



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316473-23

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<b>Development</b>	Five no. residential serviced sites and all associated site works.
<b>Location</b>	Conna Hill, Conna, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	226127
<b>Applicant(s)</b>	PC Quality Homes Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Ken and Catherine Molan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	February 26 <sup>th</sup> , 2024
<b>Inspector</b>	Lorraine Dockery

## **1.0 Site Location and Description**

- 1.1. The site, which has a stated area of 0.85 hectares, is located within the settlement boundary of the key village of Conna, Co. Cork, located along the L5839 roadway. Fermoy is located 17km to the north-west of the village.
- 1.2. The site is currently under grass and its levels fall from south to north. There is an existing agricultural gate onto the public roadway. ESB overhead wires traverse the site. The site is bound on either side by a residential property. The property to the north is on the NIAH register, a presbytery with 'Regional' rating. Travelling north towards the village centre, developments of low-density housing are evident.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises permission for five no. residential serviced sites and all associated site works to include footpath along public road; new site entrance/boundary treatment; internal footpaths; landscaping and public lighting. Works also include the undergrounding/diverting of existing ESB overhead wires traversing the site.
- 2.2. Proposed density is 6 units/hectare.
- 2.3. Letter of consent from Cork County Council (dated 09/08/2022) attached to the file giving consent for the making of an application on the basis of the public road being in the Council's charge.
- 2.4. Letter attached from ESB Networks which states that they have no issue in altering the overhead line to facilitate the construction of the proposed development (dated 20/05/2022).

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission GRANTED, subject to 23 no. conditions

Further Information was requested by the planning authority in relation to (i) clarity in relation to proposed works and who will undertake elements of proposed development (ii) sample design drawing (iii) access/traffic (iv) landscaping (v) drainage, water supply, servicing (vi) Preliminary Bat Roost Assessment (vii) impacts on barn owl and buzzards.

#### Condition 16

The applicant shall not make any attempt to connect to the existing foul collection network until such time as the necessary upgrade works have been carried out to Conna WWTP to cater for the proposed development. The applicant shall reengage with Irish Water once necessary upgrade works have been completed.

Reason: In the interests of orderly development.

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

#### 3.2.1. Planning Reports

- Case Planner- Reflects decision of planning authority; recommends grant of permission

#### 3.2.2. Other Technical Reports

Area Engineer Section- Recommends permission (14/03/2023)

Water Services- No objection, subject to conditions (09/03/2023)

Estates Section- No objection, subject to conditions (11/04/2023)

Public Lighting- No objection, subject to conditions (17/10/2022)

Ecology Section- No objection, subject to conditions (28/03/2023)

### **3.3. Prescribed Bodies**

Uisce Eireann: As part of the Further Information response, the applicants submitted a Confirmation of Feasibility from Uisce Eireann (dated 17/01/2023) which states that water connection is feasible without infrastructure upgrade by Irish Water while wastewater connection is not feasible. It continues by stating that the Conna WwTP currently has insufficient capacity to accommodate this development and that IW does not currently have plans in place to carry out any upgrades in this area.

### 3.4. **Third Party Observations**

The planning authority received one observation which raised issues similar to those contained in the third-party appeal.

### 4.0 **Planning History**

No recent relevant history.

The Planner's Report details two applications, dating back to 2007, in which Outline Permission was refused for two houses on this site (Register Reference 07/11424 and 07/6980).

### 5.0 **Policy Context**

#### 5.1. National Planning Policy

##### Section 28 Ministerial Guidelines

The following list of section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk Management (including the associated Technical Appendices)
- Childcare Facilities – Guidelines for Planning Authorities
- Architectural Heritage Protection, Guidelines for Planning Authorities
- Appropriate Assessment Guidelines for Planning Authorities
- Climate Action Plan

##### Other policy documents of note:

- National Planning Framework

- Regional Spatial & Economic Strategy for the Southern Region
- EPA Code of Practice for Domestic Waste Water Treatment Systems

## 5.2. Local Planning Policy

### **Development Plan**

The Cork County Development Plan 2022-2028 applies.

Conna is designated as a Key Village in the Settlement Hierarchy.

