard to the separation distance to the appeal site I am satisfied that the proposed development would not impact on the integrity of the ringfort or the archaeological character of the area.

7.5. Appropriate Assessment

- 7.5.1. The appeal site lies approximately 4.8km south-west of Newhall and Edenvale Complex SAC (Site Code 002091). Lower River Shannon SAC (Site Code 002165) is situated 4.6km to the south-east of the appeal site at the closest point. River Shannon and River Fergus Estuaries SPA (Site Code 004077) is situated 4.6km to the south-east of the appeal site at the closest point. The proposed development does not traverse any watercourses and there are no direct connections to these sites.
- 7.5.2. Having regard to the nature and scale of development proposed and the location of the proposed works, it is reasonable to conclude on the basis of the information on the file which I consider adequate in order to issue a screening determination, that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European Sites Newhall and Edenvale Complex SAC (Site Code 002091), Lower River Shannon SAC (Site Code 002165) and River Shannon and River Fergus Estuaries SPA (Site Code 004077), or any other European Site in view of the sites Conservation Objectives and a Stage 2 Appropriate Assessment is not therefore required.
- 7.5.3. In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects on any European Site.

8.0 Recommendation

- 8.1. I recommend that permission should be granted for the retention and completion of the subject development for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the nature, scale and design of the development which it is proposed to retain and complete, specifically the alignment of the subject road which will improve the safety of vehicular movements to existing premises and lands in the vicinity, it is considered that subject to the conditions set out below, the proposed development would constitute an acceptable proposal at this location, would not seriously injure residential or visual amenity of the area and would be acceptable in terms of design and layout and in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars submitted on the 4th day of May, 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. The following requirements of the planning authority shall be carried out in full:
 - (a) Within three months of the grant of this permission, a construction and operational traffic management plan shall be submitted to the planning authority for written agreement.

- (b) All sections of roads, junctions and finishes shall comply with the requirements of the Council.
- (c) No objects, structures or landscaping shall be placed or installed within the visibility triangle which would interfere or obstruct (or could obstruct over time) the required visibility envelopes at junctions.
- (d) All works shall be carried out at the developer's expense according to specifications and conditions of the planning authority.

Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.

- 3. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority within three months of the grant of this permission. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

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

- 4. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development and to prevent pollution.

5. All services and cables in the road shall be located underground.

Reason: In the interest of visual and residential amenity.

6. The landscaping scheme, as submitted to the planning authority on the 4th day of May 2022, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of two 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 interests of residential and visual amenity.

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

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

8. 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

the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to 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

16th March 2023