



An  
Bord  
Pleanála

## Inspector's Report ABP-319794-24

<b>Development</b>	Permission for demolition of existing buildings, construction of two storey dwelling, a commercial unit with first floor office and storage space, and a two-storey house at the laneway, including ancillary site works		
<b>Location</b>	Main Street, Tulla, Co Clare.		
<b>Planning Authority Ref.</b>	2418		
<b>Applicant(s)</b>	Martin Murphy		
<b>Type of Application</b>	Permission.	<b>PA Decision</b>	To grant
<b>Type of Appeal</b>	First party	<b>Appellant</b>	Martin Murphy
<b>Observer(s)</b>	None		
<b>Date of Site Inspection</b>	10/10/2024	<b>Inspector</b>	Ann Bogan

### Context

**1. Site Location/ and Description.** The proposed development is located on the eastern side of Main Street, Tulla. A lane runs along the northern boundary of the site, providing access to the rear of the site and continues uphill, providing a link between Main Street and the historic area of the town.

The site consists of 2 no two storey adjoining buildings, fronting onto Main Street. Both are in poor condition, are currently vacant and appear to have been so for some time. There is an open yard to the rear of the site, with ground levels lower

than the level of the lane. There is also a stone building in a poor state of repair located to the rear of the site.

## **2. Description of development.**

- Demolition of existing buildings (250.5sqm) including existing 2-storey buildings fronting onto Main Street and rear extensions and associated storage sheds
- Construct two storey dwelling house fronting onto Main Street (140sq m)
- Construct commercial unit fronting onto Main Street, consisting of ground floor commercial space, with office and storage at first floor level, (80.1sqm)
- Construct two storey dwelling fronting onto lane (97sq m)

Application is accompanied by an engineer's structural survey of the buildings.

## **3. Planning History.**

P23/43 Martin Murphy applied for permission to demolish existing buildings, construct one number dwelling, a commercial unit with first floor accommodation, two apartments including external storage. Application was withdrawn.

P23/611: Incomplete application

## **4. National/Regional/Local Planning Policy (see attached)**

Architectural Heritage Protection – Guidelines for Planning Authorities 2011

- Section 3.10

Clare County Development Plan 2023-2029

- Zoning: mixed use
- CDP16.4 Vernacular Architecture
- CDP16.5 Architectural Conservation Areas
- CDP 16.8 Features and Objects of Archaeological Interest

## **5. Natural Heritage Designations**

- There are no European sites within 2km of the proposed development location.

## **Development, Decision and Grounds of Appeal**

## 6. Planning Authority

### Planning Officer's report

Proposed uses are considered acceptable and compatible with mixed use zoning. Residential accommodation is of a reasonable standard, private open space though somewhat confined is considered acceptable in a town centre location. Once account was taken of existing and proposed uses no additional car parking is required.

Notes that condition of the buildings is very poor and that applicant intends to replicate the existing buildings on Main Street in the redevelopment.

However, planning officer considered that the proposal to entirely demolish the buildings fronting Main Street which are within an architectural conservation area *'would have an unacceptable impact on the built heritage of the area'* and would contravene CDP 16.5 of the Development Plan, and she recommended that *'the front façade of the buildings (addressing Main Street) and the northern façade (addressing the laneway) be retained and renovated as part of the development proposal.'*

An extension of time was granted at the request of the applicant.

Permission was granted subject to 10 mainly standard conditions:

Condition No 2: The proposed development shall be amended as follows:

- (a) The entire demolition of the existing structures is not permitted. Prior to the commencement of the development the applicant shall submit revised plans and particulars to include the retention of the front façade and northern elevation of the building addressing the laneway. The revised proposal shall include a Method Statement detailing how the façade will be secured and maintained throughout the construction process

Reason: To ensure the protection of the built heritage of the area whereby on the basis of the information submitted with the application to date the Planning Authority are not satisfied that the entire demolition of the subject buildings is warranted having regard to Objective CDP16.5 of the Development Plan.

- Condition No 3 requires archaeological monitoring and recording of any finds.

- Condition No 6 requires floor levels to be as specified on drawings submitted.

### **Other Internal Reports**

#### Area Engineers report:

Existing footpath is to be replaced along front boundary of property, design has been prepared, levels to be agreed with Roads Engineer; side alley to be paved, surface water to road gullies.

