



An  
Bord  
Pleanála

# Inspector's Report

## ABP-315105-22

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<b>Development</b>	Construction of 36 houses and all associated site works
<b>Location</b>	Church Road (R462), Tulla Tld, Tulla, Co. Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	22406
<b>Applicant(s)</b>	Woodhaven Developments Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Woodhaven Developments Ltd.
<b>Observer(s)</b>	Michael O'Halloran, Margaret and Kevin Scanlon, & O'Halloran Undertakers.
<b>Date of Site Inspection</b>	18 <sup>th</sup> December 2023
<b>Inspector</b>	Ciara McGuinness

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## 1.0 Site Location and Description

- 1.1. The appeal site is located in the town of Tulla, Co. Clare, c. 15km east of Ennis. The lands are located to the rear/southwest of the main street in Tulla. The R462 Road bounds the site to the west. A roadway which connects the R462 to the town centre bounds the site to north, however access to the town centre is currently obstructed by a locked gate at the eastern of the roadway. There are 2 no. existing dwellings located along this roadway, with the roadway effectively acting as a private access for the residents of these dwellings. A funeral home and an informal car parking area are located at the western end of this roadway. Existing residential development is located to the east and south of the site.
- 1.2. The site area is stated as 1.567 hectares. The site comprises agricultural grassland, however the entire field area is not included in the site boundary. A strip of land along the northern side of the site adjoining the roadway and a strip of land to the east adjacent to the existing residential dwelling have been excluded. The western boundary adjoining the R462 comprises a stone wall. The site slopes uphill away from the R462. Mature trees are dispersed throughout the site and located along the southern boundary.

## 2.0 Proposed Development

- 2.1. The proposed development is for the construction of 36 no. dwelling units comprising 26 no. 3-bed houses and 10 no. 2-bed houses, consisting of the following unit types;
- 12 no. 3-bed semi-detached houses (House Type A and A1)
  - 10 no. 3-bed semi-detached houses (house Type B)
  - 3 no. 3-bed detached houses (House Type D and D1)
  - 1 no. 3-bed detached bungalow (House Type G)
  - 2 no. 2-bed semi-detached bungalows (House Type E)
  - 4 no. 2-bed terrace houses (House Type H, H1 and H2)
  - 4 no. 2-bed terrace houses (House Type J and J1)

- 2.2. The proposed development provides for a new site entrance from the R462. The layout involves one central access route leading east from the entrance with 4 no. homezone areas branching off this central road. There is one main area of open space c.0.19ha, proposed to the southeast of the site with smaller incidental areas of open space proposed in the home zone areas. Existing mature trees within the site are proposed to be retained and incorporated into the layout.
- 2.3. The units range in size from 100.64sqm to 117.22sqm for 3-beds, and from 75.9sqm to 81.98sqm for the 2-beds. The density of the proposed development is 22.5 units/ha. It is proposed to provide 2 no. parking spaces for each unit as well as visitor parking.
- 2.4. Connections are proposed to the public water supply and public wastewater system. The application is accompanied by a Design Statement and a Civil Engineering Infrastructure Report.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The Planning Authority decided to refuse planning permission for one reason;

*“It is an objective of the Clare County Development Plan 2017-2023 (as varied), as set out under the site-specific zoning objective for the proposal site (R2 in the Tulla Settlement Plan), that development proposals on the application site must provide for pedestrian linkages to the existing Main Street. Having regard to the configuration of the development site relative to the roadway to the north, the exclusion of the lands between the site and the roadway to the north from the development proposal, the overall development layout in terms of pedestrian linkages and provision, it is considered that the proposal fails to provide adequate pedestrian connectivity to Tulla town centre and does not therefore comply with the site specific development objective for the land.*

*Furthermore, having regard to the characteristics of the development site which includes numerous mature trees and the configuration of the site relative to the glebe house to the east, the roadway to the north, undeveloped lands to the west and existing development to the south, it is considered that the proposed development by*

*reason of its substandard layout, building form and design, does not adequately respond to the specific characteristics of the site or the pattern of development in the vicinity, and would be an inappropriate form of development at this location.*

