

SUBMISSION TO DRAFT CLARE COUNTY DEVELOPMENT PLAN 2023-2029

New Line, Quin, Co. Clare

Noreen & Ronan Gallagher

Issue: A

Customer Project Number: 6451

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Document Sign Off

SUBMISSION TO DRAFT CLARE COUNTY DEVELOPMENT PLAN 2023-2029

New Line, Quin, Co. Clare.

Noreen & Ronan Gallagher
Issue A

File No: 6739

CURRENT ISSUE					
Issue No: A	Date: 27.03.22	Reason for issue: Submission to Draft Clare County Development Plan 2023-2029			
Sign Off	Originator	Checker	Reviewer	Approver	Customer Approval (if required)
Print Name	Mandy Coleman	Paddy Coleman		Mandy Coleman	
Signature	Authorised Electronically				
Date	27.03.22	27.03.22		27.03.22	

PREVIOUS ISSUES							
Issue No	Date	Originator	Checker	Reviewer	Approver	Customer	Reason for issue



1.0 INTRODUCTION

P. Coleman & Associates, Architects, Engineers and Planners have been appointed by Noreen & Ronan Gallagher to prepare a submission to the Draft Clare County Development Plan 2023-2029 (Draft Plan) with specific reference to a Childcare/Montessori business at Snugboro, New Line, Quin (the subject property).

The subject property is currently occupied by a Childcare/Montessori business. Submission Ref: S2-154 submitted by the Owners, John & Patricia Hennessy requests that the subject property be rezoned from *'Existing Residential'* to *'Community'* so as to facilitate the principle of the continued and future expansion of their commercial business.

Our Clients strongly object to this request and outline their case as follows:-

Section 2: Background

This section provides a brief background to the submission.

Section 3 Site Description

This section provides a description of the site, its context, and the relevant planning history.

Section 3: Current Local Planning Context

This section outlines and current zoning for the subject property and relevant policies and objectives.

Section 4: Draft Plan Local Planning Context

This section outlines the proposed land use zoning for the subject property as defined in the Draft Plan.

Section 5: Submission Request

This section sets out the case for the subject site to remain zoned as *'Existing Residential'* and that the request by the owners of the subject property for a change to *'Community'* zoning objective be refused.

Section 6: Summary

This section summarises our case for continued *'Existing Residential'* zoning objective for the subject property.



2.0 BACKGROUND

Our Clients property is a semi-detached dwelling house attached to the dwelling house owned by John and Patricia Hennessy. The Owners of the adjoining property, submitted a rezoning request for their property – Ref: S2-154 on the Draft Plan. This rezoning request is seeking the rezoning of the subject property from ‘Existing Residential’ to ‘Community’.

For 18 months our Clients have relentlessly written to Clare County Council regarding unauthorised development and uses taking place on the subject property. This has taken the form of letters to Enforcement and a submission on planning application Ref: P21-156 which was an application by John & Patricia Hennessy for permission for the following works (a) the use of the ground floor of the existing dwelling as a childcare/Montessori Centre, (b) the erection of a steel structure for use as a shade/covered play area, and (c) the erection of a steel shed for use as a store, all with associated site works at New Line, Quin, Co. Clare. This planning application was lodged on foot of a Warning Letter issued to the Patricia Hennessy, one of the Applicants, in respect unauthorised development and use being carried out on the subject property. To-date this unauthorised business continues to operate illegally, in direct violation of the Planning Laws.

3.0 SUBJECT SITE

3.1 Site Description

The subject property contains a semi-detached dwelling house, a separate stand alone creche facility with a total of six sheds/stores/glasshouses. The subject property is bounded to the east by Quin National School, to the west by our Clients semi-detached residential property and to the south/west by residential properties also. The property is located in a well-established residential area.

3.2 Planning History

The following planning history pertains to the subject property:-

- Planning Permission Ref: **P04-626** – Permission granted to Patricia Hennessy for permission to construct Childcare/Montessori Centre at Snugboro, New Line, Quin. Granted on 12th July, 2004 subject to 17 conditions.
- Planning Application Ref: **P21-156** application by John & Patricia Hennessy for permission for the following works (a) the use of the ground floor of the existing dwelling as a childcare/Montessori Centre, (b) the erection of a steel structure for use as a shade/covered play area, and (c) the erection of a steel shed for use as a store, all with associated site works at New Line, Quin, Co. Clare. Application withdrawn following a 6 months extension of time.