#### Conservation Officer's report

Conservation Officer notes the buildings fronting Main Street have been on the site since 19<sup>th</sup> century and would be considered urban vernacular. Considers extent of demolition of existing buildings would have adverse impact on integrity of streetscape and its historical understanding and contravenes CDP16.4 Vernacular Architecture and CDP16.5 Architectural Conservation Areas of the Clare County Development Plan. A proposal which sought to retain and utilise the existing fabric, as well as creating a new build to the rear which would be sympathetic to the surroundings and of the ACA would be considered.

### **Third Party Submission**

One submission received from adjoining landowner requesting that the proposal does not encroach on his land.

### **7. First Party Appeal.** Grounds:

- Appeal is solely against condition No 2, in particular that 'the entire demolition of the existing structures is not permitted'
- Appeal is based on
  - The structural stability of the existing buildings
  - The proposed remedial works to the existing footpaths fronting the buildings
- Façade of (smaller terraced) building has separated from side walls and is out alignment and leaning towards street
- Photos A, B, C D of party wall between Mr Murphys property and adjoining Mr Mc Arthurs property show the separation of the façade from the party wall, an opening in the party wall between the properties, and loose masonry.

- Normally a front wall is restrained by tying back into party wall but here there is no restraining force and the front wall can move, as it is built directly into the sub-soil.
- Trial hole excavated inside front wall (of northern building) (photo E), shows narrow foundation 400mm below the floor level. Building is founded on dry sub-soil and does not have a proper foundation.
- County Council proposes to lower level of the existing footpath at front of Mr Murphys buildings. As a result, existing lateral restraint to bottom of front wall provided by the 500mm high footpath will be removed.
- Check of vertical alignment of front wall (of smaller southern building) with a plumb-bob shows the wall is 150mm off true alignment, as the wall has moved away from party wall (results shown in Appendix A and B). Heavy goods vehicles on street outside on steep incline, not helping.
- Photo G shows gable wall (of northern building) with chimney. Absence of flue liner and excessive heat and smoke in such old chimneys results in masonry perishing over time and cracking vertically. Chimney should be demolished.
- Photo H shows foundation of gable wall adjacent to front wall, asserts nothing holding masonry together except render. Questions structural stability.
- Considers building to be dangerous and not structurally sound. Remedial action needs to be taken before it falls into the street.
- Not possible to retain existing masonry walls, as no foundation and have separated from party walls. Reducing level of footpath will add to the problems.
- Mr Murphy will reconstruct building and make it safe. Façade will be rebuilt to match existing, with joinery, slate roof and render to external walls, similar to existing building.
- Will not be possible to get finance for project as not possible to get a bonded engineer to sign off on this type of construction.

## **8. PA Response**

- Planning Authority notes present condition of buildings is very poor and that applicant intends to replicate the existing buildings in redevelopment proposal
- However, demolition of buildings in ACA is significant concern and would set negative precedent for area.
- Would also contravene Objective CDP 16.5 of County Development Plan which seeks to protect from buildings which are intrinsic elements of the ACA
- Considers retention of front façade would assist in retaining character of conservation area while allowing modern upgrading to rear
- Request Condition No 2 be upheld
- Understand that there are structural engineers with relevant conservation experience and with PI insurance to advise and sign-off on similar projects
- PA refers to other considerations set out in Planner's report, particularly as they relate to protection of built heritage in Tulla ACA.

## **Environmental Screening**

### **9. EIA Screening**

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

### **10. AA Screening**

Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as 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.

## 2.0 Assessment

- 2.1. The appeal relates solely to a request for deletion of Condition No 2, which requires the retention of the existing front building façade onto Main Street and the elevation onto the adjoining laneway. Having considered the documentation submitted with the application and appeal I am satisfied that the planning authority has satisfactorily address all other issues relating to the application and I believe that the determination of the application as if it had been made to the Board in the first instance would not be warranted and consideration can therefore be confined to Condition No 2.
- 2.2. The subject site is located within the Tulla Architectural Conservation Area. Section 16.3.4 of the Clare County Development Plan states that Architectural Conservation Areas (ACAs) have been designated to *‘assist and encourage the retention and re-use of vernacular structures and historic elements’* and are *‘intended to ensure that new developments make a positive contribution to an area that has been identified as being of significant importance. The aim is to retain the overall special architectural or historical character of an area or place’*. Objective CDP16.4 of the Development Plan seeks to retain the vernacular heritage of County Clare and protect vernacular buildings where they contribute to the character of the area. Objective CDP16.5 sets out objectives for ACAs which include:
- a) *To ensure that new developments within or adjacent to an ACA respect the established character context of the area and contribute positively to the ACA in terms of design, scale, setting and material finishes;*
  - b) *To protect from demolition or removal and non-sympathetic alterations, existing buildings, structures, groups of structures, sites, landscapes and features such as street furniture and paving, which are considered to be intrinsic elements of the special character of the ACA;*
- 2.3. The ACA is focused on the attractive town centre of Tulla, along Main Street, and is described in Volume 1 of the Clare County Development Plan 2023-2029 as follows: *‘The streets, which slope down from the centre sit easily on this hillside location by the use of incremental variations in floor and roof levels, giving a “deck of cards effect” to the terraces of two storey shops and houses. The buildings of Tulla are predominantly two storey, gabled, two and three bay houses dating from the 18th*

