



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314933-22

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<b>Development</b>	Construction of 10 dwellings.
<b>Location</b>	Abbey Court, Kilcoursey, Clara, Co. Offaly.
<b>Planning Authority</b>	Offaly County Council
<b>Planning Authority Reg. Ref.</b>	21808
<b>Applicants</b>	Monroe Street Developments Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Patrick and Laura-Anne Molloy
<b>Date of Site Inspection</b>	4 <sup>th</sup> August 2023
<b>Inspector</b>	Dolores McCague

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## 1.0 Site Location and Description

- 1.1.1. The site is located in the townland Abbeycourt, Kilcoursey, Clara, Co. Offaly. Abbeycourt is a small housing estate of recent origin off the Kilbeggan Road at the outskirts of Clara, comprising largely two storey semi detached dwellings and a few detached dormer dwellings. The road into Abbeycourt rises from the Kilbeggan Road. The residential estate is well maintained.
- 1.1.2. A dormer bungalow fronting the Kilbeggan Road and another residential road of detached dwellings adjoin to the east.
- 1.1.3. At the junction of Abbeycourt with the Kilbeggan Road the subject site is comprised of a rectangular plot of ground surrounded by a high fence. On the opposite side of the estate road an ESB substation and compound are located. A pole and overhead lines transitioning to underground occupy the north eastern corner of the subject site.

## 2.0 Proposed Development

- 2.1.1. The application dated, 23rd December 2021, is for permission for:

The construction of 10 no. dwellings consisting of 6 no. semi- detached 3 bedroom 2 storey dwelling units facing onto the R436 Kilbeggan road and 4 no. terraced 2 storey dwelling units facing onto Abbeycourt estate road. A proposed road from the Abbeycourt estate road, will run along the side of the terrace and the rear boundaries of the semi-detached dwellings, to access shared carparking, and provide rear access to dwellings. The proposed development includes connections to existing site services and all associated site development works.
- 2.1.2. The application was submitted by Kenny Lyons Associates Architects on behalf of the applicant and included drawings by Kenny Lyons Associates Architects.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority decision, dated 28<sup>th</sup> September 2022, was to grant permission subject to 17 conditions, including:

3 – part V, 4 - completion, 5 – development charge, 6 – naming, 7 – boundary treatment, 8 - landscaping, 9 – open space, 10 – finished floor levels (ffl) as specified, 11 - details and materials, 12 – undergrounding of cables, 13 – bond, 14 – lighting, drainage, waste etc, 15 – completion, water, wastewater, surface water, waste, noise, 16 – Irish Water, 17 – Electric Vehicle charging points.

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

#### 3.2.1. Planning Reports

3.2.2. There are two planning reports on the file. The first, dated 25<sup>th</sup> February 2022, recommending further information, which issued, includes reference to the various reports, observations, plan policies and includes screening for appropriate assessment.

#### 3.2.3. Other Technical Reports

3.2.4. Road Design, 17<sup>th</sup> February 2022 – that further information is required. This is incorporated in the request which issued.

3.2.5. Housing Department, Part V compliance report, 3<sup>rd</sup> February 2022 – that further information is required - confirm date of purchase of site.

3.2.6. Tullamore Municipal District, 16<sup>th</sup> February 2022 - that further information is required. This is incorporated in the request which issued.

3.2.7. Environment Water Services, 24<sup>th</sup> February 2022 - that further information is required. This is incorporated in the request which issued.

### **3.3. Further Information**

3.3.1. A Further Information (FI) request issued, 25<sup>th</sup> February 2022, on 6 points:

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a) passive supervision of parking areas,

b) housing mix,

c) access statement,

d) corner site house units, referring to DMS 11 of the Offaly County Development Plan 2021-2027,

- e) boundary treatments,
- f) naming and numbering,

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- a) pedestrian priority crossing at the entrance,
- b) sightlines at new T junction,
- c) sightlines at domestic entrances along estate roadway,
- d) parking requirements,
- e) lighting design,
- f) surface water gully locations,
- g) tree root barrier,
- h) capacity of existing surface water sewer,
- i) auto track swept analysis for refuse truck,
- j) identify areas to be taken in charge.

3 re. engagement with Irish Water

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- a) Footpath width,
- b) Consult with ESB re. ESB utility poles and overhead services and relocation.
- c) auto track analysis for refuse truck,

5 purchase date of site.

