

An  
Bord  
Pleanála

**Board Order**

**ABP-315331-22**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Tipperary County Council**

**Planning Register Reference Number: 22/60353**

**Appeal** by Edgar and Catherine Lonergan of Moangarriff, Clonmel, County Tipperary and Others against the decision made on the 15<sup>th</sup> day of November, 2022 by Tipperary County Council to grant permission subject to conditions to Michael Morrissey care of Kenneth Hennessy Architects Limited of Angelsea House, Angelsea Street, Clonmel, County Tipperary in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of 68 number residential units comprising of 14 number two-bed houses, 36 number three-bed houses, 10 number four-bed houses, four number one-bed apartments and four number two-bed apartments and partial demolition of existing boundary wall, together with all roads, footpaths, underground services, connection to an existing foul sewer, additions to the existing surface water drainage network, public open space and public lighting and associated site boundary and site development works all at Moangarriff, Clonmel, County Tipperary.

## **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 in Clonmel and Environs Development Plan 2013, the design and scale of the proposed development, and the pattern of development in the vicinity, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential amenities of the area or of property in the vicinity, would represent an appropriate residential density, would be acceptable in terms of traffic safety and convenience, would not endanger public health, and would comply with the relevant provisions of the Clonmel and Environs Development Plan 2013, Tipperary Development Plan 2022-2028, the National Planning Framework, and the Guidelines for Planning Authorities, Sustainable Residential Development in Urban Areas issued by the Department of Environment, Heritage and Local Government in May, 2009. 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 20th day of October 2022, 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 window on the first floor landing of house number 15 shall be glazed with obscure glass.

**Reason:** To prevent overlooking of adjoining residential property.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue/black, black, dark brown or dark grey in colour only.

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

4. Details of the refuse storage areas for units numbers 33 to 36 and numbers 18 to 21 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of orderly development.

5. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 20th day of October 2022. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the planning authority.

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

6. Proposals for a naming and numbering scheme and associated signage for the permitted development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

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

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, 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 unit.

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

8. The construction of 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. The plan shall provide a demolition management plan, together with details of intended construction practice for the development, including a detailed traffic management plan and noise management measures.

**Reason:** In the interests of public safety and residential amenity.

9. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be

measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of sustainable waste management.

10. Site development and building works shall be carried out only between the hours of 0700 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.

11. Water supply and 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.

12. The developer shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.

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

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



**Reason:** In the interest of amenity and of traffic and pedestrian safety.

14. (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.

15. 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 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.



16. (a) Prior to the commencement of 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 housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential 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.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**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.

17. 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 of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 determined by An Bord Pleanála.

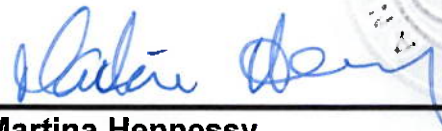
**Reason:** To ensure the satisfactory completion of the development.

18. 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.



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**Martina Hennessy**

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

Dated this <sup>th</sup> 27 day of November 2023.