*Having regard to the foregoing, the Planning Authority considers that the proposed development would contravene the site-specific development object for the subject lands, would be injurious to the visual amenities of the area and would be deficient in terms of its pedestrian provision. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.”*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The first Planners Report (27/06/2022) notes that a multi-unit housing development would be acceptable in principle. However, the zoning objective for the site requires that development proposals must provide pedestrian linkages to the existing main street. It is noted that the lane to the north of the site through which a link to the town centre must be provided is not included in the site boundary and that the applicant has only shown possible pedestrian access to the laneway. This does not comply with the development objective for the site. The housing mix and density are considered acceptable, however there are a number of concerns in relation to the proposed layout. Further Information was requested on the following items;

- Access to the main street has not been provided. Revised proposals addressing this issue should be submitted.
- A number of concerns relating to the design and layout are set out including the failure to address the local road to the north, the piecemeal nature of the smaller areas of open space, the layout of units 26-36 (the rear of which faces the public road to the west), the lack of distinctive house design and the general failure to capitalise on the attractive setting of the site.
- Provide a rationale for ground level alterations and provide additional cross sections showing current and proposed ground levels.
- Archaeological Impact Assessment and Archaeological Test Excavation.

- Various revisions/clarifications in relation to proposed surface water management results.

The Second Planners Report (26/10/2022) notes that the Further Information submitted by the applicant was acceptable in terms of the Archaeology and Surface Water Management Response. However, the applicant made no substantive effort to address the concerns of the planning authority with regards to the design and layout of the development and access arrangements. It is noted that the access arrangements and significant elements of the layout appear to be dominated by the requirements of the vendor rather than the objectives of the site. The Planning Authority concluded that the current proposal does not reflect the development opportunity presented by this important site. A refusal of permission was recommended.

### 3.2.2. Other Technical Reports

Area Engineer – Alternative proposal for surface water disposal/discharge required. Clarification required on sightlines and extent of removal of existing boundary walls and proposed treatment and maintenance of sightlines over existing boundary walls. Proposals required for provision of pedestrian traffic across new estate entrance at R462. Footpath to be replaced along extent of site abutting R462. Proposals required for pedestrian access onto L40841, towards Tulla main street.

Roads Design Office – Sets out requirements in relation to road layout/design specifications.

Estates Team/Taking in Charge – Sets out requirements in relation to construction traffic, roads, footpaths, foul and water services, surface water, public lights, boundaries. Due to significant reductions in site levels cross section showing existing and proposed ground levels should be requested. Concerns were raised regarding rear access to houses no. 5-8 and 26-29. Clarification was required on House Type E1 and on attic conversions.

### 3.3. Prescribed Bodies

Irish Water – An existing public sewer traverses the site. The public sewer has not been shown on the applicant's drawings. The proposed development is likely to impact and impinge on this sewer. The applicant should locate and survey the sewer

and revise the site layout to ensure no dwelling or structure is located within 5m of the public sewer. Alternatively, the applicant may propose to divert this sewer within the site. Upgrade to watermain on the R462 between Cuirt na bhFiach and Chapel Street to a minimum of 100mm to supply the proposed development. Cannot guarantee a flow rate from the public mains to supply for specified fire flow requirements. Adequate fire storage capacity should be provided within the development. Calculations required. Irish Water typical layout for watermains within development to be followed.

DAU – Given the scale, extent and location of the proposed development it is possible that subsurface archaeological remains could be encountered during the construction phase that involves ground disturbance. It is recommended that an Archaeological Impact Assessment (including Archaeological Test Excavation) be carried out as Further Information.

### **3.4. Third Party Observations**

A total of 4 no. third party submissions were received. The submissions were from adjoining landowners and primarily related to the proposed boundary treatments, with each submission requesting that the boundary with their property consist of a 1.8 – 2.0m block wall.

Of note, is the submission from the vendor of the lands, Michael O'Halloran. The submission is summarised as follows;

- The submission notes that he is the original owner of the site. As part of the purchase agreement, a strip of land along the access road to his dwelling (and his daughters dwelling) and a strip of land to the front of his dwelling have been retained. The northeast corner of the site crosses over the strip of land and the roadway which were not included in the purchase agreement. The possible pedestrian access point extends onto his private road. The inclusion of this part of the site is without his consent.
- There is no issue with the development in principle, however the applicant has no rights to his property, other than for works relating to the public sewer.

