



An  
Bord  
Pleanála

Board Order  
ABP-311876-21

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Tipperary County Council**

**Planning Register Reference Number: 20/1062**

**Appeal** by Brinkley Developments and Homes Limited care of Peter Thomson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny against the decision made on the 12<sup>th</sup> day of October, 2021 by Tipperary County Council to refuse permission for the proposed development.

**Proposed Development:** Construction of 46 residential units in eight number 1.5, two and 2.5 storey blocks comprising of 14 number one bedroom apartments, six number two bedroom apartments, 12 number two bedroom houses, 12 number three bedroom houses and two number four bedroom houses, new vehicular and pedestrian entrance from Wheatfields, access roadways, footpaths, lighting and associated site services and all associated site boundary and site development works, including connections to public drainage on Glenconnor Road at Glenconnor, Clonmel, County Tipperary. The proposed development was revised by further public notices received by the planning authority on the 4<sup>th</sup> day of January, 2021 and the 16<sup>th</sup> day of September, 2021.

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## **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.**

## **Reasons and Considerations**

Having regard to the zoning objective of the site as set out in the Clonmel and Environs Development Plan 2013, as varied, the pattern of existing development in the immediate vicinity of the site, the Appropriate Assessment Screening Report submitted with the application and subsequent Appropriate Assessment Screening in the Inspectors Report and the Master Plan submitted with the application which is considered adequate to meet the supporting requirement for a Master Plan (Section 9.26 and Map 6 of the development plan) to guide the development of the wider landbank, and to the location, scale and design of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted the Master Plan submitted with the application and considered that it contained adequate information on the future development of the remaining landbank, that such development proposals would require the bringing forward of a planning application(s), and that the layout provided for the current proposal is generally acceptable subject to the conditions set out below.

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## **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European Sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening Report and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and considered that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

## **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 to the planning authority on the 22<sup>nd</sup> day of December 2020 and the 18<sup>th</sup> day of August 2021, 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.

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2. The site shall be landscaped in accordance with a detailed scheme of landscaping, which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The scheme shall include provisions for hard and soft landscaping within the site, boundary treatments and include measures for the protection of trees within and adjoining the site.

**Reason:** In order to ensure the satisfactory completion of the development.

3. 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.

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

**Reason:** In the interest of public health.

5. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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**Reason:** In the interest of sustainable transportation.

6. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets. Drawings and particulars 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 amenity and of traffic and pedestrian safety.

7. Proposals for an estate name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, estate signs, and house/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:** To ensure the use of locally appropriate place names for new residential areas.

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8. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

9. The public open space areas shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the revised landscape scheme to be agreed in writing with the planning authority. This work shall be completed before any of the dwellings/apartments are made available for occupation and shall be maintained as public open space by the developer.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

10. 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 installation of lighting. Such lighting shall be provided prior to the making available for occupation of any dwelling/apartment.

**Reason:** In the interest of amenity and public safety.

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11. 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.

12. Details of the materials, colours and textures of all the external finishes to the proposed development, the existing vernacular house and site and house boundaries shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

13. 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 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.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

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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.

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

15. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and 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 residential amenities of property in the vicinity.

16. 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 94(4) and section 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.

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**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended.

17. 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 i.e. 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.

18. 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.

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19. 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 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.

20. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of traffic calming measures, 153 metres of 1.8 metres wide footpath, provision of an additional public light near the entrance and removal of turning area, all in the adjoining residential development (Wheatfields) to the west of the appeal site. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall

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be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.



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**Patricia Calleary**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

Dated this 04 day of May 2022.

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