



An
Bord
Pleanála

Inspector's Report

ABP-315635-23

Development	Construction of 4 no. houses and all associated works.
Location	The Hawthorns/Clare Road, Clonroadmore, Ennis, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	22537
Applicant(s)	Jada Property Investments
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	First Party v Condition
Appellant(s)	Jada Property Investments
Observer(s)	None
Date of Site Inspection	19 th June 2023
Inspector	Eoin Kelliher

1.0 Site Location and Description

- 1.1. The subject site is located circa 1.5km south of Ennis town centre in a primarily residential area ('The Hawthorns') accessed from a mini roundabout on the Clare Road (R458). The site comprises a vacant / brownfield corner site with a stated area of 0.072ha. The site was to comprise a detached house when 'The Hawthorns' was being developed but was not constructed.
- 1.2. The site is bounded by the Clare Road to the northeast, 'The Hawthorns' access road to the northwest and an agricultural field to the southeast. To the southwest there is a row of 10 no. semi-detached houses (Nos. 2 to 11 The Hawthorns) of conventional suburban design with hip-ended roofs and brick and render finishes externally. The boundaries of the site comprise a low stone wall along Clare Road and a high concrete block wall along the southeast and southwestern boundaries of the site. On the opposite (north) side of 'The Hawthorns' access road there is a three-storey mixed-use building with a curved building line which shoulders onto the adjoining mini-roundabout and acts as a landmark in an area otherwise characterised by low-rise suburban and roadside housing.

2.0 Proposed Development

- 2.1. The proposed development comprises a two-storey terrace of 4 no. two bedroom houses facing onto 'The Hawthorns' access road. The terrace would be set back from the road with provision for 4 no. off-street carparking spaces and a small communal garden to the front of the site. Each dwelling would have a private back garden. The design and finishes of the terrace include two-storey gable ended bays to the front, selected brick and render finishes to the external walls and pitched slate roofs with a hipped roof-profile on the end of terrace houses. The eastern gable of the terrace was modified by way of further information to incorporate a single storey bay window and a brick finish on the ground floor; it was also proposed to raise the existing 1.2m high stone boundary wall along the Clare Road to 2m as far as the front building line of House No. 4.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 22nd December 2022 Clare County Council granted permission subject to 13 no. conditions. Condition No. 2, which is the subject of this appeal, required that:

- a) House No. 4 be omitted from the scheme and the area incorporated into public open space and used for additional car parking.
- b) Landscaping in the form of mature and semi-mature trees be planted along the eastern boundary of the site.
- c) The boundary wall to the east of omitted House No. 4 shall be reconstructed using stone facing on the public footpath side and nap plaster on the opposing side.
- d) The eastern gable of House No. 3 shall incorporate a double height projecting bay.

The reason given for this condition relates to the prevailing pattern of development along the R458, on which units primarily address the public road, visual amenities and proper development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Report

The Planning Officer's initial report raises concerns regarding traffic safety owing to the proximity of the site entrance to the roundabout junction, the design of the proposal relative to the road frontage given its prominent location, and potential overshadowing impacts on the adjoining residential property at No. 2 The Hawthorns. It was also noted that the bin storage arrangements for the mid-terrace dwellings was unclear. The Planning Officer recommended seeking further information in respect of these matters including, *inter alia*, a Traffic and Transport Impact Assessment, auto track analysis for the vehicular movements associated with

the on-site car parking, an analysis of shadow impacts on the amenity spaces of the adjacent dwellings, and revised design proposals providing for a less rigid appearance, greater variation between individual units and a break-up of the massing of the block.

The applicant was also requested to submit a confirmation of feasibility letter from Uisce Eireann in respect of the proposed connections to the public water supply and wastewater and surface water infrastructure.

The applicant was advised, by way of a note, that very significant concerns remain in relation to the proposed site entrance to serve 4 no. dwellings given its proximity to the R458 junction and suggested reducing the number of dwellings proposed; 2 no. semi-detached dwellings were considered appropriate given the concerns raised.

Further Information Submitted

The applicant submitted the following further information on the 28th November 2022:

- A Traffic and Transport Assessment indicating that the R458 would continue to operate within capacity up to 2038 and that sightlines to the west of the proposed site entrance can be achieved; sightlines to the east are limited but would be maximised by cutting back existing vegetation.
- Swept path analysis drawings indicating vehicles can enter and exit the proposed carparking spaces in a forward gear.
- Shadow analysis imagery indicating minor overshadowing impacts on the adjoining residential property to the west.
- A revised site layout incorporating a bin store for the mid-terrace houses.
- Minor revisions to the design and finishes of the houses including. It was also proposed to raise the height of the existing eastern boundary wall of the site to 2m as far as the front building line of House No. 4.
- Correspondence from Uisce Eireann dated 3/11/21 in respect of the previously proposed development of 8 no. units confirming that water supply and wastewater connections can be facilitated.