- No form of pedestrian access from the development onto his property will be allowed.
- It is requested that a condition be attached that requires a 2m block wall to be constructed along the boundary that adjoins his property.

## 4.0 Planning History

None.

## 5.0 Policy Context

### 5.1. Clare County Development Plan 2023-2029

- 5.1.1. Tulla is identified as a small town in the County's Settlement Strategy. The CDP states that these towns are of fundamental importance as employment and tourist centres and as centres for the provision of services and facilities for their resident populations and their rural hinterlands. The following objective is relevant:

#### **Development Plan Objective: Small Towns CDP 4.6 –**

It is an objective of Clare County Council:

- To ensure that the small towns throughout the county continue to act as important local service centres that maintain sustainable communities, help to ensure a good quality environment, provide public transport to the main centres, and provide a high quality of life for those who live in the vicinity;
- To work with the relevant bodies and to seek investment for the timely and sustainable delivery of holistic infrastructure, to enhance the levels of amenity and design quality and to regenerate and rejuvenate the Small Towns throughout the county;
- To ensure that future growth is incremental and balanced in nature, and is relative and appropriate to the scale, size and character of the small towns and to seek to achieve centre out compact growth;
- To seek investment in the sustainable development of a "New Homes in Small Towns and Villages" initiative in the County and the provision of services and



serviced sites to create “build your own home” opportunities within the existing footprint of small towns; and e) To monitor the cumulative effect of grants of planning permission on available wastewater capacity, where connection to a public wastewater treatment plant is included as part of a development proposal

### **Land Use Zoning**

- 5.1.2. The strategy for the individual small towns is outlined in more detail in their respective settlement statements and land use plans, set out in Volume 3 of the Development Plan. A Settlement Plan for Tulla is set out in Volume 3(c) (Killaloe Municipal District Plans). In order to enhance residential amenity, specific objectives apply to a number of sites in Tulla, including the subject site.

#### **R2 North of the Former St. Joseph's School**

“This site is well located in relation to the town centre for the provision of housing. Development proposals must provide for vehicular access to the Mixed Use lands which are located to the rear of the Main Street as well as pedestrian linkages to the Main Street. The portion of the pedestrian/cycle link passing through R2 shall be integrated into the scheme design, availing of footpaths and lighting, and shall be overlooked by houses for passive surveillance in any new development. The scheme shall observe and demonstrate the principles of design incorporated into the Sustainable Residential Development in Urban Areas and the Urban Design Manual.”

- 5.1.3. In regard to place making and regeneration, it is also states that “There is the potential to create a new link from the historic town core to the new developments to the west of the town, which could reactivate a historic passageway”.

### **Other Relevant Sections/Policies**

- 5.1.4. The following policies/sections are also considered relevant to the consideration of the subject proposal:

- **Housing Mix CDP5.8** - It is an objective of the Development Plan:
  - a) To secure the development of a mix of house types and sizes throughout the County to meet the needs of the likely future population in accordance with the guidance set out in the Housing Strategy, Housing Need Demand

Assessment (HNDA) and the Guidelines on Sustainable Residential Development in Urban Areas and any subsequent guidelines;

(b) To require new housing developments to incorporate a variety of plot sizes to meet the current and future needs of residents; and

(c) To require the submission of a Statement of Housing Mix with all applications for multi-unit residential developments in order to facilitate the proper evaluation of the proposal relative to this objective.

