



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316186-23

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<b>Development</b>	A two-storey dwelling house, a garage, entrance and all ancillary site works.
<b>Location</b>	53 Lakelands, Cullenagh, Ballina, County Tipperary.
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	2260587
<b>Applicant(s)</b>	Eimear Purcell
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Ann MacPhail John Bolger Richard McMahon
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	31 <sup>st</sup> August 2023

**Inspector**

Catherine Dillon

## 1.0 Site Location and Description

- 1.1. The site consists of an overgrown gap site between two existing detached dwellings within a cul de sac and is accessed via the local road L5428. The site is stated as having an area of 0.140ha and is located within the residential development of Lakelands at Cullenagh in Ballina town.
- 1.2. The subject site is at the highest point of the cul de sac and falls away from the entrance to the west and to the south (rear) by c.2m. No. 52 Lakelands to the west of the site is a two-storey dwelling at a lower level than the site and is separated by a close boarded fence and dense hedge and has a window at first floor level overlooking the site. No.54 Lakelands to the east is a detached dormer dwelling with a large living/sitting room and kitchen window on its western ground floor elevation looking onto the site. There is a high 2m boundary wall along the rear boundary of the site which is shared with two storey dwellings to the south, Nos 71 and 72 Inis Cealtra.
- 1.3. The houses within the cul de sac comprise large, detached dwellings of varying designs. Lough Derg is to the west of the site.

## 2.0 Proposed Development

- 2.1. The proposed development is for a detached two storey 5-bedroom house with a floor area of 302m<sup>2</sup>. The proposed dwelling would have a height of 8.3m to the ridge when measured from the site's ground level. It would have a finished floor level 1.12m higher than the dwelling to the west and 0.7m lower than the dwelling to the east. It would be positioned 2.1m from the western boundary and 4.7m at its closest point to the eastern boundary. It would reflect the building line of the adjoining houses.
- 2.2. The dwelling has been designed with the kitchen/living area/sitting room and master bedroom on the first floor and 4 bedrooms on the ground floor. A single storey extension is proposed for the full width of the house to the rear. Three ensuite bathrooms and an office would have windows on the flank ground floor elevations. The property would have large, glazed windows on the ground and first floor front elevation and a glazed window/door in the rear first floor elevation serving the

kitchen/dining room. External materials would be finished in sand and cement plaster render.

- 2.3. A drawing of a single storey garage is also included with an overall floor area of 59.8m<sup>2</sup>. The garage is indicated as being located in the south eastern corner of the site.
- 2.4. The house would be connected to the existing public water mains and public sewer.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.2. Following a further information request in December 2022 planning permission was granted by Tipperary County in March 2023 for a two-storey dwelling house, a garage, entrance and all ancillary works at 53 Lakelands subject to ten conditions.

#### **3.3. Planning Authority Reports**

##### **3.3.1. Planning Reports**

The initial planner's report sought further information on design including omission of balconies, evidence of a pre-connection enquiry from Irish Water, and a landscaping plan.

- 3.3.2. The further information response omitted the front and rear balconies and the overhang on the front elevation, and details demonstrating a connection enquiry to Irish Water and a landscaping scheme were submitted.
- 3.3.3. On receipt of the further information response the Planning Authority considered the design and layout were acceptable, and subject to a condition prohibiting the flat roof on the rear ground floor being used as a balcony, the development would not negatively impact on the adjoining residential amenity. This condition was not attached to the grant of permission. No further submissions were received following the further information request.

##### **3.3.4. Other Technical Reports**

Senior Executive Engineer: No observations to make.

### 3.4. **Prescribed Bodies**

None

### 3.5. **Third Party Observations**

Three submissions were received from the following third parties, Ann MacPhail (71 Inis Cealtra), John Bolger (No.54 Lakelands) and Richard McMahon (72 Inis Cealtra) on the following summarised grounds:

- Inclusion of balcony would impact on the residential amenity; and
- Impact on residential amenity

## 4.0 **Planning History**

4.1. None connected to the subject site.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. Tipperary County Development Plan 2022-2028:

The site is zoned 'Existing residential' within the Development Plan, the objective of which is, 'To preserve and enhance existing residential development and residential amenity and provide for additional facilities where gaps are identified.' Ballina is identified as a 'Local Town' within Tipperary's settlement hierarchy.

5.1.2. Policy 5-5: Support and facilitate the delivery of new residential development in towns and villages and where the applicant has demonstrated compliance with a number of criteria including the following:

- New residential development shall meet the relevant Development Management Standards as set out in Volume 3.
- Residential development in rural settlements shall be appropriate to the scale, character and infrastructural capacity of the settlement in which it is to be located.

5.1.3. Volume 3 Development Management Standards of Tipperary County Development Plan includes:

4.6: Applications for residential development will be assessed against the design criteria set out in the Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, (DHLGH, 2009) and the Urban Design Manual: A Best Practice Guide, (DHLGH, 2009). This section applies to all new residential development in settlements, including serviced sites and should be addressed at planning application stage to the satisfaction of the Council.