The Planning Authority considered the submitted further information significant and sought further public notices.

Further Information Report

The Planning Officer's subsequent report generally accepted the findings of the submitted TIA but states that as a visitor carparking space has not been provided the subject site has capacity (in traffic safety and size terms) to accommodate 3 no. dwellings only. The Planning Officer continued to have concerns regarding the design of the proposed development in terms of its proximity to the R458 and the capacity of the site to accommodate 4 no. dwellings. A condition requiring the omission of 1 no. dwelling (House No. 4) and greater articulation of the gable elevation of House No. 3 was recommended; the said condition also included a requirement that landscaping in the form of mature and semi-mature trees be planted along the eastern boundary of the site.

The Planning Officer's recommendation is reflected in the Planning Authority's decision.

3.2.2. Other Technical Reports

Road Design Team:

Initial report sets out sight clearance requirements (50m) from the junction along the minor road with a major road and states that landscaping and planting should not interfere with sight lines. The report also sets out the required specifications for road and pavement construction and electric vehicle charge points.

Taking in Charge Team:

Report states the development will be served by a private courtyard and will not be considered for taking in charge and sets out requirements in respect of construction traffic, roads and footpaths, and car parking. Recommends that further detail be sought regarding boundaries. Recommended conditions provided if permission is to be granted.

3.3. **Prescribed Bodies**

Uisce Eireann: States it has no objection to the proposed development.

Irish Aviation Authority: States it has no observations to make on the application.

3.4. Third Party Observations

A local councillor sought to be placed as a representative on the planning file; no comments were made on the proposed development.

4.0 Planning History

P.A. reg. ref. 21/875: Planning permission refused by the Council on 13th October 2021 for the construction of 8 no. two-bedroom apartments in a three-storey building.

The reasons for refusal related to:

1. The proximity of proposed car parking spaces to the junction with the R458 and the resultant conflict between traffic movements and existing pedestrian, vehicular and cycle movements.
2. The design, form and material finishes of the proposed development on a prominent site were not considered conducive of an attractive built form.
3. The height and form of the proposed development would not relate satisfactorily to the adjoining property to the southwest and the Planning Authority was not satisfied, in the absence of supporting evidence to the contrary, that the proposed development would not result in overshadowing of the said property.

P.A. reg. ref. 16/601, ABP ref. PL03.247394: Planning permission refused 7th February 2017 for the construction of an unmanned petrol station on lands zoned residential wherein a petrol station is identified in the Clare County Development Plan 2007-2023 as a use that is not normally permitted.

5.0 Policy Context

5.1. Clare County Development Plan 2023-2029

The subject site is situated in the Clonroad More neighbourhood and is zoned 'Residential'. The surrounding area is generally zoned 'Existing Residential' save for the agricultural land to the south of the site which is zoned 'Strategic Residential Reserve'.

Appendix 1 of Volume 3a of the County Development Plan comprises a Serviced Land Assessment which identifies the subject site (Ref. R15) as a Tier 1 Serviced Site with existing infrastructure that can support the development of the site, subject to on-site works, some minor works at access points or linking into available existing systems.

Chapter 18 of the Plan relates to Design and Placemaking and states the priorities for the public realm in new housing areas are:

- Well-designed layouts forming attractive spaces appropriate to local character and scale;
- To avoid undefined set-backs where new housing abuts regional or local roads. These edges should be designed to enhance the public realm in character with the settlement;
- To ensure that suitable boundaries between public and private spaces, where defining elements give sufficient enclosure, are specified at planning application stage; and
- To plant at least one oak tree or other equivalent large deciduous indigenous tree species in a suitable location on public open space within a scheme.

Appendix 1 of the Plan contains Development Management Guidelines and states, *inter alia*, that development proposals for brownfield and infill sites must respect the character and appearance of their environs and contribute to the delivery of public realm enhancements and placemaking.

Car Parking standards for residential developments are set out in Table A3 of Appendix 1. In areas outside town centres 1 no. carparking space is required for one and two-bedroom units and 1 no. visitor parking space is required for every 3 no. dwellings.

5.2. **Project Ireland 2040: National Planning Framework**

National Policy Objective 3C seeks to deliver at least 30% of all new homes that are targeted in settlements other than the five Cities (Dublin, Cork, Limerick, Galway and Waterford) and their suburbs, within their existing built-up footprints.