- **Green Infrastructure in Residential Developments CDP5.16** - A number of criteria are listed under this objective including the following;
  - a) To ensure that green areas associated with new residential developments enrich the quality of life of local residents and provide ecologically rich areas that enhance biodiversity and contribute to the green infrastructure network in the County;
- **Walking and cycling CDP11.5** - A number of criteria are listed under this objective including the following;
  - a) To require walkability and accessibility to be a central consideration in the planning and design of all new developments, transport infrastructure and
- **Achieving Quality in the Public Realm CDP18.2** - It is an objective of Clare County Council:
  - a) To require both public and private developments to make a positive contribution to the public realm to ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being;
  - b) To require all proposals for developments in excess of 3 residential units or 300m<sup>2</sup> to be accompanied by a design statement demonstrating how the 12 criteria set out in the Best Practice Urban Design Manual have been addressed. A design statement may be required for smaller developments in instances where the proposed development is situated in a key location in the town or village (See also Appendix 1 Section A1.4.4 of this Volume); and

c) To promote the use of Health Place Audits (HPA) and develop projects that support the creation of attractive, enterprise development friendly, liveable, well-designed, high quality places that are home to a diverse enterprise base mix and integrated communities that enjoy a high quality of life and wellbeing.

- **Development Management Guidelines** - Section A1.4.2 of Appendix 1 of the Plan sets out development management guidelines for urban residential development. Relevant guidelines are referenced within the assessment where appropriate.

## 5.2. National Planning Framework

5.2.1. The National Planning Framework 'Project Ireland 2040' addresses the issue of 'making stronger urban places' and sets out a range of objectives to support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

## 5.3. Section 28 - Ministerial Guidelines

### Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

5.3.1. Under these Guidelines, Tulla is defined as a 'Rural Town and Village' with a population of 1,500 persons or less, that offers services to a wide rural hinterland. These settlements are not identified for significant population growth under the NPF

and should grow at a limited pace that is appropriate to the service and employment function of the settlement, and the availability and capacity of infrastructure to support further development. New development should contribute to compact towns and villages and offer alternatives to urban generated housing in unserviced rural areas.

- 5.3.2. Section 4 of the Guidelines deals with Quality Urban Design and Placemaking. The Guidelines outline the four key indicators of Quality Design and Placemaking which should inform the development strategy of settlements, neighbourhoods and/or an individual sites. The indicators are Sustainable and Efficient Movement, Mix and Distribution of Uses, Green and Blue Infrastructure and Responsive Built form
- 5.3.3. Section 5 of the Guidelines deals with Development Standards for Housing and includes a number of specific planning policy requirements (SPPRs). Specific policies (including SPPRs) and objectives are referenced within the assessment where appropriate.

#### Other Ministerial Guidelines

- 5.3.4. The following Section 28 - Ministerial Guidelines are also considered of relevance to the proposed development.
- Urban Development and Building Heights - Guidelines for Planning Authorities (2018).
  - Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities.
  - The Planning System and Flood Risk Management, including the associated Technical Appendices (2009).
  - Design Manual for Urban Roads and Streets (DMURS) (2019).
  - Cycle Design Manual (2023).

#### **5.4. Natural Heritage Designations**

Slieve Aughty Mountains SPA – c.2.6km to the north of the site

Newgrove House SAC – c.3.7km to the west of the site

Cloonlough More Bog NHA – c.4km to the east of the site

Lough Cullaunyheeda pNHA- c.4.2km to the south of the site

## 5.5. EIA Screening

- 5.5.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, or EIA screening determination, therefore, is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appeal is a first party appeal against Clare County Council's decision to refuse permission. The grounds of appeal are summarised as follows;

- The housing design and mix are in full compliance with the development plan objectives. No particular style of housing was requested for other planning applications in Tulla.
- There are no obligations for the lands to be developed as one or through one application, nor does it require the developer to enter into Section 47 agreements to regulate development or use of land.
- The layout generally follows land purchases and existing field boundaries with trees and hedgerow preserved.
- The site is undulating in nature with a high point to the east of the site sloping gradually to Church Road to the west. The layout responded to the topography and sought to require the minimum 'cut and fill'. The centre access road is designed not to exceed the design gradient of 5% thus eliminating manipulation of the site levels.
- The applicant considers that the predominant travel pattern from the development will be towards the school, crèche and shop/petrol station along Church Road.