*and 19th centuries. Many contain early wooden or plaster shopfronts with ornate moulding and detailing'. Main Street experiences some vacancy but in general the buildings are well maintained with a variety of businesses and dwellings, including some former shops converted for residential use but with shopfronts retained.*

- 2.4. The subject site is located at the southern end of Main Street where it slopes southwards from the high point of the street. The existing street frontage buildings are vacant 2-storey pitched roofed buildings, one a corner building, with a gable onto the adjoining narrow laneway and the second an adjoining smaller mid terrace building. The subject buildings form part of a terrace of three buildings, stepping down the hill. The adjoining pavement is set at two levels, stepping down to the street level, a common feature in the town. As outlined earlier, the proposed development involves the demolition of the two buildings including rear extensions and sheds and their replacement with new structures of similar height with facades to match the existing.
- 2.5. The planning authority Conservation Officer identifies the buildings as dating from the 19<sup>th</sup> Century and described them as urban vernacular. They both have shopfront style windows at ground level and had living accommodation overhead, although they have apparently been vacant for some decades. Some elements, such as doors and the first floor windows in the front elevation, have been altered from the original design at some stage in the 20<sup>th</sup> century (although an original window form is still present in the gabled elevation onto the laneway). There do not appear to be any particularly distinctive features such as ornate moulding or early shopfronts as referred to in the ACA description. However, I agree that the buildings, despite being in poor condition, contribute to the overall character and variety of the streetscape in the ACA and the objective to protect such buildings in ACAs, as outlined above in Objective CDP 16.5, is reasonable.
- 2.6. Section 3.10.2 of the Architectural Heritage Protection – Guidelines for Planning Authorities 2011 (the Guidelines), gives guidance on assessment of proposals for demolition of structures in ACAs that contribute to the character, and states that the onus should be on the applicant to make the case for demolition. They go on to state: *'When it is proposed to demolish an undistinguished building in an ACA, the proposed replacement should not be of lesser quality or interest than the existing one and should not adversely affect the character of the area'.*



- 2.7. I note the planning authority accepts the buildings are in very poor condition, but considers retention of the façades would assist in retaining the character of the conservation area while allowing modern upgrading to the rear, and is concerned about the precedent that permitting demolition would create.
- 2.8. The application was accompanied by a structural report on the buildings and the appeal submitted by an Engineering Consultant (Michael Eustace and Co) on behalf of the applicant provides a further report on the condition of the buildings, and includes some additional information.
- 2.9. The Engineer's report states that the façade of the smaller southern building has separated from the side party walls and is out of alignment and leaning towards the street. During the site inspection I noted large cracks and loose masonry at ground and first floor level in the southern party wall with the neighbouring Mc Arthur building, where it meets the front wall and also cracks in the northern party wall, albeit less extensive. Externally, the front wall is clearly bulging outwards as described in the Engineering report, with plaster displaced above the ground floor window, where the bulge is most evident. I saw no evidence to contradict the report's findings that there is little to restrain the front wall of this building from moving outwards and that it is at risk of collapsing into the street.
- 2.10. An excavation was carried at the front wall of the adjoining larger northern building exposing the foundations of that building, which were found to be narrow and set on dry sub-soil. The report considers them typical of such buildings and applies the findings to the adjoining smaller building. The report suggests the inadequacy of the foundations as a possible factor leading to the condition of the walls. It is pointed out that the Co Council proposal to lower and reconstruct the footpath adjoining the buildings, will remove '*the lateral restraint to the bottom of the wall provided by the existing 500mm high footpath*'.
- 2.11. Based on the documentation provided and what I observed on site, I believe the appellant has made a convincing case that the retention of the façade of the smaller building is unlikely to be feasible.
- 2.12. On inspection it is evident that the roof of the northern building, particularly to the rear, is in very poor condition, and some internal floors of the building have partially collapsed, presumably linked to exposure to the elements over a long period. I note

however there is no specific evidence presented or visible with regard to the stability of the front wall of this northern building, apart from concern relating to the nature of the foundation.

