



An
Bord
Pleanála

Inspector's Report ABP 315442-22

Development	Construction of house and all associated site works.
Location	No 6 Tullyvarraga Crescent, Shannon, Co. Clare.
Planning Authority	Clare County Council.
Planning Authority Reg. Ref.	22/268.
Applicant(s)	Daniel & Cliona Mulcahy.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First
Appellant(s)	Daniel & Cliona Mulcahy.
Observer(s)	None.
Date of Site Inspection	19 th June 2023
Inspector	Aisling Dineen.

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1.0 Site Location and Description

- 1.1. The site is located in the area of Tullyvarraga Road in Shannon Town, Co. Clare. The site which has a stated area of 0.70 hectares comprises the side garden of an established dwelling at No 6 Tullyvarraga Crescent. No 6 along with the adjacent properties in Tullyvarraga Crescent have pedestrian access from the public footpath along the road frontage of Tullyvarraga Road and each of these dwellings have rear vehicular access off a lane, which is accessed off Tullyvarraga Road just east of No 9 Tullyvarraga Crescent.

2.0 Proposed Development

- 2.1. It is proposed to build a 4 bedroom, detached residential dwelling with a total revised floor area of 167.45 sq. m. and a revised ridge height of c.15.3 metres. Vehicular access is proposed on the north boundary of the site, which is onto Sli na Mara pedestrian walk/cycleway.
- 2.2. Revised access options are submitted under appeal documentation.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused planning permission on the 30th day of November 2022 for the following reason(s):

It is considered that the proposed development by reason of the proposal to provide access to the site via Sli na Mara, an established pedestrian and recreation route, would constitute a disorderly form of development which would interfere with pedestrian and cyclist safety. Furthermore, the proposed access would result in a haphazard arrangement with the existing roadway and junction serving the Ard na Mara estate. The proposed development would therefore endanger public safety by reason of a traffic hazard and would be contrary to the proper planning and sustainable development of the area.

The Chief Executive's decision reflects the planner's report.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planners Report

It is proposed to develop a house in the garden of an existing dwelling. It is proposed to be accessed off Sli na Mara, which is within and bounding the OS9 *Open Space Area* to the North of the proposed development. The Shannon and Environs Local Area Plan seeks to retain this area as an open space amenity area. It is also an objective of this plan to develop a cycle route along the length of the route with improvements in lighting proposed.

Further information requested regarding the following in summary:

1. The use of Sli na Mara Way as an access route would represent a safety issue for pedestrians and cyclists, submit alternative access arrangements including potential to use access arrangements under planning register reference number 05/2178.
2. Regarding height and scale of the proposed dwelling relative to adjoining properties a reduction in scale advised.

The further information response was considered to entail 'Significant Further Information' and it was requested to be re-advertised on the 4th November 2022.

3.2.2. Other Technical Reports

Road Design Office Report – following further information.

The applicant has not sufficiently complied with point 1 outlined on the Clare County Councils request for further information. The Roads Design Office recommends that access through Sli na Mhara road is not suitable in the interest of road safety.

Any change or extension to access roads must comply with *Part B, Fire Safety, Volume 2 of the Building Regulations* which state that a turning circle is required for any road that terminates in a cul-de-sac over 20m long.

Shannon Municipal District Area Engineer

The Sli na Mara Road is predominantly a pedestrian route. Shannon Municipal District Office is currently advancing a Section 12 (Roads Act 1993) process to remove the Sli na Mara Road from the public road network, in order to reinforce the

pedestrianised nature of this route and improve the safety of pedestrians. It is not appropriate for a private access road to utilise this area.

Exemption Certificate

By order dated 21st April 2022 Clare County Council, an exemption certificate, under Section 97 of the Planning and Development Act as amended, was granted to Daniel and Clíodhna Mulcahy to construct a dwelling and associated works at No 6 Tullyvarraga Crescent, Shannon, Co. Clare.

3.2.3. **Prescribed Bodies**

Uisce Eireann

No objections subject to conditions.

Irish Aviation Authority

No observations.

4.0 **Planning History**

On site:

Planning register reference number 05/2178: Grant of planning permission for dwelling, demolish shed, extend existing service road incorporating amended entrance and new entrance. This permission was granted subject to 16 No conditions.

5.0 **Policy and Context**

5.1. **Development Plan**

The current development plan is the Clare County Development Plan 2023 -2029, which came into effect on the 20th April 2023.

The operative development plan at the time of the planning authority's decision was: Clare County Development Plan 2017 - 2023 as amended.

The site is zoned existing residential.

Shannon and Environs Local Area Plan 2012-2018 (as amended)

Objective 10.1: To formalise, enhance and promote looped walks around Shannon, encompassing the Shannon Estuary riverside network and the Sli Na Mara Walk.