- Warning Letter Ref: **UD20-128** dated 16th. December, 2020 issued to Patricia Hennessy regarding
 1. The placement of structures to the rear of dwelling house without the benefit of planning permission
 2. Non-compliance with condition no. 3. of Planning Permission P04-626.

On lands at Snugboro, New Line, Quin, Co. Clare.

- Enforcement Notice Ref: **UD20-128** dated 14th. December, 2021 to Patricia Hennessy requiring
 1. Comply with condition No. 3 of PI. Ref 04/626 and cease the use of existing dwelling house for purposes as childcare centre.
 2. Dismantle and remove the two steel structures off the site
 3. Refund to the Planning Authority the costs and expenses of €300.00 incurred to-date in the investigation/detection of the issuing of Enforcement Proceedings on or before 5.00pm on Monday, 10th. January, 2022

4.0 PLANNING CONTEXT

4.1 Current Local Planning Context

The operative development plan for the subject site is the Clare County Development Plan 2017-2023 (CCDP). The subject site is located within the settlement plan for Ennis which is set out in the Ennis Municipal District Plan – Volume 3a.

4.1.1 Zoning

The subject site is zoned as ‘Existing Residential’ with a stated objective as follows:-

“The objective for land zoned ‘existing residential’ is to conserve and enhance the quality and character of the areas, to protect residential amenities and to allow for small scale infill development which is appropriate to the character and pattern of development in the immediate area and uses that enhance existing residential communities. Existing residential zoned land may also provide for small-scale home-based employment uses where the primary residential use will be maintained”.



4.1.2 Objectives

Policy CDP 5.16 of the CDP states the following:-

“It is an objective of the development plan:

- a) To encourage the provision of affordable accessible childcare and preschool facilities throughout County Clare;*
- b) To facilitate the development of additional childcare services for vulnerable or disadvantaged groups in the community;*
- c) To have regard to ‘Childcare Facilities – Guidelines for Planning Authorities (2001)’ or any updated version, in the assessment of applications for childcare facilities”.*

4.1.3 Development Management Guidelines

The development management guidelines which form part of the CDP require the following in relation to the provision of childcare facilities in residential areas.

Section A1.3.3 Childcare Facilities in Residential Areas states as follows:-

“In established residential areas detached houses/sites or substantial semi-detached properties with space for off-street car-parking and/or suitable drop-off and collection points for customers and also space for an outdoor play area are likely to be more acceptable for the provision of child care facilities. This is especially the case if this involves use of only part of the house and the residential use remains.

The use of terraced properties or semi-detached properties on small plots is less likely to be acceptable for full day care facilities and will be assessed on their merits with regarding to the objectives and development management guidelines outlined in this Plan. Sessional or after-school care which is ancillary to the main residential use, may be more appropriate in this regard. In new housing areas developers will be expected to plan for and include provision for childcare facilities. The level of provision will depend on the particular circumstances but as a guide only childcare facility for a minimum of 20 childcare places per approximately 75 dwellings may be appropriate”.

4.2 Strategic Guidance

Relevant statutory guidance issued under Section 28 of the Planning and Development Act, 2000 as amended are as follows;-

- Child Care Facilities Guidelines for Planning Authorities, June, 2001
- Circular Letter PL3/2016 – Department of Environment, Community and Local Government 2016



Child Care Facilities Guidelines for Planning Authorities, June, 2001

Section 3.3 of these Guidelines is of relevance to this application. It refers to specific locations and states as follows:-

3.3.1 New and Existing Residential Areas

Full Day Care Facilities – Suitable Sites.

1. Detached houses/sites or substantial semi-detached properties with space for off-street parking and/or suitable drop-off and collection points for customers and also space for an outdoor play area. In relation to new housing areas, a standard of one childcare facility providing for a minimum 20 childcare places per approximately 75 dwellings may be appropriate. This is a guideline standard and will depend on the particular circumstances of each individual site. Consideration of childcare facilities provision should be raised as early as possible in preplanning discussions for larger housing developments.
2. Neighbourhood centres within a residential area provided that the premises can accommodate open space (or have easy access to a safe outdoor play area). In addition, the unit should be able to avail of ancillary parking associated with neighbourhood shops for the purposes of drop-off and collection, or be close to a public transport node.
3. Premises/sites on primary traffic routes close to public transport nodes and which can provide safe pull in/parking areas for customers and staff.

