



An  
Bord  
Pleanála

## Inspector's Report ABP-316199-23

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<b>Development</b>	Two-storey dwelling house, site entrance and all associated site works. Permission for conversion of existing store to domestic garage.
<b>Location</b>	Knockane, Newcastle West, Co. Limerick.
<b>Planning Authority</b>	Limerick City and County Council.
<b>Planning Authority Reg. Ref.</b>	23/41.
<b>Applicant(s)</b>	John Quilligan.
<b>Type of Application</b>	Outline Permission and Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	John Quilligan.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	2 <sup>nd</sup> September, 2023.
<b>Inspector</b>	Aiden O'Neill.

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## 1.0 Site Location and Description

- 1.1. The proposed development site is located in the established residential area of Knockane at the south-western edge of built up area of the County Town of Newcastle West, Co. Limerick.
- 1.2. The site is generally rectangular in shape and is c. 0.26ha in area. There is an existing single-storey bungalow, which appears to be undergoing internal refurbishment, to the front of the site, bound by 1m high rendered wall, with pillars and gate, as well as a gated vehicular entrance into a loose-gravelled yard area. There is a caravan in the yard area, and adjacent to the yard is a partially fenced grassed area, where there is a horse. The western extent of the site contains a yard area with an existing dwelling and a shed structure, accessed via an internal road along the southern boundary of the site that connects with the yard with the front part of the site.
- 1.3. To the north of the proposed development site is an infill residential development of c. 14no. sheltered apartments known as Lilac Close. A mix of detached dwellings, terraced dwellings and bungalows are located further north. To the south is undeveloped agricultural land. Scoil Íósaf girls primary school and St. Catherine's Nursing Home and Retirement Village, and Scoil Mhuire agus Ide secondary school are located to the south-east on the opposite side of the public road.
- 1.4. The proposed development site is located outside of the Newcastle West Architectural Conservation Area (ACA). There are no Protected Structures on the site or in the immediate vicinity. The proposed development site is also not located in an identified Flood Zone.

## 2.0 Proposed Development

- 2.1. Outline permission is sought a two-storey dwelling house, site entrance and all associated site works. Permission is also sought for the conversion of an existing store to a domestic garage.
- 2.2. The application form states that the existing building on site is 43m<sup>2</sup>, which is assumed to relate to the existing shed, and the proposed dwelling is 200m<sup>2</sup>.

- 2.3. It is not clear from the Proposed Site Layout Plan or notices submitted with the application if the existing dwelling to the rear of the site, which is marked out in dash on the Proposed Site Layout Plan, is to remain on site, however it is stated in the First Party's application cover letter dated 19<sup>th</sup> December, 2022 that this existing dwelling is to be removed. The existing dwelling to the front is indicated as remaining.
- 2.4. A new internal access road along the northern boundary of the site is proposed, and there will be a shared entrance from the public road.
- 2.5. It is proposed to connect to existing services. Storm water will discharge to a sump.
- 2.6. A new grassed area is proposed to the north of the proposed dwelling, and some internal landscaping is proposed to define the site of the proposed dwelling and garage.
- 2.7. **Decision**

The Planning Authority decided to refuse permission by Order dated 21<sup>st</sup> March, 2023 for 3no. reasons as follows:

1. On the basis of the planning history of the site, it appears to the Planning Authority that the development for retention relates to a site, where there are existing unauthorised structures. The retention of works associated would facilitate the consolidation and intensification of this unauthorised use. Accordingly, it is considered that it would be inappropriate for the Planning Authority to consider the grant of permission for the retention development in such circumstances.
2. The planning authority is not satisfied that the applicant has sufficient estate or interest in the relevant land to enable him to carry out the proposed development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. The proposed development of the site with a single dwelling would result in a haphazard and disorderly form of development and is not in line with Objective CGR 03 Urban Lands and Compact Growth, as set out in the Limerick Development Plan, 2022-2028. It would therefore set an undesirable

precedent for future similar such developments and would be contrary to the proper planning and sustainable development of the area.