Section 11.5.4, OS9 – Tullyvarraga Hill and Sli Na Mara Tullyvarraga Hill shall be retained as an open space amenity area. Projects like the recent neighbourwood scheme are welcomed, where they reinforce the high value of this area for providing amenity space, walking routes and pedestrian connectivity. The Sli Na Mara Way, which is the oldest route in Shannon, shall be protected and enhanced as a walking route and it is an objective of this Plan to develop a cycle route along its length and improve lighting in the area.

5.2. Natural Heritage Designations

The site is located c. 1.4km north of the Fergus Estuary and Inner Shannon, North Shore pNHA (002048), c. 1.5km north of the River Shannon and River Fergus Estuaries SPA (004077), c. 1.4km north of the Lower River Shannon SAC (002165) and c. 4km south of the Lough Gash Turlough SAC (000051).

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- It is understood that Sli na Mara has significant historical importance to the Shannon area. It was the applicants plan to enhance the route so as to hinder anti-social behaviour along the route.

- The agent for the applicant advised the applicants not to extend the laneway that serves to the rear of numbers 6,7,8 and 9 of Tullyvarraga Crescent, as per 05/2178) as it would reduce the area of land at No 6 and adequate parking would not be achievable within the existing property. Storage capacity would be reduced and the overall land value of the existing property would be negatively impacted.
- The existing lane provides access to 4 dwellings with no parking bays and uneven surface/no pedestrian pathways exist.
- Potential works regarding extending the lane would require a turning bay for vehicular access in accordance with: *Recommendations for Site Development Works for Housing Areas 1998*. This is an inappropriate solution.
- The redesign proposes to cross Sli na Mara into Ard na Mara, which opens the junction and provides more clear vision and control measures consisting of shared space signage and cycle chicane barriers, to assist in the control of cars accessing the proposed paved parking area of the dwelling.
- The dwelling has been completely re-designed to a reduced scale.
- The applicants can't find a suitable dwelling in Shannon to suit their needs. The house granted planning permission under planning register reference number 05/2178 is not suitable and was not in keeping with the style of the area. The revised ridge height is 5.465 metres.
- Regarding the reason for refusal, it was proposed to utilise the existing junction entrance between Tullyvarraga Road/Tullavarraga Crescent and over the Sli na Mara Lane, providing control measures for pedestrians and cyclists along with cars entering the proposed development.
- 2 options are presented. Option 1 is to provide access to the site directly from the Tullyvarraga Road/Tullyvarraga Crescent entering the site by relocating the existing telecommunications infrastructure and provide clear sight lines in both directions onto a road of design speed 50 km/hr. Option 2 is to provide access directly from the Tullyvarraga Road/Tullyvarraga Crescent with a dished kerb onto a road of design speed 50km/h where school ahead advanced warning is already in place.

6.2. Planning Authority Response

- The issues outlined in the appeal have been dealt with and addressed in the planner's report.
- The planning authority reviewed the alternative access options put forward. Neither are deemed to be acceptable alternatives at this location as both present serious concerns regarding traffic and pedestrian safety at a busy road junction that is shared with a pedestrian/cyclist route.
- It is requested that the Board uphold Clare County Councils decision.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. Having examined all the application and appeal documentation on file and having regard to the relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and the planning authorities' reason for refusal and I am satisfied that no other substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:

- Principle of development
- Access
- Visual and Residential Amenity
- Appropriate Assessment

7.2. Principle of Development

7.3. The zoning of the site as 'existing residential' supports the development of a dwelling house on the appeal site, subject to satisfying normal planning and development requirements.

7.4. Access

- 7.5. The crucial issue regarding this assessment is access and traffic safety. The original proposal indicates vehicular access coming out of the site on its northwest boundary onto an established pedestrian and cycle way. The planners report states that this lane has historic value as it identified as the oldest route in Shannon and has been earmarked for protection and enhancements as a walking route and further that it is an objective of the Shannon and Environs Local Area Plan to develop a cycle route at this location with improvements and lighting proposed.
- 7.6. The planning authority under a further information request reasonably informed the applicant regarding the status of the Sli na Mara Way and advised the applicant that the use of Sli na Mara would represent a safety issue for pedestrians and cyclists using the route. The request advised the applicant to submit alternative access arrangements, which could include the potential use of the access arrangements submitted under planning register reference number 05/2178.
- 7.7. The response to the further information request moved the proposed access marginally west towards the opening of the Sli na Mara pedestrian/cycling way, along the same boundary with the said walkway. This was facilitated by the removal of the proposed garage which was proposed to be positioned in the southwest corner of the site. The agent for the applicant discounted using the access arrangements, which were agreed under planning register reference number 05/2178 because it would reduce the site area of Number 6 Tullyvarraga Crescent and would also reduce storage capacity as the garage within its curtilage would be demolished in order to gain access as per 05/2178. Thus, it was stated that the land value would be depreciated. It was also argued that if the access under 05/2178 was to be used it would require a turning bay as it would be a cul-de-sac and this would take up too much space. The response also proposed pedestrian and cycle chicane at the entrance of the proposed development.
- 7.8. I note that the lane way proposed under 05/2178 is the vehicular entrance way for the grouping of houses from Number 6 Tullyvarraga Crescent to No 9. So, in effect this appears to be the rational way of providing an access to an additional house in the garden of No 6 Tullyvarraga Crescent. I also note that on the date of inspection, this said lane was narrow and due to the parking of some vehicles at rear gateways,

