



An  
Bord  
Pleanála

## Board Order ABP-317558-23

### Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 23/60148

**Appeal** by Francis and Ella Farrell of Silversprings Road, Clonmel, County Tipperary and by Joseph and Elaine Winston of Silversprings Road, Clonmel, County Tipperary against the decision made on the 21<sup>st</sup> day of June, 2023 by Tipperary County Council to grant subject to conditions a permission to Cooney Engineering and Construction Limited care of Fewer Harrington and Partners Architects of Studio 14, The Atrium, Maritana Gate, Canada Street, Waterford in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of 18 number residential bungalows designed for the elderly. The residential units will consist of: 10 number two-bedroom semi-detached bungalows Type A; two number two-bedroom mid-terrace bungalows Type B; two number two-bedroom detached bungalows Type C; two number two-bedroom end of terrace bungalows Type D; two number two-bedroom end of terrace bungalows Type E. The proposed development will also include new internal roadways and footpaths, pedestrian access off the existing Davis Road to the south of the site, proposed new vehicular access from the existing Silversprings Road to the east of the site, new boundary treatments, landscaping, surface and foul water drainage and associated attenuation tank together with all ancillary and associated site works, all at Silversprings Road and Davis Road Junction,

Burgagery-Lands East, Clonmel, County Tipperary as revised by the further public notices received by the planning authority on the 25<sup>th</sup> day of May, 2023.

## **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 provisions of the Tipperary County Development Plan 2022-2028, the locational context of the site within residentially zoned and serviced lands within the boundaries of the Clonmel and Environs Local Area Plan 2024-2030, the nature of the proposed development and the pattern of development in the surrounding area, 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 or the amenities of property in the vicinity, and would constitute an acceptable form of development at this location. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The proposed 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 received by the planning authority on the 19<sup>th</sup> day of May, 2023 and the further plans and particulars received by An Bord Pleanála on the 28<sup>th</sup> day of July, 2023, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Prior to commencement of development, the developer shall submit revisions to include the following for the written agreement of the planning authority:
  - (a) A redesign of the end of terrace unit to include a side window to allow for surveillance of the public open space.
  - (b) Details of the materials, colours and textures of all the external finishes to the proposed development.
  - (c) All bathroom windows shall be obscure glazing.

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

3. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) Details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development.
  - (b) Details of the landscaping and maintenance of all areas of public open space.
  - (c) Details of tree protection measures during construction and the proposed location of trees and other landscape planting in the development, including proposed species and settings.
  - (d) Details of proposed street furniture, including bollards, lighting fixtures and seating.
  - (e) Details of all proposed site boundary treatments, including any retaining walls.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.

**Reason:** In order to ensure the satisfactory development of the open space areas, and in the interest of visual amenity.

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4. The access from the public road, and internal road and vehicular circulation network serving the proposed development, including turning bays, parking areas, footpaths and kerbs, signage and traffic calming measures, 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 (DMURS), issued by the Department of the Environment, Community and Local Government in March 2019, as amended. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

5. 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.

6. Prior to commencement of development, the developer shall enter into water supply and wastewater connection agreements with Uisce Éireann.

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

7. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit.

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

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8. 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 interest of visual and residential amenity.
9. The proposed development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.  
**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.
10. Proposals for an estate/street name, house 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 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. A management plan for the control of alien invasive species, including a monitoring programme, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.  
**Reason:** In the interest of visual amenity and to prevent the spread of alien plant species.

12. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the planning 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 commencement of development.

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

13. The construction of the proposed development shall be managed in accordance with a Construction Environment 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 the intended construction practice for the proposed development, including measures for the protection of existing residential development, traffic management during the construction phase, noise and dust management measures and off-site disposal of construction/demolition waste.

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

14. Site development and building works shall be carried only out between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

15. 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 unit shall be submitted to, and agreed in writing with, the planning authority no later than six months from the date of commencement of development. Thereafter, the agreed 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.

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operations (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological materials on the site, and
- (ii) the impact of the proposed development on such archaeological materials.



A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

17. Prior to 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 shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and 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.

18. Prior to commencement of development, the developer 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.

**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 of the area.

19. (a) Prior to the commencement of any house 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), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses 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 specified housing unit, it is demonstrated, to the satisfaction of the planning authority, that it has not been possible to transact each specified house for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

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- (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 in accordance with the Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities May 2021.

20. 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 planning authority 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 referred to An Bord Pleanála for determination.

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

21. 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.



**Patricia Calleary**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board**

Dated this 16<sup>th</sup> day of September 2024.