## 2.8. Planning Authority Reports

### 2.8.1. Planning Reports

The planner's report dated 14<sup>th</sup> March, 2023 commented that:

- The principle of the proposed development is generally acceptable.
- There are a number of unauthorised structures on the site. The applicant has not sought under this application to regularise any of these structures. The undertaking to remove some of the structures outlined is not acceptable given the planning history and open enforcement case against the applicant.
- The applicant does not have sufficient legal interest in the site to make a planning application, as part of the site is in the ownership of Limerick City and County Council.
- The applicant has not prepared a masterplan for the zoned land and other rear plots at this location. The proposal for one dwelling on a substantial piece of zoned land is considered piecemeal and is at variance with national and local policy with respect to the redevelopment of brownfield sites.
- The Conservation Officer notes that works involved the construction of a significant section of concrete and cement fabric atop traditional masonry constructed of limestone and building lime bedding mortars are inherently incompatible, with potential for directional movement to cause structural failures in the future.

The planner's report is the basis for the Planning Authority's decision to refuse planning permission.

### 2.8.2. Other Technical Reports

None.

### 2.8.3. Prescribed Bodies:

TII in its submission dated 22<sup>nd</sup> February, 2023 stated it has no observations.

Uisce Éireann had no objection in its submission dated 28<sup>th</sup> February, 2023.

#### 2.8.4. Observations:

None.

### 3.0 **Planning History**

PA Ref No. 19/957: Permission was refused on 9<sup>th</sup> April, 2020 for the retention of a storage building for hay, dry feeding and equestrian equipment for 2no. reasons as follows, (1) on the basis of the existing unauthorised structures, of which the retention of works associated would facilitate the consolidation and intensification of this unauthorised use; and (2) the proposed development constitutes haphazard development which would seriously injure the amenities and depreciate the value of properties in the vicinity.

There are 2no. current Enforcement Notices, DC-047-21, in relation to unauthorised shed/stables; and DC-450-21, for parking of caravans and same for living accommodation.

### 4.0 **Policy and Context**

#### 4.1. **National Policy**

##### 4.1.1 National Planning Framework (NPF) 2018

The NPF promotes the densification of urban areas in order to deliver the projected increase in population. There is a presumption in favour of the redevelopment of brownfield land.

##### 4.1.2 Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities 2009

Section 5.7 of the Guidelines state that brownfield lands are potentially suitable for redevelopment at higher densities.

Section 6.3 states that lower densities are suitable in limited cases to provide a particular house type.

The Guidelines are to be replaced by the Sustainable and Compact Settlements Guidelines which are currently out to consultation.

## 4.2. Development Plan

### 4.2.1 Limerick City and County Development Plan 2022-2028.

Newcastle West is identified as a Level 2 Key Town in the settlement hierarchy for Limerick.

Objective CGR O11(a) states that it is an objective to promote Newcastle West as a key service centre and to promote the sustainable growth of the town to become a self-sufficient settlement and act as a service centre for its inhabitants and rural hinterland. Aligned with objective CGR 03(a) in relation to Urban Lands and Compact Growth, at least 30% of all new homes shall be located within the existing built-up footprint of the settlement, in order to deliver compact growth and reduce unsustainable urban sprawl.

Objective CGR 03(b) seeks to encourage and facilitate sustainable revitalisation and intensification of brownfield, infill, underutilised and backland urban sites, subject to compliance with all quantitative and qualitative Development Management Standards set out under Chapter 11 of the Plan.

## 4.3. Local Area Plan

### 4.3.1 Newcastle West Local Area Plan (LAP) 2014 (as extended to April, 2024)

The proposed development site is zoned Existing Residential in the LAP, the objective of which is to ensure that new development is compatible with adjoining uses and to protect the amenity of existing residential areas.

Objective H2 of the LAP in relation to residential density, design, mix and phasing states that it is an objective of the Council to:

a) Ensure that proposals for residential development are planned coherently through the use of design briefs, master plans for larger landholdings where proposals involve the partial development of landholdings if appropriate, sustainability statements and social infrastructure assessments and any other supplementary documents deemed necessary by the Council.

b) Promote the concept of a 'compact district' by encouraging appropriate densities in suitable locations and by resisting sporadic isolated developments.

c) Require an average gross density of 35 units to the hectare on 'New Residential' zoned sites within the plan area.

d) Ensure that the density of housing in any one location is appropriate to the housing type.

e) Ensure a wide range of house types, sizes and tenures are provided to meet varying population requirements and needs.

A draft Newcastle West LAP is currently in preparation.