reversing movement was necessitated to withdraw from the lane. The Road Design Office has also confirmed that a turning circle would be required to accommodate such an access and it is obvious that such a turning area would potentially encroach into the area of the proposed site and also into the site area of No 6. The resultant reduced site area would therefore necessitate a much-reduced dwelling house in scale terms.

- 7.9. The road design office has articulated concerns regarding the relocated entrance slightly to the west of the location of the originally proposed entrance under the subject application, which was submitted as part of the further information response and it recommends that access through Sli na Mara is not suitable in the interest of road safety. I concur with this position.
- 7.10. I concur with the agent for the applicant in that the access route as used under 05/2178 would require a turning circle. I also concur with the position of the planning authority, in that access traversing the Sli na Mara pedestrian/cycle route would be prejudicial to public safety and represent a potential traffic hazard. Furthermore, it is a stated objective of the Shannon LAP under OS9 to protect and enhance the subject walking/cycling route.
- 7.11. I note that under the appeal two other options are presented. Option 1 is proposed to gain access from the west of the site. The site distance triangle is shown from a position looking east and west on the Tullyvarraga Road (as opposed to from the site), so in effect there is a blind spot where traffic accessing/exiting the site would coalesce with pedestrian and cyclist traffic before approaching the Tullyvarraga road to the point at which the sight distance triangle is measured. This exit option would also meet with vehicular traffic from the adjacent Ard na Mara residential development. This access would also appear to be positioned adjacent to the established junction of Ard na Mara with the Tullyvarraga Road, which appears to be disorderly and complicated.
- 7.12. There are no detailed design drawings submitted of the junction, detailing how existing traffic and proposed traffic, in addition to pedestrian and cyclist traffic, would converge safely once the proposed development would be operational.
- 7.13. Notwithstanding the use of pedestrian/cyclist chicane and road signage and considering that there appears to be no other permissions on file to carry out said

works, based on the information on file, I have strong reservations about Option No 1 from the perspective of traffic safety.

- 7.14. Without prejudice, it would appear that considerable collaboration and junction design needs to be established, which would account for the existing junction and the pedestrian/cyclist route, in addition to an access for the subject site, if option 1 was to materialise. Such works would need to be agreed, acquire planning permission and become operational before any works on the appeal site could commence, in the interest of pedestrian, cyclist and traffic safety. There is insufficient information on file to determine that Option No 1 would accord with traffic safety.
- 7.15. Regarding Option No 2, I note that there is a designated cycle lane along the south side of the site boundary on the Tullyvarraga Road and there is also a pedestrian footpath. There is also a grassed lay-bye and kerb presumably in charge of the local authority. There are traffic calming measures, including a ramp, implemented a short distance, c 30 metres east, of the proposed entrance under option 2. I note that St Connares National School is positioned c.100 metres east of this proposed access location. There is no consent or any indication on the file to indicate that the roads authority supports this option. I note that the planning authority under its submission to the appeal have indicated that the access alternatives presented under the appeal have been assessed and 'both present serious concerns regarding traffic and pedestrian safety at a busy road junction that is shared with a pedestrian/cyclist route'.
- 7.16. I consider that Option 2 also comprises a significant change of layout to that which was advertised and readvertised in that the proposed access/egress is from the opposite side of the site and onto a different road. Accordingly, in this context, the board may deem this option to comprise significant additional information.
- 7.17. Overall, having assessed the information submitted, I concur with the planning authority and consider that the proposal would endanger public safety by reason of traffic hazard.
- 7.18. Visual and Residential Amenity
- 7.19. The original proposal was considered to be out of character and scale with the adjacent properties and the planning authority appropriately requested design revisions under the further information request. The response to the further

information request was to the satisfaction of the planning authority. I note that the high-level side profile windows have been omitted, and this has negated overlooking and negative impacts on privacy of adjacent property. Furthermore, the revised scale is more in keeping with the established form of development. I consider that the overall scale/design of the revised dwelling proposal, submitted under the further information response, to be acceptable.

7.20. Appropriate Assessment

Having regard to the limited nature of the proposed development and the nature of the receiving environment and the proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. I recommend that permission be refused.

9.0 **Reasons and Considerations**

It is considered that the proposed development, in the absence of detailed access proposals, would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a pedestrianised walkway and cycleway and adjacent to a nearby established junction, which would lead to a haphazard form of development and 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.'

Aisling Dineen

Planning Inspector

4th July 2023