- 2.13. Some vertical cracks are evident in the gable wall, which the Engineer's report links to the line of the chimney. He points out that old chimneys did not have a flue liner and were built of local masonry, which over time becomes perished due to heat and smoke. The condition of the chimney does not appear to have been further explored as yet and could perhaps be repaired or rebuilt, although I note the report states that it should be demolished, without further explanation. The Engineer's report also makes brief reference to the exposure of masonry and foundations of the gable wall adjacent to the front wall and questions whether it is structurally sound.
- 2.14. The existing buildings are not protected structures and while they are important elements in the overall character of the streetscape, do not appear to have the special features that some others in the ACA have. The desirability of the retention of the front/side facades of the buildings in line with Development Plan conservation objectives, has to be set against the feasibility of retention and whether the replacement building is of sufficient quality and in keeping with the streetscape of the area.
- 2.15. I believe that the appellant has presented a reasonable case in line with Section 3.10.2 of the guidelines, for the modification of Condition No 2 to allow for the demolition of the façade of the smaller southern building, and its replacement with a building of similar form and character. However, although the northern building is in poor condition, it has not been clearly established in the documentation provided, that the retention of its façade to Main Street and the elevation to the laneway, is not feasible. Therefore, on balance, and taking account of the Development Plan objective to protect the streetscape of the ACA and to not create an undesirable precedent for further demolition of buildings in the area, I recommend that the requirement for retention of the front façade and laneway elevation of the northern building should remain.
- 2.16. I recommend that Condition No 2 be modified to refer to retention of the front façade and laneway elevation of the northern building only and not require retention of the façade of the southern smaller building fronting onto Main Street.

- 2.17. Measures may need to be taken to ensure the façade that is to be retained is not destabilised by the proposed lowering of the footpath abutting the northern building. The methodology for same should be agreed between the developer and the planning authority with advice from a suitable qualified architectural conservation professional, prior to commencement of development and it is recommended that Condition No 2 be further amended to reflect this.

### **3.0 Recommendation**

- 3.1. I recommend that Condition No 2 be amended as outlined below.

### **4.0 Reasons & Considerations**

Having regard to the provisions of the Clare County Development Plan 2023-2029 it is considered that subject to compliance with the amended condition No 2 set out below and the other conditions specified by the planning authority, the proposed development would be in keeping with Development Plan Objective CDP 16.5 and would not seriously injure the amenities of the area or the character of the Tulla Architectural Conservation Area and would therefore be in accordance with the proper planning and sustainable development of the area.

#### **Condition No 2:**

The proposed development shall be amended as follows:

- (a) The entire demolition of the existing structures is not permitted. Prior to the commencement of the development the applicant shall submit revised plans and particulars for the written agreement of the planning authority, to include the retention of the front façade of the larger northern building as well as its elevation addressing the laneway. The revised proposal shall include a Method Statement, with input from a suitably qualified architectural conservation professional, detailing how the façade will be secured and maintained throughout the construction process, including taking account of the proposed lowering of the footpath abutting the façade.

Reason: To ensure the protection of the built heritage of the area whereby on the basis of the information submitted with the application and appeal the Board is not

satisfied that the entire demolition of the subject buildings is warranted having regard to Objective CDP16.5 of the Clare County Development Plan 2023-2029.

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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Ann Bogan

Planning Inspector

16<sup>th</sup> October 2024

## **Appendix 1 Relevant National and Local Policies and Guidance**

### **Architectural Heritage Protection – Guidelines for Planning Authorities 2011**

#### **Section 3.10**

##### **3.10.2 Proposals for demolition**

Where it is proposed to demolish a structure that contributes to the character of an ACA or to demolish behind a retained façade, the onus should be on the applicant to make the case for demolition. The planning authority should consider the effect both on the character of the area and on any adjacent protected structures. When it is proposed to demolish an undistinguished building in an ACA, the proposed replacement should not be of lesser quality or interest than the existing one and should not adversely affect the character of the area.

### **Clare County Development Plan 2023-2029**

#### **Volume 1 Written Statement**

##### **CDP 16.4 Revitalisation of Vernacular Heritage**

It is an objective of Clare County Council:

- a) To seek the retention, appreciation and appropriate revitalisation of the vernacular heritage of County Clare, in towns, villages and rural areas, by discouraging the replacement of good quality vernacular buildings with modern structures and by protecting vernacular buildings where they contribute to the character of an area or settlement and/or where they are rare examples of a structure type;
- b) To support proposals to refurbish vernacular structures that are in a sub-standard or derelict condition, provided that:
  - I. Appropriate traditional building materials and methods are used to carry out repairs to the historic fabric;
  - II. Proposals for extensions to vernacular structures are reflective and proportionate to the existing building and do not erode the setting and design qualities of the original structure which make it attractive

III. Direction for the design is taken from the historic building stock of the area, though it can be expressed in contemporary architectural language.