Section 3.5.19 Cork County Council will seek support and investment for the sustainable development of a new homes in small towns and villages initiative working in partnership with Irish Water, local communities and other stakeholders in the provision of services and serviced sites to create “build your own home” opportunities within the existing footprint of smaller towns, key villages and villages to ensure a sustainable and appropriate spread of development between towns and villages within the County

Volume 3- North Cork, Section 1.11 Conna

Section 1.11.17 The existing waste water treatment system serving the village provides secondary level treatment and discharges to the River Bride, a Drinking Water Protected Area. The plant however is overloaded and upgrade to the WWTP plant and upgrade to some sewers is required. Water quality impacts and/or licence compliance issues associated with waste water infrastructure serving Conna will need to be addressed to accommodate further growth.

### Objective DB-01

Within the development boundary of Conna, this plan makes provision for an additional 20 dwelling units subject to satisfactory servicing arrangements.

### Objective DB-03

Appropriate and sustainable water and waste-water infrastructure, that secures the objectives of the Water Framework Directive and the protection of the Blackwater

River Special Area of Conservation, must be available to accommodate development.

### 5.3. **Natural Heritage Designation**

The nearest designated site- Blackwater River (Cork/Waterford) SAC (Site Code 002170) is located approximately 260m from the subject site at its nearest point.

### 5.4. **EIA Screening**

Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

The proposed development is for 5 no. residential sites on a site c. 0.85 ha. The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended). Accordingly, it does not attract the need for a mandatory EIA. The site is located within a designated development area of Conna village, on lands zoned for residential purposes. Furthermore, as this proposal would fall below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

### 5.5 **Appropriate Assessment Screening**

5.6 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/or a

hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

One third-party appeal submission was received, which may be broadly summarised as follows:

- Drainage concerns: Proposal is premature pending upgrade of village's wastewater treatment plant, which are subject to outstanding and confirmed deficiencies. No current plan/timeframe to resolve this. Any proposal to provide on-site treatment solutions is prejudicial to public health and the long-term development of the village.
- Lack of clarity on capacity of any future upgrades to the village's wastewater facilities
- Pollution threat
- Contravention of CDP Plan policy objectives including DB-01 and WM 11-9
- Residential Amenity: Detrimental impact upon their property and residential amenity due to proximity of 5 no individual wastewater treatment facilities in close proximity to their property; prejudicial to their amenity and public health
- Layout: Proposal risks undermining the proper sequential development of the village; piecemeal and ad hoc approach to development in the village; suburban in form; does not constitute orderly development; contrary to local and national guidance
- Other Matters: Cites examples of applications refused permission as precedent for refusal; inadequate details submitted including no daylight/sunlight study; no reference made to fact that appellants property is listed on NIAH and impacts of proposal on same; no consent given for works to boundary; potential for structural impacts on their retaining wall

- Proposal contrary to proper and sustainable development of this area

## 6.2. Applicant Response

A response was received on behalf of the applicant, which may be broadly summarised as follows:

- Refutes grounds of appeal, all items raised were comprehensively assessed by the planning authority
- Application accompanied by a detailed set of documentation, plans and particulars
- Proposed development is fully in accordance with national and local policy and with specific objectives pertaining to the site- notes BD-01 in support of application. Using temporary treatment options will ensure that the development can become available on the market, supplying the significant demand for housing in the area in a timely manner as opposed to being forced to wait until the potential, but not definitive, upgrading of the Conna WwTP. Appropriate that permitted developments are facilitated as a short-term, temporary measure at a period of national emergency in terms of housing supply.
- Proposal will not seriously injure the residential amenities of properties in the vicinity and will enhance Conna as a whole by providing 5 no. additional residential units. Daylight/sunlight study not possible to prepare as this is an application for serviced sites only, no dwelling units are proposed as part of this application. That will be assessed as part of the planning application lodged for each individual dwelling on site.
- In term do of impacts on NIAH dwelling, appellant states that in excess of 40m separation distances are indicated, ensuring no negative impacts, together with extensive planted buffer zones and retention of existing trees. In terms of impacts on their front boundary to provide adequate sightlines, states that no alterations are required to the front of the appellants property. Proposed footpath is positioned to the front of their boundary wall, with no impact on the wall itself. All works are within control of local authority.