- The development is already within convenient walking distance/cycling distance to the town centre.
- Potential access points to the laneway to the north are provided within the submitted proposal. There is ambiguity over the ownership of the adjoining roadway with the adjoining owners and the Council both claiming ownership. The applicant is not in a position to resolve this dispute.
- The Planning Authority instructed the removal of the pedestrian connectivity from the development permitted under P19/8017 to O'Reilly Park situated to the northeast of Tulla.
- The site forms 73.46% of the overall zoned R2 site. The layout incorporates access to future zoned housing lands to the south. The masterplan submitted does not prejudice the wider development of the site.
- The proposal will not have a negative impact on residential amenity or on the operation of the existing funeral home.
- The applicant outlines that the development is acceptable in terms of Surface Water Management, Archaeology, Part V, Natural Heritage Designations, EIA Screening and Appropriate Assessment.

A further 2 no. additional drawings have been submitted. Drawing WD 12-12-PL22 shows the street elevation of the northern boundary of the site. Drawing WDT2-13-PL22 shows alternative elevation designs as regards the predominant 3-bedroom house type.

## 6.2. Planning Authority Response

The Planning Authority's response to the appeal is summarised below;

- The proposed development does not comply with the site-specific objective for this site which states that 'developments proposals must provide pedestrian linkages to the existing Main Street'.
- The current arrangement whereby the vendor retains a 9m strip of land between the proposal site and the public road to the north actively obstructs that achievement of the development objective of this site.

- The roadway to the north is a public road L-40841.
- The exclusion of the laneway to the north and lands immediately adjoining same has had a detrimental impact on the layout. Houses do not actively address the road to the north.
- The proposed orientation of units 26-36 is unacceptable in terms of visual impact with the rear of the units addressing the regional road to the west.
- The layout fails to capitalise on the highly attractive setting which includes a number of mature trees.
- The design concept is broadly similar to schemes permitted in Ennis, Shannon and Crusheen. The scheme does not reflect the unique characteristics of the subject site.
- The applicant has indicated that Tulla has issues with flooding and the issue will be assisted by the agreement reached regarding a special development contribution. The agreed development contribution related to required works to allow surface water from the proposed development to discharge to the public network.
- The Planning Authority outlined issues at a pre-planning meeting. The Planning Authority provided the applicants a further opportunity to address issues by way of Further Information.
- The Planning Authority notes that alterations were sought to a Part 8 development permitted under P19/8017 due to serious concerns about the potential for anti-social behaviour on a proposed walkway which ran to the rear of the existing houses in an adjoining development with no means of passive surveillance. In contrast the subject site adjoins a public road and provides ample opportunity to connect into the town centre.
- It is requested that the Board uphold the Council's decision to refuse permission.

### 6.3. Observations

Observations were received from Michael O'Halloran, O'Halloran Undertakers and Margaret and Kevin Scanlon. The observations are summarised as follows;

#### Michael O'Halloran

- The submission notes that the observer is the original owners of the site. As part of the purchase agreement, a 9m strip of land along the access road and a 5m strip of land to the front of his dwelling was retained.
- Special Condition 15 of the sales agreement, clearly stated that the only link between the private roadway and the sale of the subject site, was that the purchaser or his workers, were allowed to enter on to the road for the sole purpose of relocating a combined storm and sewer drain, part of which runs under the road. The sales agreement does not allow for any other form of access onto his lands or roadway.
- There is no ambiguity regarding the ownership of the road and lands. Prior to the sale of the subject site, Folio CE 20961 F showed the full extent of the land holding (Appendix C of observation submitted).

#### O'Halloran Undertakers

- The subject site adjoins a busy funeral home. The observer has requested that a 2m block wall is constructed along the boundary opposite the funeral home.

#### Margaret & Kevin Scanlon

- Requests a condition to be included which would require a 2m block wall to be built prior to the commencement of development along the entire boundary between the proposed development and the observer's property to the south. The timber fencing proposed is not acceptable as they farm the land and have livestock.