#### **16.3.4 Architectural Conservation Areas (ACAs)**

Architectural Conservation Areas are places, areas, groups of structures or parts of townscapes which are of special interest or contribute to the appreciation of Protected Structures. Historic street patterns, plot sizes, street furniture, shop and pub fronts all collectively contribute to the character of urban areas and should be recognised and retained. Architectural Conservation Areas have been designated in 30 historic town and village cores in Clare (listed in Appendix 4) to assist and encourage the retention and re-use of vernacular structures and historic elements and to address the gradual attrition of architectural details such as the replacement of existing finishes with modern materials, the removal of external render and inappropriate building extensions.

ACA designations are intended to ensure that new developments make a positive contribution to an area that has been identified as being of significant importance. The aim is to retain the overall special architectural or historical character of an area or place. Unless a structure is also included on the Record of Protected Structures, the protected status afforded from inclusion in an ACA only applies to the exterior and streetscape. The exempted development rights for works to the exterior of a structure are removed by the Planning and Development Act 2000 (as amended) where these works are located in an ACA and would materially affect the character of the area.

#### **CDP16.5 Architectural Conservation Areas (ACAs)**

It is an objective of Clare County Council:

- a) To ensure that new developments within or adjacent to an ACA respect the established character context of the area and contribute positively to the ACA in terms of design, scale, setting and material finishes;
- b) To protect from demolition or removal and non-sympathetic alterations, existing buildings, structures, groups of structures, sites, landscapes and features such as street furniture and paving, which are considered to be intrinsic elements of the special character of the ACA;

- c) To ensure that all new signage, lighting, advertising and utilities to buildings within an ACA are designed, constructed and located in a manner that does not detract from and is complementary to the character of the ACA; and
- d) To ensure that external colour schemes in ACAs enhance the character and amenities of the area and reflect traditional colour schemes.

#### Appendix 4

##### Description of Tulla Architectural Conservation Area

The village addresses the ruin of an ancient church and graveyard which commands the highest point in the village. This was likely a fortified site in prehistoric times and was once the site of a late mediaeval castle or tower house. Now it is dominated by the ruins of the early 18th century Church of Ireland and some sparse remains of an earlier one, reputedly built by St. Mochulla in the 7th century. The element which contributes most to the character of Tulla is its unusual elevated position, high above the surrounding landscape, which is reminiscent of fortified hill villages of the Iberian and Italian peninsulas. The streets, which slope down from the centre sit easily on this hillside location by the use of incremental variations in floor and roof levels, giving a “deck of cards effect” to the terraces of two storey shops and houses. The buildings of Tulla are predominantly two storey, gabled, two and three bay houses dating from the 18th and 19th centuries. Many contain early wooden or plaster shopfronts with ornate moulding and detailing.

**Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála</b> <b>Case Reference</b>	319794-24		
<b>Proposed Development</b> <b>Summary</b>	Permission for demolition of existing buildings, construction of a two storey dwelling house, a commercial unit with first floor office and storage space and one number two storey house at the laneway		
<b>Development Address</b>	Main Street, Tulla, Co Clare		
<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>			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</b> (if relevant)
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10 (b) (iv) urban development	Proceed to Q.4



**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** Ann Bogan **Date:** 16/10/2024

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	319794-24	
<b>Proposed Development Summary</b>	Permission for demolition of existing buildings, construction of a two-storey dwelling house, a commercial unit with first floor office and storage space and one number two storey house at the laneway	
<b>Development Address</b>	Main Street, Tulla, Co Clare	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed mixed use redevelopment is not exceptional in the context of its location in the town of Tulla.</p> <p>The development is linked to public water and wastewater services and due to its nature and scale will not produce significant waste or emissions.</p>	<p>No</p> <p>No</p>
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing</p>	<p>The development involves demolition of 250sqm of existing buildings and of 317sqm of new mixed use development and is not exceptional in the context of its location.</p> <p>No significant issues with regard to cumulative impact</p>	<p>No</p> <p>No</p>

[illegible]

**Inspector:**           **Ann Bogan**

**Date: 16/10/2024**

**DP/ADP:** \_\_\_\_\_

Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)