



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315847-23

---

<b>Development</b>	Two houses and one apartment with associated site works.
<b>Location</b>	O'Moore Street, Mountmellick, Co. Laois
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority Reg. Ref.</b>	22171
<b>Applicant</b>	Michael McCrohan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Anita Honner
<b>Date of Site Inspection</b>	12 <sup>th</sup> October 2023
<b>Inspector</b>	Dolores McCague

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	4
3.3. Third Party Observations .....	4
4.0 Planning History.....	4
5.0 Policy Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations .....	5
5.3. EIA Screening .....	6
6.0 The Appeal .....	6
6.1. Grounds of Appeal .....	6
6.2. Applicant Response .....	7
6.3. Planning Authority Response.....	8
7.0 Assessment .....	8
7.2. Appropriate Assessment.....	9
7.3. Impact on Adjoining Property .....	9
7.4. Boundary Treatment .....	10
8.0 Recommendation.....	10
9.0 Reasons and Considerations.....	10
10.0 Conditions .....	11
Appendix 1 – Form 1: EIA Pre-Screening	

## 1.0 Site Location and Description

1.1. The site is located at O'Moore Street, Mountmellick, Co. Laois. This part of Mountmellick is within the historic town (Mountmellick LA008-023). The site includes a gap site which resulted from the demolition of two former terraced dwellings which occupied the site, and the dwelling at No. 2 O'Moore Street, which was recently refurbished. At the northern end of the site, the remains of a previous building (part of a chimney) is attached to the gable of No. 5 O'Moore Street. The site is separated from the street by a hoarding. To the back of the hoarding there is a large area of rough ground and rubble.

## 2.0 Proposed Development

- 2.1.1. The proposed development is described in the notices as: construct 2 No. 2 bed two storey dwellings and 1 No. 1 bed two storey apartment as an infill streetscape development, and amendments to site boundaries of No. 2 O'Moore Street, Mountmellick, and all ancillary works and services.
- 2.1.2. A drawing submitted in response to the further information request, states re. No. 2 that the roof is to tie in with existing dwelling roof, and re. No. 5 that the existing dwelling roof is to be extended into the gable of the proposed new dwelling and flashed by applicant.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority decision, dated 24<sup>th</sup> January 2023, was to grant permission subject to 13 conditions, including:
- 2 – external finishes, 3 – landscaping, 4 – only domestic purposes, 5 – Uisce Éireann, 6 – surface water, 7 – no part of the proposed development shall encroach, oversail or otherwise physically impinge upon any adjoining property save with the prior written agreement of the owner(s), all public and private property shall be adequately protected at all times, 9 – overhead lines, cabling of lights, 10 -

construction waste, 11 - site boundary treatment, private open space, 12 - dust during construction, hours of construction, CMP, 13 - development contribution.

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

#### **3.2.1. Planning Reports**

3.2.2. The first planning report, (16<sup>th</sup> May 2022) recommended further information on 5 items: site layout; design; third party submission; re. footpath and road to be maintained during construction; and surface water.

3.2.3. The second planning report (19<sup>th</sup> January 2023), recommending permission, which issued, includes:

- Satisfied with responses.

#### **3.2.4. Other Technical Reports**

Roads Office, 10<sup>th</sup> May 2022 – further information - how footpath and road will be maintained during construction, surface water.

Western Area Roads, 29<sup>th</sup> April 2022 - surface water to surface water drainage system.

### **3.3. Third Party Observations**

3.3.1. A third party observation from the appellant has been read and noted.

## **4.0 Planning History**

05/1266 Permission granted, 28<sup>th</sup> March 2006, to demolish 2 no. existing derelict houses & construct 1 no. shop unit & 10 no. apartments with entrance & ancillary works.

DS 08/35 – entry on Council's derelict sites register.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. Laois County Development Plan 2021-2027 is the operative plan. Relevant provisions include:
- 5.1.2. Volume 2 of the plan includes zoning and flood maps – the site is zoned Town Centre (Primary / Core Retail Area). The street to the front is shown as liable to flooding, The flood risk area includes a small portion of the site which is on the street side of the building line, otherwise the site is not within the area liable to flooding.
- Apartments are acceptable in principle in town centre zones; dwellings are open for consideration.