## 7.0 Assessment

Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site,



and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Zoning and Principle of Development
- Design and Layout
- Appropriate Assessment

## **7.1. Zoning and Principle of Development**

- 7.1.1. I note that the application was assessed by the Planning Authority under the previous County Development Plan (2017-2023). The subject appeal is assessed under the County Development Plan 2023-2029. The subject site is identified as R2 within the Tulla Settlement Plan with a site-specific land use zoning objective which requires that development proposals must provide for vehicular access to the Mixed-Use lands which are located to the rear of the Main Street as well as pedestrian linkages to the Main Street. I note that the provision to provide vehicular access to the Mixed-Use lands to the rear of Main Street was not included in the CDP 2017-2023 and is therefore not referred to in the Planning Authority's reports. The roadway/lane to the north of the site is indicated in the Tulla Settlement Plan as a 'New Link' to the Mainstreet. The Tulla Settlement Plan also states that "There is the potential to create a new link from the historic town core to the new developments to the west of the town, which could reactivate a historic passageway". This new link is not included within the scope of this current the application. Furthermore, a 9m strip of land has been retained by the vendor and excluded from the site boundary where the site meets the public road to the north.
- 7.1.2. While the applicant has indicated 'possible pedestrian access' points on the Site Layout Plan, the current arrangement whereby the vendor retains a 9m strip of land between the proposal site and the public road to the north, inhibits the achievements of the development proposal for the site. The applicant has not provided for vehicular access to the Mixed Use lands which are located to the rear of the Main Street and has only shown possible pedestrian access to the laneway. This does not meet the requirements of the development objective.
- 7.1.3. Having regard to the proximity and historic linkages to the town centre, I consider that this is a reasonable site-specific objective of the site. The information on file

indicates that the vendor of the site requested that the access road to his home be retained as private access. A third-party observation from the vendor contends that this lane is private and future occupiers of the site have no right of access. The Planning Authority dispute this claim, stating the laneway is L-4084-1 and is in public ownership. The applicant has noted that ambiguity exists as regards ownership of the roadway with the adjoining owners claiming ownership and the Council also claiming ownership. The applicant states they are not in a position to resolve this dispute. The issue of landownership is clearly a contentious issue. While these matters are not planning issues, the zoning objective is explicit in its requirements. I consider that favourable consideration is not possible in the absence of entitlement to the include the third-party lands within the application site.

7.1.4. The issue of permeability is central to the site-specific objective for the site. The site is located in close proximity to the centre of Tulla and the facilities and services on offer therein. However, permeability is poor, and the route to the town centre is indirect. Given the proximity of the subject site to the core of Tulla and considering the lack of meaningful pedestrian connections presently thereto, I consider that this is a major issue that needs resolving. The CDP notes that smaller 'block' sizes facilitate better permeability which is good for 'walkability'. Larger block sizes add significantly to walking times. The proposed new link route would effectively bisect a large block of zoned land reducing walking times.

7.1.5. I consider that the provision of this linkage is hugely important for the proper planning and development of the lands going forward. Section 4.4 of the Sustainable and Compact Settlements Guidelines, together with Appendix D of the guidelines set out key indicators of Quality Urban Design and Placemaking, which include 'Sustainable and Efficient Movement'. The guidelines support the transition away from private car use and support the ease of movement for pedestrians, cyclists and public transport at every level of settlement. I also note CDP Objective 11.5 requires walkability and accessibility to be a central consideration in the planning and design of all new developments. The Development Management Guidelines set out in Appendix 1 of the CDP also require proposals for housing developments comprising 10 units or more shall be accompanied by a Transport and Mobility Statement outlining how convenient pedestrian and cyclist connectivity to the surrounding community has been integrated into the design and layout of the proposed

development. I do not consider that the applicant has adequately demonstrated pedestrian and cyclist connectivity to the surrounding areas.

- 7.1.6. Having regard to the exclusion of the lands between the site and the roadway to the north from the development proposal and the applicant's failure to provide the appropriate vehicle and pedestrian linkages, I considered that the proposed development would contravene the site-specific zoning objective.