- Proposal will not lead to ad hoc/piecemeal development.

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

None

### 6.4. **Observations**

None

### 6.5. **Further Responses**

None

## 7.0 **Assessment**

7.1. The proposed development comprises permission for 5 no. serviced sites and all ancillary site development works. The layout indicates that each serviced site would accommodate a detached dwelling. A sample house design has been submitted, comprising a dormer type dwelling.

7.2. Having examined the application details and all other documentation on file, including the reports of the planning authority and prescribed bodies, all appeal documentation received, together with having inspected the site, I consider that the main issues in this appeal are as follows:

- Principle of proposed development/policy context
- Drainage matters
- Residential amenity issues
- Other matters

#### Principle of proposed development/policy context

7.3 Conna is designated as a Key Village in the Settlement Hierarchy and the subject site is located within the settlement boundary. Given the locational context of the

site, immediately adjacent to existing residential development, close the services and amenities within Conna, I am satisfied that the principle of residential development is acceptable on this site and that the proposal would aid in achieving targets for residential development within the settlement. I note Objective DB-01 which states that within the development boundary of Conna, this plan makes provision for an additional 20 dwelling units subject to satisfactory servicing arrangements. The question of whether satisfactory servicing arrangements are proposed is dealt with below. I note section 3.5.19 of the operative County Development Plan which relates to the provision of serviced sites to create “build your own home” opportunities within existing settlement footprints to ensure a sustainable and appropriate spread of development between towns and villages within the County. I consider the proposal to be in compliance with same. In addition, I do not consider the proposed development to represent an ad hoc form of development and any development on this site would form an orderly, sequential approach to the expansion of the existing village.

7.4 I note that a density of approximately 6 units/hectare is proposed. I consider this figure to be quite low, given the locational context of the site. I note section 4.9.7 of the operative County Development Plan states that in relation to design approach to villages, higher densities up to 30 units/ha will be considered in village infill and backland sites within/ adjacent to the village core. On greenfield lands, a broad housing mix will normally be required including detached/ serviced sites unless otherwise specified. Furthermore, the adopted Plan seeks to encourage compact growth and seeks to make the most sustainable use of existing urban land within the built envelope of a settlement.

7.5 In terms of national guidance, I note the recently published Sustainable and Compact Settlements, Guidelines for Planning Authorities (2024) and as per these Guidelines, consider that Conna would be defined as a Rural Towns and Villages (<1500 population). Table 3.7 sets out density ranges for such rural towns/villages and states that it is a policy and objective of these Guidelines that development in rural towns and villages is tailored to the scale, form and character of the settlement and the capacity of services and infrastructure (including public transport and water services infrastructure). These guidelines acknowledge that lands zoned for housing

at the edge of rural towns and villages at locations that can be integrated into the settlement and are connected to existing walking and cycling networks can offer an effective alternative, including serviced sites, to the provision of single houses in the countryside. The density of development at such locations should respond in a positive way to the established context. I consider that the proposal in principle (notwithstanding the infrastructural constraints) is broadly in compliance with these Guidelines in this regard, however in any future development proposal on the lands, the possibility of providing a higher density than that currently proposed could be examined. Notwithstanding this, I consider that a development such as that proposed can offer an alternative to one-off housing in the rural hinterland.

### Drainage Matters

- 7.6 The primary issue raised in the third-party submission received relates to drainage matters, in particular the capacity of existing infrastructure to accommodate the proposed development and prematurity pending the upgrade of the Conna WwTP. In response, the first party state that using temporary treatment options will ensure that the development can become available on the market, supplying the significant demand for housing in the area in a timely manner as opposed to being forced to wait until the potential, but not definitive, upgrading of the Conna WwTP. They further state that it is appropriate that permitted developments are facilitated as a short-term, temporary measure at a period of national emergency in terms of housing supply. The planning authority have not raised concerns in this regard. I note that they requested Further Information in relation to this matter and were satisfied with the response received. Condition 16 of the planning authority decision is noted. I note that while the first party have submitted correspondence from Uisce Eireann, they (Uisce Eireann) did not appear to furnish a report to the planning authority at application stage. In the correspondence submitted by the applicants, Uisce Eireann state that they have reviewed the Pre-Connection Enquiry and based on the details provided, advise that in terms of water connection, this is feasible without infrastructure upgrade by Irish Water. They further state that wastewater connection is not feasible- the Conna WwTP currently has insufficient capacity to accommodate this development and that they do not currently have plans in place to carry out any upgrades in this area.