6 invitation to respond to third party submissions.

3.3.2. A Further Information response was received, 16<sup>th</sup> August 2022, including: written responses and revised drawings; and notices were published 24<sup>th</sup> August. The response includes:

Letter of response from Kenny Lyons Associates Architects,

Letter of response from Jason Redmond Chartered Engineer (JRA),

Outdoor lighting report by Lighting Reality,

Drawings by Kenny Lyons Associates Architects and JRA.

### 3.4. Further Reports

- 3.4.1. Environment Water Services, 14<sup>th</sup> September 2022 – conditions.
- 3.4.2. Tullamore Municipal District, 27<sup>th</sup> September 2022 – conditions.
- 3.4.3. The second planning report, dated 28<sup>th</sup> September 2022, recommending permission, which issued, includes:

Satisfied with responses to the further information request.

### 3.5. **Prescribed Bodies**

- 3.5.1. Uisce Eireann / Irish Water - confirmation of feasibility report, supplied by applicant in response to FI request.

### 3.6. **Third Party Observations**

- 3.6.1. Third party observations on the file have been read and noted.

## 4.0 **Planning History**

PL2 05/1035 Woodlane Developments Ltd, permission granted for construction of 8 dwellings within the site of already approved planning permission PL2 03/83 in accordance with condition 2(A).

Tu 21/6 – pre-planning consultation.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

- 5.2. Offaly County Development Plan 2021-2027 is the operative plan. Relevant provisions include:

- 5.2.1. Volume 2 Settlement Plans, includes Clara Town Plan.
- 5.2.2. The site is zoned existing residential.
- 5.2.3. Chapter 4 Residential

Strategic Aims:

Deliver high quality housing of a sufficient scale, mix, tenure, sequence and density, located in optimum locations and aligned with adequate social and physical infrastructure;

Promote permeable, healthy neighbourhoods that focus on place making and a sense of well-being to ensure Clara is an attractive place to live and work; and

Promote and support innovative housing models including live-work units, special needs housing and housing for older people in the Clara Town Centre.

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

- 5.3.1. The closest Natura site is Clara Bog SAC, 000572, located c 5.5km straight line distance to the south west of the subject site.

### **5.4. EIA Screening**

- 5.4.1. The development is sub-threshold: Schedule 5, Development for the purposes of Part 10: Part 2, Item 10, Infrastructure projects (b) (i) construction of more than 500 dwelling units; being a development of 10 dwellings. The location is on zoned, serviced land within a town in a location with no notable sensitivities.
- 5.4.2. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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**

- 6.1.1. Patrick and Laura-Anne Molloy have submitted this appeal, the grounds include:
- Overbearing visual impact on the area and lack of consideration to maintaining the physical character of the area. The pattern of development is low rise, low density. The proposed semi-detached houses with only 5m setback from the Kilbeggan road, in contrast to the bungalows fronting the

road, is out of character. The finished floor level of house type C is over 1m higher than the dormer bungalow beside these houses, and 2m higher than the bungalow across the road. The proposed ridge height is approx. 5.8m higher than the house directly opposite. The dormer bungalow is 25m from the footpath, the proposed houses only 5m. The proposed dwellings are also high relative to the houses within the estate, in contrast to the plans approved under file ref 21493. Also they have not been requested to match the finishes in Abbeycourt.

- Loss of amenity for adjoining residents. House type B is directly adjacent to No. 9 Abbeycourt. Each of the 4 houses located immediately adjacent have a large window to the back bedroom. Numbers 7 & 8 will have finished floor levels only 22cm lower and 67cm lower than No 9. The wall is 1.86m high from the visible ground level. The windows will look down directly into their garden, seriously impacting their residential amenity. The boundary wall is stated to be 2.4m high, it is only 1.86m to 1.96m high from their side. The plans indicate the removal of part of the wall and provision of a hedge between houses 8 and 9. It cannot be removed without the consent of the owners of no. 9. Its removal would involve the loss of amenity to No 9. Removal of the wall could impact on the tree in their garden. The proximity of house 8A, only a path width from the boundary wall, will impact on light and be overbearing.