5.3. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

The guidelines state in residential areas whose character is established by their density or architectural form, a balance must be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc.

5.4. Urban Design Manual Best Practice Guide (2009)

This manual is a companion document to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and provides best practice advice on the practical implementation of the policies contained in the guidelines.

5.5. Natural Heritage Designations

The site is located circa 856 metres west of the Lower River Shannon Special Area of Conservation (Site Code 002165).

5.6. EIA Screening

- 5.6.1. Having regard to the nature and small scale of the proposed development, its location within a built-up and fully serviced area, and the absence of any significant environmental sensitivity in the vicinity / 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 assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal against Condition No. 2 of Clare County Council's decision to grant permission. The grounds of appeal are summarised as follows:

- The site is zoned residential, as opposed to existing residential, as stated in the Planning Officer's report. This is significant as the emphasis is on development on 'residential' zoned lands, whereas the emphasis is to protect residential amenities on 'existing residential' zoned land.
- Pre-planning consultation with the Council was undertaken following a decision to refuse a previous application for a three-storey apartment block on the site.
- The Council accepted that the proposed quantum of development on the site was acceptable and was satisfied that there were no significant traffic or overshadowing impacts because of the scaled-back proposal.
- In practical terms condition no. 2 amounts to a refusal as a development for 3 no. houses is probably not commercially viable.
- The submitted design is by a qualified and experienced architect, a difference of opinion regarding the aesthetic impact of the proposal should not have a decisive effect on the Council decision.
- The prevailing pattern of development in the area is the result of 'ribbon' development along the R458 over the past sixty years, there is nothing inherently attractive about this.
- Viewing the subject site from a future resident's perspective, it is a safer and more attractive option to orientate the housing toward 'The Hawthorns', which would also enable a more efficient use of the plot.
- In the interest of residential amenity, and in particular the reduction of traffic noise from the R458, a high wall is required on the R458 boundary of the site. This requirement necessarily undermines any ambition to create a striking visual impact on the main road.

- The application carefully considered the amenity of the adjoining semi-detached house by setting the front of the terrace back and ensuring that the rear of the terrace does not extend beyond the rear building line.
- The site is not part of a 'key node' as stated in the Planner Officer's report; it is located midway along a ribbon of development beside the R458 at a mini-roundabout whose primary function is to provide access to new residential areas to the east and west of the R458. The roundabout does not mark a material change in the appearance or function of the suburban area and there is no known design guidance in current or previous development plans for the aesthetic treatment of a 'key node' at this location.
- The proposed development would appear most prominently in views of traffic heading south, out of town and approaching the site, and then on the roundabout. As per the submitted Computer Generated Image, the aesthetic impact of the scheme would not be particularly significant and would be preferable to the ongoing visual impact of the vacant site.
- There is no functional benefit in providing a narrow strip of open space and an additional car parking space in lieu of House No. 4; the on-going maintenance of this space would be problematic, and an additional car parking space is contrary to sustainable travel. There also appears to be an excess of parking provision in the vicinity of the site including on-street carparking spaces.
- The proposed architect-designed scheme of 4 no. houses has several positive attributes including the following:
 - Housing terraces are inherently sustainable building forms in terms of energy efficiency.
 - The units have rear south-facing gardens and living rooms.
 - Each unit has its own car parking space.
 - The scheme is directly adjacent to local retail services.
 - The scheme will improve the mix of housing in the area which is dominated by larger 3-bedroom houses.

- The scheme will make a modest contribution to the densification of a very low-density suburban area.

6.2. Planning Authority Response

The Planning Authority responded to the appeal by letter dated 15th February 2023. The response is summarised as follows:

- The overall design concept employed could have been revised to provide for a more landmark type building whilst also respecting the amenities of the neighbouring dwellings. A wholly revised design for the entirety of the development would be more appropriate in this instance.
- The Planning Authority has concerns regarding the proximity of the proposed terrace to the R458 and the capacity of the site to accommodate 4 no. dwellings.
- A balance must be struck between an appropriate form of development and the provision of required housing.
- The omission of 1 no. dwelling would provide for a greater separation distance between the terrace and the R458 and reduce the plot ratio on the site. A greater articulation of the gable elevation was also deemed necessary.
- Having regard to the location, brownfield nature and zoning of the site, which is fully serviced, the Planning Authority considered that 3 no. dwellings would be appropriate with the gable of the closest house to the R458 revised to provide for more active frontage onto same.
- The Planning Authority respectfully requests the inclusion of condition no. 2 in its entirety if planning permission is granted.