- 7.7 Therefore, the proposal seeks to treat wastewater on site with a Klara One 7 Pumped Wastewater Treatment System or similar approved and a 52m<sup>2</sup> constructed percolation area for each unit. It is also proposed to lay foul sewer pipes along the internal roadway to allow for future connection to Uisce Eireann infrastructure once the treatment plant has been upgraded. In terms of water supply, it is proposed to connect to existing Uisce Eireann infrastructure and as stated above, Uisce Eireann state that this connection is feasible.
- 7.8 I note that there is a private well to the north of the subject site, greater than 60m from the subject wastewater treatment systems, as per EPA Code of Practice.
- 7.9 Section 1.11.17 of the operative County Development Plan states that 'The existing waste water treatment system serving the village provides secondary level treatment and discharges to the River Bride, a Drinking Water Protected Area. The plant however is overloaded and upgrade to the WWTP plant and upgrade to some sewers is required. Water quality impacts and/or licence compliance issues associated with waste water infrastructure serving Conna will need to be addressed to accommodate further growth'. Objective DB-01 states that 'Within the development boundary of Conna, this plan makes provision for an additional 20 dwelling units subject to satisfactory servicing arrangements' while Objective DB-03 states that 'Appropriate and sustainable water and waste-water infrastructure, that secures the objectives of the Water Framework Directive and the protection of the Blackwater River Special Area of Conservation, must be available to accommodate development'.
- 7.10 Having regard to all of the information before me including the reports of the planning authority and Uisce Eireann, I am of the opinion that the existing infrastructure does not have capacity to appropriately accommodate the current proposal and that the grant of permission for 5 no. serviced sites on temporary individual treatment systems is not appropriate. I may be minded to recommend a grant of permission if there was a definitive timescale in the short-term for the upgrade of the Conna WwTP but I note that Uisce Eireann state that they do not currently have plans in place to carry out any upgrades in this area. Given this lack of clarity, I consider the proposal to be premature pending the upgrade of the Conna WwTP. I believe that the proposal would be prejudicial to public health, is a pollution threat and may impact on the quality of waters immediately downgradient of these sites. Given that

satisfactory servicing arrangements are not proposed, I consider the proposal not to be in compliance with Objectives DB-01 and DB-03 of the operative County Development Plan. Furthermore, it is a strategic aim of the operative County Development Plan to establish key villages as the primary focus for development in rural areas in the lower order settlement network and allow for the provision of local services, by encouraging and facilitating population growth at a scale, layout and design that reflects the character of each village, where water services and waste water infrastructure is available. It is considered that the proposed development, by reference to the existing deficiency in the provision of sewerage facilities serving the area and the lack of an identified timeframe for the upgrade of such facilities would conflict with this strategic aim and would be premature by reference to the period within which the constraint involved may be reasonably expected to cease. I am not satisfied in this regard and I recommend a refusal of permission in relation to this matter.

#### Residential Amenity

- 7.11 I note that the third-party appeal submission raised concerns in relation to residential amenity. Concerns raised include issues of overlooking, impacts on privacy and height of proposed development. This is an application for serviced sites only and ancillary works, applications for individual dwellings would be assessed at a future date if this application for serviced sites is granted permission. I note that all dwellings are proposed to be located on the southern side of the proposed access road with public open space located to its north (adjacent to the boundary with the appellants property). In terms of impacts on residential amenity, I am cognisant of the relationship of the proposed development to neighbouring properties. Having examined the proposal, I am of the opinion that separation distances greater than what would be typical within such an established, urban area are proposed with existing properties. This will ensure that any impacts are in line with what might be expected in an area such as this. I am satisfied with the sample heights proposed and consider that they would integrate well with existing development in the immediate locality. Given the height and design of the sample proposed dwelling submitted, I am of the opinion that the proposed houses would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site. I am satisfied that impacts on privacy

would not be so great as to warrant a refusal of permission. However, in any event individual dwellings would each be assessed on their own merits.