## 6.2. Applicant Response

6.2.1. A response on behalf of the applicant was made by Kenny Lyons & Associates Architects, which includes:

- Setting out the planning history of the site including the previous permission for a two storey house adjoining the appellant's, also pointing out that the current layout is preferable to that previously proposed.
- Responding to the first grounds of appeal, they state that the houses within Abbeycourt opposite are two storey and the appellant's house is a dormer. The bungalows along the R436 are from a bygone era. The formal street frontage to the R436 created by the proposed development will vastly improve



the physical character of the area. The photographic examples used by the appellant are over 50 years old and over 100m away, and reference to their finished floor levels and ridge heights is irrelevant. The two storey houses and the dormer have high ridge heights, as has the two storey substation. The development of 10 infill dwellings has sufficient scale to create its own appropriate mass and scaling. They provide a 3D view to accompany the response and show how the proposal formalises a new street frontage and turns the corner with a corner dwelling, and then completes the existing internal estate frontage.

- Responding to the second grounds of appeal, they state that in contrast to the previously permitted development the blocks are stepped westwards rather than eastwards and that this reduces impact on No. 9. This they illustrate by showing the relevant sections of each layout. They point out that overlooking from first floor bedroom windows is an inevitable aspect of urban living and was part of the original proposal. The proposed dwellings are angled away from the garden of No 9. The proposed development will be lower than No 9 and the boundary wall will be over 2m high from the lower side (the subject site). The applicant would be prepared to increase the height. The hedging referred to is a new hedge adjacent to the existing wall, to screen the wall. It is not intended to remove the wall. There is no impact on light to the house and only minimal impact on light to the front garden during morning time.

## 7.0 **Assessment**

- 7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment, residential amenity and visual impact, and the following assessment is dealt with under those headings.

### 7.2. **Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that 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.

### 7.3. Residential-Amenity

- 7.3.1. In the grounds of appeal concern is expressed regarding the overbearing visual impact of the proposed development, and overlooking from upstairs bedroom windows. The appellants question whether the boundary wall will be the effective height given. They also object to removal of a portion of the boundary wall to the front of their house.
- 7.3.2. The applicant response is that the previously permitted development was for two storey houses in this location; that overlooking from first floor bedroom windows is an inevitable aspect of urban living and was part of the original proposal. The boundary wall will be over 2m high on the side of the subject development, which is lower than the adjoining site and they would be prepared to increase the height if necessary. It is not intended to remove the wall, only to provide some screen planting adjoining it. There is no impact on light to the house and only minimal impact on light to the front garden during morning time.
- 7.3.3. The proposed terrace of two storey houses will have more height and bulk than the adjoining dormer bungalow, but the impact is not such as to be overbearing.
- 7.3.4. As illustrated in the response to the grounds, the overlooking from first floor windows will be minimal. The orientation of the proposed dwellings is such that the windows of the two houses closest to the appellant's will be angled slightly away from the appellant's garden. The set-forward of the second pair of houses will ensure that there will be even less overlooking from the first floor windows of these houses.
- 7.3.5. Although south of the existing house, the placement of the proposed development, which is not very close to the adjoining dwelling, is unlikely to impact on sunlight, except for minimal impact on the front garden. No impact on daylight is likely.
- 7.3.6. The current situation regarding the high boundary wall, forward of the front building line, is not being altered. The planting of hedging to partially screen this wall will improve the amenities of the area.
- 7.3.7. In my opinion impact on residential-amenity should not be a reason to refuse or modify the proposed development.

## **7.4. Visual Impact**

- 7.4.1. In the grounds of appeal, concern is expressed regarding the visual impact of the proposed development and lack of consideration to maintaining the physical character of the area; the grounds states that the pattern of development is low rise, low density; and the proposed setback from the Kilbeggan road is out of character. The proposed development is critiqued with reference to finished floor levels and ridge levels of houses along the Kilbeggan road and the adjacent No. 9 Abbeycourt.
- 7.4.2. The applicant response states that the proposed development creates a formal street frontage to the R436 and includes a corner dwelling designed to turn the corner into Abbeycourt where the development completes the existing internal estate frontage and vastly improves the physical character of the area.
- 7.4.3. The ground levels at the site are higher than at the Kilbeggan road and the land continues to rise within the Abbeycourt estate. This is reflected in the existing finished floor levels of dwellings within the estate and along the Kilbeggan road and in the proposed finished floor levels in the subject development.
- 7.4.4. The proposed house designs are reflective of the existing semi-detached, two storey housing within the estate.
- 7.4.5. The proposed building line, which is forward of existing buildings along both the Kilbeggan road and Abbeycourt creates a strong entry point to the estate. The design of the corner building reinforces the estate entrance.
- 7.4.6. In my opinion the proposed development will enhance the visual amenity of the area and visual-impact should not be a reason to refuse or modify the proposed development.

