

An
Bord
Pleanála

Board Order
ABP-308934-20

Planning and Development Acts 2000 to 2020

Planning Authority: Tipperary County Council

Planning Register Reference Number: 20283

Appeal by Peter and Anne Morrissey of Saint Barbara, Thomas Street, Clonmel, County Tipperary and by Began Property care of Peter Thomson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny against the decision made on the 1st day of December, 2020 by Tipperary County Council to grant subject to conditions a permission to Rockspring Developments Limited care of Kenneth Hennessy Architects Limited of Anglesea House, Anglesea Street, Clonmel, County Tipperary in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of existing buildings and construction of 60 dwellings comprising of 20 apartments in two number three-storey blocks and 40 houses in 10 number two-storey blocks using existing entrance from public road, connection to public services, carparking, roads, footpaths, open space areas and ancillary site development works at Thomas Street, Clonmel, County Tipperary. Further public notices were received by the planning authority on the 18th day of September, 2020.



Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

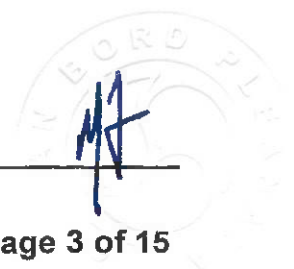
Having regard to the provisions of the Clonmel and Environs Development Plan 2013-2019, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of the Environment, Heritage and Local Government in May 2009, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2018 (updated 2020) issued by the Department of Housing, Planning and Local Government, the Urban Development and Building Heights Guidelines for Planning Authorities (2018) issued by the Department of Housing, Planning and Local Government, the Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities (2021) issued by the Department of Housing, Local Government and Heritage, and the nature and scale of the proposed development, it is

considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of zoning, layout and design and would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 15th day of September, 2020, the 18th day of September, 2020 and the 5th day of November, 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.



2. The proposed development shall be amended as follows:

- (a) Houses Numbers 1, 13, 30, 31, 38, 39 and 41 shall be revised to provide first floor windows for the purposes of passive surveillance over the public open space.
- (b) The side boundary walls to Houses Numbers 1, 13, 30, 31, and 41 shall be reduced to a maximum height of 1.2 metres from the front to within one metre of the rear elevation of each house for the purposes of passive surveillance over the public open space.
- (c) Revised drawings clarifying the number of windows on the northern elevation of Block 1 shall be submitted.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. Prior to commencement of development, the developer shall:

- (a) Confirm the exact location and depth of the existing surface water sewers (Boulic Culvert) on site and the condition of the sewers shall be assessed by CCTV survey.
- (b) Submit a detailed map, corresponding CCTV survey footage and a condition report of the surface water sewers (Boulic Culvert), in addition to detailed proposals for the protection and maintenance of same (based on the condition assessment and an assessment of ground conditions on site) for the written agreement of the planning authority.

- (c) Enter into an agreement with Tipperary County Council to provide a wayleave in favour of Tipperary County Council to allow access to the existing surface water sewers on site for the purposes of future maintenance. The developer shall provide a PRAI compliance map of a proposed easement over the line of the sewer, details of which shall be agreed in writing with the planning authority. The planning authority shall provide the form of agreement to be entered into. This burden shall be registered on the relevant folio.
- (d) Enter into an agreement with Tipperary County Council to provide a wayleave in favour of Tipperary County Council to allow access to the proposed surface water sewers (French Drain) located at the rear of houses numbers 31-41 for the purposes of future maintenance. The developer shall provide a PRAI compliant map showing a four-metre easement over the line of the sewer. The planning authority shall provide the form of agreement to be entered into. This burden shall be registered on the relevant property folios. This wayleave shall be kept free of development.

Reason: In the interest of public health.

4. Details of the materials, colours and textures of all the external finishes to the proposed duplex blocks and dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

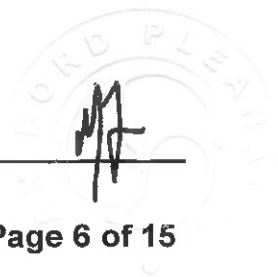
- (i) The species, variety, number, size and locations of all proposed trees and shrubs.
- (ii) Details of screen planting (which shall not include *cupressocyparis x leylandii*).
- (iii) Details of roadside/street planting.
- (iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(c) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.



6. A comprehensive scheme indicating heights, materials and finishes of all boundary treatments around the external site boundary and internally between individual houses and apartment units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

8. If the development is to be carried out on a phased basis, details of a phasing scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

9. Prior to commencement of development, the developer shall enter into relevant water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

10. Proposals for an estate name, house and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Thereafter, all estate and street signs, and house and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

11. Ducting shall be provided at all proposed house units to facilitate the installation of electric vehicle charging points. A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle (EV) charging stations/points and ducting shall be provided for all remaining car parking spaces to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the planning application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the making available by the developer for occupation of any of the residential units in the proposed development.

Reason: In the interest of sustainable transport.

12. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

14. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
 - (b) Location of areas for construction site offices and staff facilities.
 - (c) Details of site security fencing and hoardings.
 - (d) Details of on-site car parking facilities for site workers during the course of construction.
 - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network.
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
 - (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.

- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of amenities, public health and safety.

15. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.



16. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

17. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

18. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

19. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

20. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers, that is, those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

21. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 96(4) and 96(2) and 3 (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

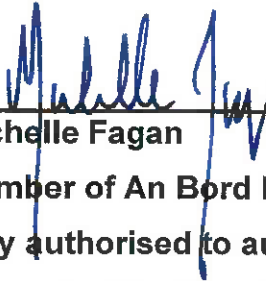
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

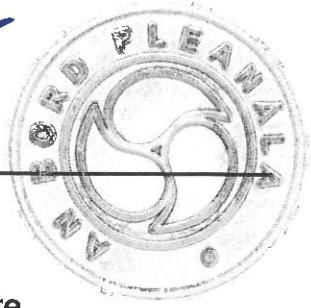
22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

23. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.


Michelle Fagan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.



Dated this 20th day of September 2021.