Town/ Village Centre – objective to protect and enhance the special physical and social character of the existing town centre and to provide for and improve retailing and commercial activities.

The purpose of this zoning is to enhance the vitality and viability of town and village centres through the development of under-utilised land and brownfield sites and by encouraging a mix of uses to make the town and village centres attractive places to visit, shop and live in. The character of town and village centres shall be protected and enhanced. The Council will encourage the full use of buildings and backlands; in particular, the full use of upper floors in buildings, preferably for residential use.

CS 05 Support the regeneration of underused town centre and brownfield/infill lands along with the delivery of existing zoned and serviced lands to facilitate population growth and achieve sustainable compact growth targets of 30% of all new housing to be built within the existing urban footprint of targeted settlements in the County.

CM ST 9 Promote more compact development forms that reduce overall demand for private transport and private transport infrastructure and support proposals that encourage modal shift towards sustainable travel modes.

### 5.2. Natural Heritage Designations

- 5.2.1. The River Barrow and River Nore SAC (site code 002162), c 350m distant, is the closest Natura site.

### 5.3. EIA Screening

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

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The appeal has been submitted by Anita Honner. The grounds include:
- The applicant allowed the two former houses on the site to fall into disrepair. As a result the houses had to be demolished in 2010. He is now seeking to benefit from this neglect.
  - He left the gable wall of appellant's house exposed to the elements, causing ingress of rainwater, causing dampness.
  - Appellant's house was left unsupported and the proposed development forfeited the right to have support.
  - The gable wall was formerly an internal wall. The chimney of the applicant's house was left exposed and has caused rain water to run down the wall and ingress the appellant's house; resulting in illness to the appellant and her family.
  - The applicant has demolished and removed the permanent boundary wall between the properties, without the appellant's consent; and has failed to make provision for the reinstatement of the stone boundary wall and the grant of permission has failed to require the applicant to do so.
  - The appellant's property was left unsafe and unsecured and it was necessary for the appellant to erect a temporary boundary fence.
  - The original plans proposed to leave the appellant's gable wall exposed to the elements with a new gable wall so close as to make impossible the

maintenance of appellant's gable. The amendments propose to join the new houses to appellant's without her knowledge or consent.

- The proposed development would be seriously injurious to the preservation of the residential amenities of appellant's house.
- The appellant became the registered owner after the application was made and no letter of consent was provided.
- The height above the appellant's house will lead to rainwater ingress.
- The three front doors, in replacement of two, is incongruous and out of character with the streetscape.
- The location of the vehicular entrance in the centre rather than on the left side is incongruous and out of character with the streetscape.
- The rectangular vehicle entrance gate instead of the previous arched shape is incongruous and out of character with the streetscape.
- The application should be deemed invalid because the notice was on the window of the adjacent house.

## 6.2. Applicant Response

6.2.1. Thor Design & Management, agent, has submitted the response on behalf of the applicant. The response includes:

- The original 2 no dilapidated dwellings were demolished by Tribro Properties Ltd., which are no longer operating. The applicant was a director of the company.
- The houses were demolished on foot of a permission: 05/1266. The development didn't proceed due to the economic crash.
- The applicant purchased the site in 2022.
- Great attention was given to ensuring Ms Honner's gable. It is the intention to remove the existing gable of the demolished dwelling and fully render Ms Honner's gable to a similar standard as the opposite gable, before constructing the proposed development.

- The applicant disputes any demolition of the boundary.
- In response to the request for further information they proposed to reduce the gap between the proposed development and Ms Honner's gable to as near as possible; and they intend to render the gable.
- In relation to the ownership of the existing gable of Ms Honner's dwelling, the applicant claims ownership of his half of the gable which formed part of the original demolished dwelling, party wall. There is no proposal to connect to Ms Honner's gable (post permission).
- The proposed development will significantly enhance the streetscape.
- A letter of consent to the making of the application was supplied and is on file.
- Tribro properties owned the property and not the applicant.
- The ridge of No. 2 and No. 5 do not match. The proposed development was designed to match No 2.
- The proposed vehicle entrance is not located in the centre of the development but in the same left hand side position as the original demolished development. A photograph is supplied.
- No. 2 formed part of the planning application and the notice was erected in the window of this dwelling.