6.3. Observations

None.

7.0 Assessment

- 7.1. This is a first party appeal against condition no. 2 attached to the Planning Authority's decision to grant permission which required the omission of House No. 4 from the development.
- 7.2. Having regard to the nature of the condition the subject of the appeal, I am satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and recommend that subsection (1) of section 139 of the Planning and Development Act 2000, as amended, be invoked. Accordingly, I intend to limit consideration to the matters raised in relation to the terms of the condition.
- 7.3. The rationale for the Planning Authority's decision to omit House No. 4 from the scheme is based on concerns regarding the proximity of the proposed terrace to the R458 (Clare Road) and the capacity of the site to accommodate 4 no. dwellings. The Planning Authority also states in their response to the appeal that a more landmark type building at this location, which also respects to the amenities of the neighbouring dwellings, could have been provided. I also note, however, that the Planning Authority's request for further information included a note to the applicant stating that two semi-detached dwellings would be a more appropriate form of development for this site.
- 7.4. The proposed terrace inclusive of House No. 4 would be set back 2.8m from the north-eastern boundary of the site / Clare Road. The gable of House No. 4 comprises living and bedroom windows at ground and first floor level which would provide passive surveillance on Clare Road, whilst being sufficiently set-back from the road for the purposes of privacy. The applicant's initial proposal for the Clare Road boundary was to maintain the existing 1.2m high stone wall and provide a hedge. By way of further information, the applicant proposed to increase the height of the boundary wall to 2m for circa 18m in length, presumably to provide privacy to the rear and side garden of House No. 4, as well as reducing noise impacts from the road. This revision negated the passive surveillance and visible building frontage that House No. 4 would provide on Clare Road. I refer the Board to the submitted 3-dimensional view of the development looking northwest in this regard.

- 7.5. Whilst the Planning Authority considers the subject site suitable for a landmark building, I agree with the applicant that there is no apparent reason or requirement to develop a 'key node' at this location. In any event, the three-storey mixed-use building to the north of the subject site fulfils this function as appropriate for a neighbourhood centre development. I also note that there is no contextual building line to the south of the site that warrants setting back the eastern gable of the proposed terrace, and the close relationship between the neighbourhood centre building and the road edge.
- 7.6. I am of the view that the proposed development would, subject to the boundary wall to the front of the gable of House No. 4 being reduced to 1.2m in height, provide for an acceptable interface with the Clare Road, and would not detract from the visual amenities of the area. The section of the boundary wall flanking the rear garden of House No. 4 should be reduced to 1.8m to minimise its impact whilst providing for an adequate level of privacy for the occupants of the dwelling.
- 7.7. Regarding the capacity of the site to accommodate 4 no. dwellings, which would amount to a density of circa 56 dwellings per hectare, I note that each dwelling would have generous sized rear gardens as well as access to a small shared-garden and would be allocated 1 no. off-street carparking space each. The proposed terrace would not project beyond the established building line on the south side of 'The Hawthorns' access road and would not project unduly beyond the rear building line of the adjoining dwelling to the west (No. 2 The Hawthorns). Whilst no provision has been made for on-site visitor car parking, I note there is ample on-street carparking as well as off-street carparking within 'The Hawthorns' estate. Furthermore, having regard to the good size of the proposed rear gardens and the extent of public open space within 'The Hawthorns', I am satisfied that an adequate standard of private and public open space amenity would be provided for the future occupants of the development.
- 7.8. The foregoing considered, I am satisfied that the proposed development would not constitute overdevelopment of the site and would provide for an appropriate density and form of development on a serviced brownfield site within the development boundary of Ennis, subject to minor changes to the proposed boundary treatment on Clare Road. Accordingly, I consider the omission of House No. 4 unwarranted.

8.0 Recommendation

I recommend the Planning Authority be directed to AMEND condition number 2 to read as follows:

The proposed development shall be amended as follows:

- a) The height of the existing low stone boundary wall opposite the gable of House No. 4 shall be maintained.
- b) The proposed stone boundary wall flanking the rear garden of House No. 4 shall measure 1.8 metres in height.

Reason: In the interest of visual and residential amenities.

9.0 Reasons and Considerations

Having regard to the residential land use zoning for the site, and to the pattern of development in the area, it is considered that House No. 4, by reason of its design and location relative to Clare Road, would not detract from the visual amenity of the area, subject to minor amendments to the proposed boundary treatment on Clare Road, or result in overdevelopment of the site. The Planning Authority's Condition 2 requiring the omission of House No. 4 is, therefore, not warranted.

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.

Eoin Kelliher
Planning Inspector

10th July 2023