## **7.2. Design and Layout**

- 7.2.1. The Planning Authority's reason for refusal references the proposed developments substandard layout, building form and design, and the failure to not adequately respond to the specific characteristics of the site or the pattern of development in the vicinity. The grounds of appeal have stated that the layout generally follows land purchases and existing field boundaries with trees and hedgerow preserved. The approach uses the natural contours of the site to accommodate the development which would require the minimum amount of 'cut and fill'.
- 7.2.2. Issues relating to design and layout are included in the reports of the Case Planner, Area Engineer and Estates/Taking in Charge Team. I note that a number of issues were raised including the failure to address the local road to the north, the piecemeal nature of the smaller areas of open space, the layout of units 26-36 the rear of which faces the public road to the west, the lack of distinctive house design and the general failure to capitalise on the attractive setting of the site. These issues were raised in the further information request, however the response did not satisfactorily address the issues raised. I do not consider that topography or features of the site would prevent an appropriate design response to these issues.
- 7.2.3. As outlined above in Section 7.1, the current arrangement whereby the vendor retains a 9m strip of land between the proposal site and the public road to the north, inhibits the layout and design for the site. I note the site-specific development objective for the site requires that 'the portion of the pedestrian/cycle link passing through R2 shall be integrated into the scheme design, availing of footpaths and lighting, and shall be overlooked by houses for passive surveillance in any new development.' The submitted design proposal has failed to address road to north in this regard. Houses along the northern boundary of the site are orientated so that

their side or rear elevation faces the roadway. The applicant proposes to 1.8m block wall at locations where these dwelling and their gardens adjoin the boundary. Post and rail fencing is proposed at locations where open space, or the internal road adjoins the boundary. The proposed design fails to create a strong edge overlooking the roadway, create animation or activity, or provide passive surveillance. Similar issues also arise internally within the scheme, with the side of units and 1.8m boundary walls orientated towards the central access route. Therefore, notwithstanding the landownership issue the development fails to comply with the site-specific development objective for the site.

7.2.4. Units 26-36 are orientated with the rear of the unit facing the public road to the west. The proposed boundary treatment consists of a 1.8 block wall as per the Further Information Layout Drawing. I also note that this terrace block is served by a rear alley. These units and the boundary treatment will be highly visible from the R462. I consider this an unsatisfactory arrangement which would seriously injure the visual amenities of the area.

7.2.5. I note that the development includes one main area of open space totalling 0.19ha, equating to 12% of the site area. I note that no landscaping proposals have been submitted with the applicant stating that a landscaping masterplan will be prepared further to a grant of permission. Given the scale of this site and existing landscape features on the site, I consider that detailed landscaping proposals should form part of the application submission. I further note that no arboriculturally assessment has been submitted. The applicant proposes to retain these trees however I note a number of trees have been located within the private amenity space. This offers no guarantee or certainty in relation to their management or retention. The applicant has failed to have regard to the context of the site and its features. I consider that the layout should be informed by the ecological and environmental constraints of the site through the carrying out of detailed/up-to-date surveys and assessments to get a full understanding of the site. This has not been done. In this regard, I am not satisfied that the proposal has had regard to its context.

7.2.6. The Planning Authority have noted that the design concept is broadly similar to schemes permitted in Ennis, Shannon and Crusheen. The scheme is also almost identical to the recently developed units on the lands to the south (former St. Josephs School site). As noted above, the scheme does not reflect the unique

characteristics of the subject site which contains mature trees. The Planning Authority has noted that the proposal may be more suited to a layout/design types which reflect more vernacular features. I note that the applicant has submitted alternative elevation for House Type A and B as part of the appeal. Having regard to the issues raised above, I consider that a holistic review of the design proposal including house types would be required.

- 7.2.7. Notwithstanding, the issues raised above in relation to design and layout, I note the overall density of the development is in keeping with the densities of adjoining housing and in accordance with the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024). Similarly, the housing mix is considered to be in accordance with Objective CDP5.8. The Compact Settlement Guidelines contain several Specific Planning Policy Requirements (SPPRs) with which the proposed development must comply. I note that no housing quality assessment or schedules were submitted to demonstrate compliance with the standards, however on review of the submitted plans the proposed development appears to achieve the minimum required open space of 30sqm for 2-bed houses and 40sqm for 3-bed houses (SPPR 2), and a separation distance of at least 16 metres between opposing windows above ground floor level (SPPR 1). In accordance with SPPR 3, the applicant has also proposed 2 no. parking spaces for each dwelling in accordance with the maximum rate allowed for peripheral areas.
- 7.2.8. With regards to boundary treatments, I note that all the third-party submissions/observations have raised the issues of boundaries, requesting that the boundary with each of their respective properties consist of a 1.8 - 2.0m block wall. This would have the effect of encircling the site within a large block wall which would have a significant negative visual impact on the amenities of the area.
- 7.2.9. In conclusion, I concur with many of the fundamental concerns expressed by the Planning Authority. My concerns stem primarily from a failure to appropriately integrate with existing development adjoining the site and a failure to adequately respond to the specific characteristics/features of the site. I consider that this has substantially contributed to the substandard layout and design. The proposed development would not positively contribute to the public realm or place-making, would not provide integrated development. I recommend that permission be refused.