4.10: Back-land and Infill Development Back-land residential development relates to small scale development located to the rear of or adjacent to existing buildings in built-up areas. To make the most sustainable use of existing urban land, the Council will consider the appropriate development of back-land/infill housing on suitable sites on a case-by-case basis. Backland/infill housing should comply with all relevant development plan standards for residential development. Proposals should:

- Align with the prevailing density and pattern of development in the immediate area including plot sizes, building heights, and proportions;
- Not impact negatively upon the residential amenities of surrounding properties such as the potential loss of daylight or increased overlooking;
- Take cognisance of the potential of adjacent infill/backland sites being developed and shall not prejudice the development potential of such lands.
- Ensure adequate amenity is afforded to the existing and proposed development.

## 5.2. Natural Heritage Designations

Lough Derg (Shannon) SPA (site code: 004058) is c.600m to the north west of the site and the Lower River Shannon SAC (site code: 002165) is c.827m to the south east of the site.

## 5.3. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development and the receiving environment, which is a fully serviced location, there is no real likelihood of significant effects on the environment arising from the proposed development. The

need for an 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

The grounds of appeal are submitted by John Bolger (No.54 Lakelands), Richard McMahon (No. 72 Inis Cealtra) and Ann MacPhail & Deborah Tannehill (No.71 Inis Cealtra), of which the main points can be summarised as follows:

#### Flat roof will be used as a balcony:

- Loss of privacy with flat roof being used as a balcony with access from kitchen sliding doors.
- Condition prohibiting use of single storey flat roof projection as a balcony was not included in the notification of decision to grant permission with conditions.
- Use of flat roof as a balcony- ambiguity in plans in both the original and the revised application which shows a 3.2m sliding door with direct access onto flat roof.

#### Landscaping plan:

- Concerned due to the site's levels, fast growing large trees including oak and lime trees as proposed in the landscaping plan will impact on the retaining wall, and tree canopy would spread into adjoining sites.
- A revised landscape plan, omitting tall trees to be replaced with a hedge.

### 6.2. Applicant Response

The applicant in their response maintains the flat roof shall not be used as a balcony, and there is no glass door access onto the flat roof.

The planting of any trees /screening will not encroach the boundary wall or be planted in any way to cause any root damage to the structure of the foundation of the boundary wall.

### 6.3. Planning Authority Response

None

#### 6.4. **Observations**

None

#### 7.0 **Assessment**

7.1. I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal, and noted the planning authority's request for additional information and the applicant's response to same. Having regard to the site being an infill site on zoned residential lands, I consider the principle of the proposed development to be acceptable and, as such, I consider the main issues in this appeal to be those raised in the grounds of appeal, namely; the single storey rear extension being used as a balcony and the proposed landscaping plan impacting on the neighbouring retaining wall boundary and appropriate assessment.

#### 7.2. Single storey rear extension:

This extension would project 3.1m for the full width of the property at ground floor level. The Applicant in their appeal response confirm that the flat roof would not be used as an outside living area or balcony and there is no access from the upper floor, or sliding doors provided in the plans.

7.2.1. I note on the plans submitted as part of the further information response a double-glazed door/window on the rear elevation at first floor level serving the kitchen. I would therefore draw the Board's attention to an element of ambiguity with the submitted plans. I would agree with the Third Parties that the flat roof has the potential to be used as a balcony, particularly given its southerly aspect and the layout of the dwelling, and there is the potential to access the flat roof from the kitchen that would impact on the residential amenity of neighbouring properties by way of overlooking and a loss of privacy.

7.2.2. I would recommend in the event the Board are considering granting planning permission, and to remove all ambiguity, the flat roof is replaced with a pitched roof and a condition is attached that the single storey extension cannot be used as a balcony.

#### 7.3. Landscaping Plan on neighbouring residential occupiers



- 7.3.1. The landscaping plan dated 4/01/23 submitted by John Walsh of SAP Nurseries to the further information response indicates a beech hedge to be planted along the western, eastern and southern boundaries. In addition to the immediate boundary treatment two Oak trees and a Lime tree are to be planted close to the southern boundary and a further Oak and Lime tree to the rear of the proposed dwelling. Both Oak and Lime trees have the potential to grow to average heights of between 10m-20m, with a similar canopy spread depending on species, maturity and pruning. There is therefore a potential for the roots to impact on the rear retaining wall to the properties in Inis Cealtra. These dwellings have relatively small gardens and any encroachment of the tree canopies over this wall would shadow the gardens.
- 7.3.2. The applicant in their response to the grounds of appeal wish to allay any concerns regarding the planting of any trees/screening regarding encroachment or root damage. I therefore recommend a revised landscaping plan is submitted for the approval of the planning authority in the event of planning permission being granted which removes the Lime and Oak trees along the southern boundary wall to be replaced with smaller native species.

#### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development in a serviced built-up urban area, it is my opinion the proposed development would not 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 permission be GRANTED subject to conditions.

### **9.0 Reasons and Considerations**

- 9.1. Having regard to the zoning, nature and location of the development and pattern of development in the vicinity, it is considered that, subject to the conditions set out below, the proposed development would not seriously injure the amenities of residential property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out in accordance with plans and particulars lodged with the application and as amended by the further information plans and particulars submitted on 21/2/2023, 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 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 the commencement of the development revised plans shall be submitted for the written agreement of the planning authority as follows:</p> <p>(a) The single storey flat roof rear extension shall be replaced with a pitched roof for the full extent of the extension.</p> <p>(b) The roof of the single storey rear extension shall not be used as a balcony.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
3.	<p>Prior to commencement of the development a revised landscaping scheme shall be submitted for the written approval of the Planning Authority. The scheme shall include the following:</p> <p>(a) A plan to scale of not less than 1:500.</p> <p>(i) The omission of the Oak trees and Lime tree along the southern boundary in the landscaping plan submitted dated 4/1/23 .</p> <p>(ii) The species variety, number, size and locations of all trees and shrubs (which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, holly, hazel, beech or alder).</p> <p>(ii) Details of screen planting shall not include cupresocyprais or leylandii.</p> <p>(iii) A timescale for planting including phasing.</p>

	<p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development, shall be replaced with others of similar size and species, unless otherwise agreed in writing with the Planning Authority.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
4.	<p>Surface water runoff shall not be allowed to discharge onto the public road or adjoining properties.</p> <p><b>Reason:</b> To avoid interference with other properties and to prevent damage to the public road with consequent traffic hazard.</p>
5.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water prior to the commencement of this development.</p> <p><b>Reason:</b> In the interests of public health and for the well being of the occupant(s) of the development.</p>
6.	<p>The vehicular access shall be recessed 5 metres from the existing roadside edge and shall have a minimum width of 3 metres at the inside piers increasing via splay walls as per details submitted. At the entrance, a drainage kerb / cattle grid or approved equivalent surface water cut-off drain shall be set back a minimum distance of 3 metres behind the roadside boundary and it shall discharge to a stone filled sump located within the site. The wing wall and associated pier shall not exceed 1.8m in height.</p> <p><b>Reason:</b> In the interest of traffic safety and to prevent flooding of the public roadway.</p>
7.	<p>External finishes of the proposed dwelling and garage shall be in accordance with those indicated on the submitted plans.</p> <p>a) The colour of the roof slates shall be dark in colour.</p> <p>b) Facing material shall be neutral in colour and texture and render finishes shall be painted or pigmented prior to occupation.</p>

	<b>Reason:</b> In the interests of visual amenity.
8.	<p>All service cables associated with the proposed development (such as electrical, broadband, television and telephone cables) shall be run in underground ducts.</p> <p><b>Reason:</b> To preserve the visual amenities of the area.</p>
9.	<p>a) The developer shall ensure that all demolition/construction works on site are carried out in a manner such that noise and dust emissions do not result in significant impairment of, or significant interference with, amenities or the environment beyond the site boundary.</p> <p>b) The developer shall ensure that material from the site is not spread or deposited on the public roadway and shall maintain the roadway in a clean, tidy and safe condition. Any damage to or interference with the roadside drainage shall be made good without delay at the developers expense, to the satisfaction of the Local Authority.</p> <p>c) No construction or demolition activity giving rise to noise audible from the nearest habitable dwelling shall be carried out on Sundays, Bank Holidays or Public Holidays.</p> <p>d) From Monday to Friday, all construction and demolition activity giving rise to noise audible from the nearest habitable dwelling shall be restricted to the hours between 8.00a.m. and 6.00p.m. (inclusive) and to the hours between 8.00a.m. and 2.00pm (inclusive) on Saturdays (excluding Bank/Public Holidays).</p> <p><b>Reason:</b> To prevent a noise nuisance or traffic hazard arising from the implementation of the permission.</p>
10.	<p>The proposed garage shall be used solely for purposes incidental to the enjoyment of the dwelling house and shall not be used for any residential, commercial or industrial purpose.</p> <p><b>Reason:</b> In the interest of protecting the residential amenity of the area.</p>
11.	<p>Prior to commencement of the development a financial contribution payment shall be paid to the Planning Authority in respect of public</p>

	<p>infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the development contribution scheme made under section 48 of the Planning and Development Act 2000 (as amended). The contribution shall be paid prior to the commencement of development in such phased payments as the planning authority may facilitate and shall be the 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 the Board to determine.</p> <p><b>Reason:</b> It is considered reasonable that a contribution be made towards the expenditure that was incurred by the planning authority in respect of works which have facilitated the proposed development.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Catherine Dillon  
Planning Inspector

27<sup>th</sup> September 2023