## **8.0 Recommendation**

- 8.1.1. In accordance with the foregoing assessment I recommend that permission is granted for the following reasons and considerations and in accordance with the following conditions.

## 9.0 Reasons and Considerations

The proposed residential development, which is part of an existing residential estate within the town of Clara, accords with the provisions of the Offaly County Development Plan 2021-2027 and will enhance the residential and visual amenities of the area, accordingly the proposed development is in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be 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 16<sup>th</sup> day of August 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>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. 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.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and</p>

	<p>Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
<p>3.</p>	<p>The development hereby permitted shall be carried out and completed at least to the construction standards set out in the Planning Authority's Taking in Charge Policy or the "Recommendations for Site Development Works for Housing Areas", as appropriate. Prior to commencement of development, the developer shall agree with the authority, in writing, the procedures for inspection and monitoring of the development by the authority to ensure compliance with these standards and shall thereafter comply with the agreed procedures during the construction of the overall development . Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.</p> <p><b>Reason:</b> To ensure that the development is carried out and completed to an acceptable standard of construction.</p>
<p>4.</p>	<p>a) With the exception of proposed boundary treatment no. 2, which shall be replaced by a more durable boundary, subject to the prior agreement of the planning authority, all proposed boundary treatments shall be carried out in accordance with the details submitted on the 16<sup>th</sup> August 2022 (drg 2103-KLA-00-00-DRA-A-PBF1005).</p> <p>b) Prior to commencement of development, the developer shall submit, for the written agreement of the planning authority, revised proposals, including drawings, which provide for the enclosing of the existing ESB infrastructure within a fenced enclosure with a locked access gate (to allow for future maintenance); and the treatment of any area remaining.</p> <p><b>Reason:</b> In the interest of visual amenity and safety.</p>

5.	<p>(a) The roofs of the proposed dwellings shall be blue-black or slate-grey in colour throughout (including ridge tiles) using slates or flat-profile tiles only.</p> <p>(b) Photographic samples of all external building materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
6.	<p>Prior to commencement of development, the developer shall submit, for the written agreement of the planning authority a revised site layout map, scale 1:500, detailing a pedestrian priority crossing at the entrance to the development (junction between Abbeycourt estate and the Kilbeggan Road R436).</p> <p><b>Reason:</b> In the interest of pedestrian safety.</p>
7.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
8.	<p>All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses 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.</p> <p><b>Reason:</b> in the interest of sustainable transportation.</p>

9.	<p>The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.</p> <p><b>Reason:</b> In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
10.	<p>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 three 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.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
11.	<p>During the site development and building works, the noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest noise sensitive location between 0800 and 1900 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity of the site.</p>
12.	<p>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</p>

	<p>circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
13.	<p>Public Lighting shall be energy efficient LED lighting and in accordance with the standards laid down in the current ESB Publication 'Public Lighting in Residential Estates'. Lighting levels and arrangements shall not cause excessive glare or distraction to road users or adjoining property owners. Lighting shall be adequately cowled (or otherwise treated) to prevent overspill.</p> <p><b>Reason:</b> In the interests of provision of adequate and suitable public lighting.</p>
14.	<p>Surface water run-off from roofs, roads and hardstanding areas shall be collected and disposed of within the site, as agreed with the Planning Authority. No surface water run-off shall be allowed to flow onto the public roadway, adjoining properties or to enter the public wastewater network.</p> <p><b>Reason:</b> In the interest of orderly development.</p>
15.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>



16.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Uisce Eireann.</p> <p><b>Reason:</b> In the interest of public health.</p>
17.	<p>Proposals for naming and numbering and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme.</p> <p>No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
18.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
19.	<p>The developer shall pay to the planning authority a financial contribution of €40,100 (forty thousand one hundred euro) in respect of public</p>

<p>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. The application of any indexation required by this condition 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.</p> <p><b>Reason:</b> 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</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Planning Inspector

17<sup>th</sup> August 2023

## Appendices

Appendix 1 Photographs

Appendix 2 Offaly County Development Plan 2021-2027