Section 3.4 is of particular relevance to the subject proposal.

Possible Conditions to Planning Permission - 3.4.1 Residential Content.

In certain circumstances, it may be appropriate to attach a condition that would require some residential content be maintained in the premises. This would apply to planning permissions for change of use to childcare facility in existing residential areas. It is not necessary that the owner-occupier be the resident. The reason for this condition is that the presence of totally commercial premises would detract from the amenity of the residential community. This condition would not be appropriate in certain, heavily trafficked through roads.

- ***Circular Letter PL3/2016 – Department of Environment, Community and Local Government 2016***

This circular notes that with forecasted economic and population growth in conjunction with the extension of the Early Childhood Care and Education (ECCE) Scheme, it is expected that there will be an increased demand for childcare spaces. In line with Government policy to increase access to childcare, it is envisaged that there may be a review of the Childcare Facilities Guidelines for Planning Authorities 2001. Planning authorities are requested to expedite, insofar as is possible, consideration of all planning applications in respect of childcare facilities in order to facilitate the expansion of required capacity as appropriate, and to exclude matters relating to childcare facility standards and to solely focus on planning related matters.

4.3 Proposed Local Planning Context – Draft Plan

There is no change to the ‘*Existing Residential*’ zoning objective on the subject property.

5.0 SUBMISSION REQUEST

We note from our review of Submission Ref: S2-154 that the Owners of the subject property, John & Patricia Hennessy, have requested that the subject property be rezoned from ‘*Existing Residential*’ to ‘*Community*’ so as to facilitate the principle of the continued use and future expansion of their business. While we note that the principle of a childcare/creche facility is deemed ‘*Permitted in Principle*’ under both the ‘*Existing Residential*’ and ‘*Community*’ zoning objectives, the ‘*Existing Residential*’ zoning objective requires that the primary residential use remains on site and so is therefore more restrictive in the extent of the childcare use which can be deemed to be acceptable under this zoning than what would be deemed acceptable under the ‘*Community*’ zoning.

Our Clients’ have serious concerns regarding this zoning request and are requesting that the current ‘*Existing Residential*’ use on the subject property be retained in the Draft Plan. The subject property was originally approved as a residential use and given the fact that the property is a semi-detached dwelling it is not appropriate to have one property zoned for one use and the attached property to be zoned as another use given the fact that they are located within an existing well established residential area.

5.1 Active Enforcement Notice UD20-128

Submission Ref: S2-154 makes no reference to the unauthorised development and use which are taking place on the subject property for over 18 months nor does the submission make reference to the active Enforcement Notice served on the Owners of the property.

This Enforcement Notice has not been complied with to-date and the Owners of the subject property continue to operate their commercial business on the subject property directly adjacent to our Clients property.

5.2 Contrary to Development Plan and National Guidelines

This large scale commercial business is contrary to the guidelines for creche facilities as outlined in the CCDP and Child Care Facility Guidelines for Planning Authorities issued by the Department by reason of noise, traffic congestion, inadequate parking facilities, loss of residential amenity, visual impact and general disturbance. The Child Care Facility Guidelines for Planning Authorities also require that residential properties which provide childcare must maintain a substantial residential component. In addition the requirements of section A1.3.3 of the CCDP require that residential properties with childcare retain a substantial residential component within the dwelling. The subject property has no residential component, as confirmed in Submission Ref: S2-154 and the full extent of the subject property, including the semi-detached dwelling, is in commercial use and therefore is in direct breach of the above.



5.3 Contrary to Planning Permission P04-626

The Owners have been operating their commercial business on this site for a number of years in total breach of the permission granted under Planning Permission Ref: P04-626.

Condition No. 2

“The proposed development shall be used for the purpose only as set out in the details submitted on 23/03/04, as amended on 25/05/04. No change of use on the entire site area shall take place without a prior grant of planning permission (notwithstanding the exempted provisions of the Planning and Development Regulations, 2001). No change in the operating hours or the number and age profile of the children from the details submitted shall take place with out a prior grant of permission”.

There have been several breaches of this condition as firstly the ground floor of the existing dwelling house has been in use since 2009 as a creche/childcare facility and secondly the number of children approved has substantially increased from 20 to 55 (35 additional catered for within existing dwelling house). The reason for the inclusion of this condition was stated in the Notification of a Decision to Grant Permission to be *“In the interests of orderly development”*. The Planning Authority clearly made an adequate assessment of the site and its capacity to cater for a creche/childcare facility at that time. They evaluated the site and restricted it via the planning conditions to cater for certain numbers.