### **7.3. Appropriate Assessment**

- 7.3.1. An Appropriate Assessment Screening Report and determination was carried out by the Planning Authority which concluded that Appropriate Assessment is not required. The site lies 2.6 km to the south of the Slieve Authy Mountains SPA and 3.7 km to the east of Newgrove House SAC. Having regard to the nature and scale of the proposed development, its location in a fully serviced and built-up area, and the separation distance to any European site, and in the absence of any hydrological or other connections to European Sites, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **8.0 Recommendation**

- 8.1. I recommend that planning permission be refused for the reasons and considerations set out below.

### **9.0 Reasons and Considerations**

1. According to Clare County Development Plan 2023-2029, the zoning objective is Residential with the site being identified as Site (R2) located North of the Former St. Joseph's School. According to the site-specific objective, development proposals must provide for vehicular access to the Mixed-Use lands which are located to the rear of the Main Street as well as pedestrian linkages to the Main Street. Having regard to the exclusion of the lands between the site and the roadway to the north from the development proposal and the applicants failure to provide for or facilitate appropriate vehicle and pedestrian linkages, it is considered that the proposed development would contravene the site-specific zoning objective and would be contrary to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) and the proper planning and sustainable development of the area.
2. Having regard to the prominent location and the characteristics of the site and the established built form adjoining the site, it is considered that the proposed

development, by reason of its poor layout and design, failure to appropriately integrate with surrounding lands, and a failure to adequately respond to the specific characteristics/features of the site, would be of an insufficient architectural quality and would seriously injure the visual amenities of the area. The proposed development would, therefore, conflict with Objective CDP5.16, CDP 11.5 and CDP18.2 of the Clare County Development Plan 2023-2029 and the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), and would, therefore, be contrary to the proper planning and sustainable development of the area.

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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Ciara McGuinness  
Planning Inspector

16<sup>th</sup> February 2024

**Appendix 1 - Form 1  
EIA Pre-Screening**

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>			
<b>Proposed Development Summary</b>	Construction of 36 houses and all associated site works		
<b>Development Address</b>	Church Road (R462), Tulla Tld, Tulla, Co. Clare		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)	<b>Yes</b>	✓	
	<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	✓		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	✓	Class 10(b)(i) Construction of more than 500 dwelling units - Sub Threshold	Proceed to Q.4



**4. Has Schedule 7A information been submitted?**

<b>No</b>	✓	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Appendix 2 – Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	315105-22	
<b>Proposed Development Summary</b>	Construction of 36 houses and all associated site works	
<b>Development Address</b>	Church Road (R462), Tulla Tld, Tulla, Co. Clare	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The nature of the development is not exceptional in the context of the existing residential environment.</p> <p>The proposed development will not result in the productions of any significant waste, emissions or pollutants. Localised constructions impacts will be temporary.</p>	No
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having</p>	<p>The size of the development is not exceptional in the context of the existing residential environment.</p> <p>There is no real likelihood of significant cumulative effects having regard to existing or permitted projects.</p>	No

<p>regard to other existing and/or permitted projects?</p>		
<p><b>Location of the Development</b> Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The nearest European site is c.2.6km to the north of the site. It is not considered that the proposed development would be likely to have a significant impact on the European site.</p> <p>The proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	<p>No</p>
<p><b>Conclusion</b></p>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p> <p>✓</p>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p>EIAR required.</p>

**Inspector:**

**Date:**

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)