### 6.3. **Planning Authority Response**

- 6.3.1. The planning authority have not responded to the grounds of appeal.

## 7.0 **Assessment**

- 7.1.1. I consider that the main issues which arise in relation to this appeal are as follows: appropriate assessment, impact on adjoining property, boundary treatment and the following assessment is dealt with under those headings.



## **7.2. Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **7.3. Impact on Adjoining Property**

- 7.3.1. The substance of the appeal concerns the impact on the adjoining property.
- 7.3.2. The grounds of appeal refers to impact on the appellant's property arising from ingress of water as a result of the demolition of the former building on this site.
- 7.3.3. In response it is stated that great attention was given to ensuring Ms Honner's gable. It is the intention to remove the existing gable of the demolished dwelling and fully render Ms Honner's gable to a similar standard as the opposite gable, before constructing the proposed development.
- 7.3.4. In the observation to the planning authority on this file it was stated that the development fails to protect the exposed gable wall of the adjoining house and fails to leave adequate room for upkeep and maintenance of the exterior of the gable wall. In the appeal it is stated that the original plans proposed to leave the appellant's gable wall exposed to the elements with a new gable wall so close as to make impossible the maintenance of appellant's gable; the amendments propose to join the new houses to appellant's without her knowledge or consent.
- 7.3.5. These concerns appear to be in opposition to each other.
- 7.3.6. The proposed development replaces a former building which formed part of a terrace at this location. The proposed development will join the buildings on either side to form a terrace. This creation of a terrace is, in my opinion, the appropriate built form for this location.
- 7.3.7. Matters of dispute over ownership/title are legal matters which are not for the Board to determine.

7.3.8. Section 34 (13) applies<sup>1</sup>.

#### **7.4. Boundary Treatment**

7.4.1. The grounds of appeal states that the applicant demolished and removed the permanent boundary wall between the properties, without the appellant's consent; and has failed to make provision for the reinstatement of the stone boundary wall which the grant of permission has failed to require the applicant to do. It further states that the appellant's property was left unsafe and unsecured and it was necessary for the appellant to erect a temporary boundary fence.

7.4.2. This appears to be a legal matter regarding property and would therefore be a matter on which the Board is not enabled to make any determination. The previously referenced Section 34 (13) of the Planning and Development Act applies.

7.4.3. A concrete post and plank wall, as detailed on drawing MM/PL/20/01, submitted in response to the further information request, is proposed to be erected along the boundary with the appellant's property. Although not a 'stone boundary wall', it is adequate for the purpose of providing a boundary between the site and the adjoining property.

### **8.0 Recommendation**

8.1.1. In accordance with the foregoing I recommend that the proposed development be permitted, for the following reasons and considerations, in accordance with the following conditions.

### **9.0 Reasons and Considerations**

9.1.1. The proposed development, which would replace former terraced dwellings with new dwellings, would be compatible with the Town Centre zoning, contribute to the regeneration of underutilised derelict town centre lands, contribute to achieving the target of 30% of all new housing on zoned serviced lands, contribute to the achievement of sustainable compact development, remove a gap in a prominent

---

<sup>1</sup> Section 34 (13) of the Planning and Development Act 'A person shall not be entitled solely by reason of a permission under this section to carry out any development'..

urban terrace, contribute to an improvement in the amenities of the area; and would, subject to the following conditions, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 16 day of November 2022 and 21 December 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>Arrangements the disposal of surface shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of orderly development and public health.</p>
4.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition</p>

	<p>waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
5.	<p>The developer shall pay to the planning authority a financial contribution of €12,000 (twelve thousand euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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.

---

Planning Inspector

1<sup>st</sup> November 2023

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>			
<b>Proposed Development Summary</b>	Construct 2 No. 2 bed two storey dwellings and 1 No. 1 bed two storey apartment as an infill streetscape development and amendments to site boundaries and all ancillary works and services.		
<b>Development Address</b>	No. 2 O'Moore Street, Mountmellick		
<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) or 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>
		N/A	
<b>No</b>			No EIAR or Preliminary Examination required
<b>Yes</b>		Class/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:** \_\_\_\_\_

**Appendices:**

Appendix 1 Photographs

Appendix 2 Laois County Development Plan 2021-2027, extracts.