Condition No. 3

The use of the ground floor of the dwelling as part of the creche/childcare facility use is contrary to Planning Condition No. 3 of Planning Permission Ref: P04-626 which states as follows:-

“The existing dwelling house shall cease to be used as a childcare centre upon completion of the new facility. Written confirmation of this shall be submitted upon commencement of use of the proposed development”.

We found no evidence of compliance with this condition on the planning file on the date of inspection of this file.

We note the reason for the inclusion of this condition was stated in the Notification of a Decision to Grant Permission *“in order to control and regulate the development”*. This condition was not complied with by the Owners and therefore this condition provided no control on the development to protect our Clients.

Our Clients have had to endure excessive noise from the adjoining dwelling house due to the number of children been catered for within it as opposed to it operating as a normal residential dwelling as required by this condition. The Owners have totally disregarded our Clients' residential amenities in the interest of increasing the commercial use of their site. This is totally unacceptable and in clear breach of this planning condition.



Condition No. 8

There is a clear breach of this planning condition also which states as follows:-

“Five public and three staff hard-surfaced car parking spaces shall be provided within the curtilage of the site, as indicated on the revised site layout plan submitted on 25/05/04”.

This condition was not complied with as only two designated marked out car-parking spaces were provided.

Condition No. 10

This condition states as follows:-

“Surface water from site shall be prevented from running onto surface of public road by provision of a concrete channel or a concrete grid with sump drained to local drain or soakaway. Soakaways shall be designed and constructed to the satisfaction of the Planning Authority. A concrete channel shall be constructed along the carriageway edge”.

We found no evidence on site that this condition was complied with.

5.4 Impact on Residential Amenities

Our Clients have serious concerns if the proposed zoning request is adopted in the Draft Plan which could facilitate the use and future expansion of the subject property.

The impact the existing unauthorised business is continually having on our Clients residential amenities is serious. The volume of cars bringing children to and from the creche daily, cars parking on the footpath due to inadequate drop off area and inadequate parking facilities on the subject property. These traffic volumes all come within a short period of time is excessive and poses a danger to residents, pedestrians and children.

It is respectfully submitted that the Owners of the subject property should not be permitted to benefit from a zoning objective to provide for a commercial creche facility on the subject property which would compound the existing unauthorised activities on the site. This would be contrary to the proper planning and development of the area.

Submission Ref: S2-154 also refers to a possible future expansion of the childcare facility on the site. Our Clients would be totally opposed to this given the damage which the current use has done and continues to do to their residential amenities. Therefore the ‘Community’ zoning request should not be permitted.

The Submission refers to the possible closure of the childcare facility if they owners cannot expand the existing facility which would have a significant and detrimental impact upon the residents of the village. We would ask why the facility would be forced to close if it cannot expand? This should not be a factor in the consideration of the Owners zoning request. If the Owners require additional accommodation to cater for the number of children and wish to accommodate and /or the number they are registered for with Tusla (65), then maybe they should look for a more suitable site that can cater for their numbers rather than trying to locate them on a site that is clearly not fit for the intensification of use proposed. We respectfully submit that the closure of the childcare facility would have a significant and positive impact upon our Clients residential amenities.

6.0 SUMMARY

The Owners have blatantly ignored the planning process by operating an intensified commercial business on the subject property for a long number of years in breach of Planning Permission Ref: P04/626 and by the provision of additional buildings for this commercial purpose without the benefit of planning permission. No regard has been taken by the Owners of the impact of their unauthorised activities on our Clients' residential amenity. The significant increase in the number of children from that previously permitted has changed the residential character of the property and the amenity of our Clients has been reduced to below acceptable limits.

Having regard to the level of the commercial element and the location of the proposed development in a semi-detached house in an area it is considered that the proposed rezoning request to facilitate this use and its further expansion would seriously injure the amenities of our Clients' property by reason of traffic generation, noise, general disturbance and visual impact from the provision of unauthorised structures directly abutting our Clients' property as well as depreciating the value of our Clients' property. The proposed rezoning would therefore be contrary to the proper planning and sustainable development of the area and should not be permitted.

Our Clients respectfully request that this submission be considered in the preparation of the Draft Plan and that the present zoning of *'Existing Residential'* be retained .