- 7.12 I note the NIAH designation of the appellants property, a presbytery, (NIAH Ref. No. 20904510), with its 'Regional' rating. It is not designated as a Protected Structure within the operative County Development Plan. I am satisfied that the proposed development would not negatively impact on the character or setting of this property, or any other property in the vicinity, to such an extent as to warrant a refusal of permission. The planning authority have not raised concern in this regard.

#### Other Matters

- 7.13 I have no information before me to believe that the proposal would lead to the creation of a traffic hazard or obstruction of road users.
- 7.14 The third-party submissions received raises concerns in relation to works outside of the red line boundary, outside of the applicants control. I highlight to the Board that there is a letter of consent attached to the file from Cork County Council in this regard which states that the application includes works on the public road in the charge of Cork County Council, specifically lands indicated in magenta on attached map (referenced map does not appear to be included in the file). The letter confirms that Cork County Council gives consent to the making of the planning application but does not in any way imply or commit to a grant of planning permissions and cannot be construed as a commitment by the Council to disposing of this property to the applicants or any other party. The first party in their response state that that no alterations are required to the front of the appellants property and that the proposed footpath is positioned to the front of their boundary wall, with no impact on the wall itself. All works are within control of local authority. I am satisfied that the applicant has demonstrated sufficient legal interest to make this application. I note that matters of ownership/boundary are legal matters, outside the remit of this planning appeal. If the Board is disposed towards a grant of permission, I recommend that a note be attached to any such grant advising that a person is not entitled solely by reason of a permission to carry out any development.
- 7.15 Lack of clarity in the information submitted by the first party has been raised in some of the third-party submissions. I am satisfied that there is adequate information on file for me to undertake a comprehensive assessment of the proposed development.

7.16 Any impacts on retaining walls could be adequately dealt with by means of condition, if the event of permission being granted for the proposed development.

### Conclusion

7.17 Having regard to the above, I consider the principle of the development of this site for residential development to be acceptable, subject to compliance with normal planning standards/criteria. The public gain from the proposed pedestrian enhancements would offer a benefit to the wider community. I consider that any proposal for individual dwellings on the site would be assessed at that time, in terms of impacts on residential amenity. Without prejudice to any future assessment, I consider that the sample design submitted is such that, taken together with the layout and separation distances proposed, negative impacts on nearby residential properties would not be so great as to warrant a refusal of permission. I have expressed some concerns with the low level of density proposed. Notwithstanding all of the above, I consider the proposal to be premature at this time given the constraints in the Conna WwTP and lack of timeframe in relation to the upgrade of same. The proposal is therefore considered not to be in accordance with the proper planning and sustainable development of the area.

## **8.0 Recommendation**

8.1. I recommend that the decision of the planning authority be OVERTURNED and that permission be REFUSED, for the following reasons.

## **9.0 Reasons and Considerations**

1. It is considered that the proposed development would be premature by reason of a deficiency in the wastewater treatment plant serving the key village of Conna and the time period within which these constraints may be reasonable be expected to cease. The proposal is therefore considered to be prejudicial to public health and inconsistent with 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.

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Lorraine Dockery  
Senior Planning Inspector

10<sup>th</sup> April 2024



## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála</b>	ABP-316473-23		
<b>Case Reference</b>			
<b>Proposed Development Summary</b>	Permission for 5 no. residential serviced sites and all associated site works.		
<b>Development Address</b>	Conna Hill, Conna, Co. Cork		
<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>	x
		<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) and 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>	x		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>
			<b>Conclusion</b>
<b>No</b>	x	N/A	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>	<input checked="" type="checkbox"/>	<b>Preliminary Examination required</b>
<b>Yes</b>	<input type="checkbox"/>	<b>Screening Determination required</b>

**Inspector: Lorraine Dockery**

**Date: 10<sup>th</sup> April 2024**