#### **4.4. Natural Heritage Designations**

The proposed development site is removed from the nearest Designated Sites. The Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) are approximately 16 km to the north west of the town, while the Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (004161) is approximately 10km to the north-west of the town.

#### **4.5. EIA Screening**

The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

### **5.0 The Appeal**

#### **5.1. Grounds of Appeal**

The First Party appeal sets out the following grounds:

- The existing shed was initially refused planning permission under PA Ref. 19/957. The application submitted incorporates the planned conversion of this building and addresses the issue raised by the Planning Authority.
- The First Party has been living on site in a mobile home for the past 16 years and wishes to develop the site in accordance with the Planning Guidelines. The site is in family ownership for over 60 years.



- The proposed development is in the south-westerly corner of the site and leaves ample space for the future development of the site.
- The proposed two-storey dwelling is similar in style and height to other dwelling houses in the area.

## 5.2. **Planning Authority Response**

None on file.

## 5.3. **Observations**

None on file.

## 5.4. **Further Responses**

None on file.

## 6.0 **Assessment**

6.1. Having examined all the application and appeal documentation on file, and having regard to 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 I am satisfied that no other substantive issues arise.

6.2. The main issues, therefore, are as follows:

- Unauthorised development
- Legal interest
- Haphazard development
- Appropriate Assessment

6.3. Unauthorised development

6.3.1 I have given due consideration to the appeal prepared by the First Party, to the report of the Planning Authority, and to the planning history of the site, including the enforcement files.

- 6.3.2 It is evident that there are unauthorised structures on site, in the form of the existing dwelling and shed to the rear of the site.
- 6.3.3 The application before the Board proposes to remove the existing dwelling to the rear, however this is not specifically stated in the notices. Equally, the application does not seek the retention of this existing dwelling.
- 6.3.4 In addition, while the application proposes the conversion of the existing shed to a domestic garage, it does not address the unauthorised status of the shed. The retention of the shed should have been included in the application.
- 6.3.5 I note the Planning Authority's first reason for refusal, i.e., that the retention of works associated with the unauthorised structures on site would facilitate the consolidation and intensification of the unauthorised uses on site.
- 6.3.6 The application should have procedurally addressed the unauthorised structures on site, and sought (a) the removal of the unauthorised dwelling, and (b) the retention of the existing shed and its change of use to a domestic garage. These matters need to be rectified either in advance of, or as part of, any future planning application.
- 6.3.7 In the absence of this, and given the planning history of the proposed development site, the unauthorised structures thereon, and the live enforcement cases pertaining to the site, I am inclined to agree with the Planning Authority that the Board is precluded from a grant of permission in these circumstances. Refusal of permission is recommended on this basis.

#### 6.4 Legal Interest

- 6.4.1 It is noted that the second reason for refusal cited the lack of sufficient legal interest to be able to make the application.
- 6.4.2 The Board will rely on Section 34(13) of the Planning and Development, Act, 2000, as amended in relation to matters of title, however, any future application should be accompanied by the necessary consent. This refusal reason is therefore set aside.

#### 6.5 Haphazard Development

- 6.5.1 In its third reason for refusal, the Planning Authority cited the haphazard and disorderly form of development of the site on foot of the proposed development.

6.5.2 I note that the proposed dwelling for which permission was sought is located to the west of the site. I note that the proposed access road generally ran along the northern boundary of the proposed development site.

6.5.3 In these circumstances, I would be inclined to agree with the First Party, that the layout as currently configured would not prevent the development of the remainder of the site for a more urban scheme that aligns with the applicable policy objectives and that has regard to the site's configuration and context, and its location at the edge of the existing built up area of Newcastle West.

6.5.3 For this reason, I would set aside the Planning Authority's third reason for refusal in this context.

## 6.6 Appropriate Assessment

Having regard to the nature and scale of the proposed development and 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 individually or in combination with other plans or projects on a European site.

## 7.0 Recommendation

7.1. I recommend that planning permission be refused based on the reasons and considerations set out below.

## 8.0 Reasons and Considerations

On the basis of the planning history of the site, the proposed development relates to a site where there are existing unauthorised structures which are subject to current enforcement files. In such circumstances, the Board is precluded from granting planning permission.

**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.**

*Aiden O'Neill*

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Aiden O'Neill  
Planning Inspector

14<sup>th</sup> September, 2023.