

An
Bord
Pleanála

Board Order
ABP-319736-24

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 23/61010

Appeal by Tom Wood of 27 Main Street, Cashel, County Tipperary against the decision made on the 19th day of April, 2024 by Tipperary County Council to grant subject to conditions a permission to Dulla Developments Limited care of Conroy Architects Limited of 7 Glenna Terrace, Spawell Road, County Wexford in accordance with plans and particulars lodged with the said Council.

Proposed Development: A large scale residential development (LRD), the site is bounded at the south by the R691 Dualla Road, Crotty's Lane to the north, undeveloped residential zoned lands to the west and private residences to the east boundary. The development will consist of the erection of 101 dwellings, a childcare facility, construction of a new roundabout and link road and ancillary works on a gross site area of 3.96 hectares. The proposed development will be accessed from the new roundabout on the R691 Dualla Road and is more specifically described as follows: 12 number one-bedroom maisonettes in two-storey semi-detached blocks, 49 number three-bedroom two-storey semi-detached houses, two number three-bedroom two-storey terraced houses, one number four-bedroom two-storey semi-detached house, 11 number four-bedroom two-storey detached houses, six number two-

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bedroom two-storey terraced houses, nine number one-bedroom apartments and 11 number two-bedroom apartments in a three-storey building, a childcare facility (creche) with a gross floor space of 240 square metres, refuse stores and secure bicycle store all located within the ground floor of the apartment building, 201 car parking spaces, (164 residential and 37 for visitors and creche), creche set-down area, secure outdoor creche play area, 20 secure cycle spaces and 20 visitor cycle spaces (bicycle stand). The proposed development will include new entrances leading onto the R691 Dualla Road to the south of the application site and L54151 Crotty's Lane to the north, construction of a new link road between Dualla Road to the south of the application site and Crotty's Lane to the north and alterations to the R691 Dualla Road to include new roundabout, new raised tables and pedestrian crossings, private, communal and public landscaped amenity spaces, internal estate road network, pedestrian pavement network, including new internal pedestrian pavements extending to the north and south boundaries of the proposal, inter-site boundary walls and fences, new site boundary walls and fences, undergrounding of existing overhead electricity supply cables traversing the development site, erection of a new ESB substation, public lighting, public drainage and water services connections and associated site development works, all at Hughes Lot East, Cashel, County Tipperary, as revised by the further public notices received by the planning authority on the 25th day of March, 2024.

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

In coming to its decision, the Board had regard to the following:

- (a) the policies and objectives of the Cashel and Environs Development Plan 2009-2015, as varied, and the Tipperary County Development Plan 2022-2028,
- (b) the Rebuilding Ireland – Action Plan for Housing and Homelessness 2016,
- (c) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities published by the Department of Housing, Local Government and Heritage in January 2024,
- (d) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities published by the Department of Housing, Local Government and Heritage in December 2020,
- (e) the Urban Development and Building Heights Guidelines for Planning Authorities published by the Department of Housing, Planning and Local Government in December 2018,
- (f) the Design Manual for Urban Roads and Streets (DMURS) 2013,
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices) 2009,
- (h) the nature, scale and design of the proposed development,
- (i) the availability in the area of a wide range of social, community, transport and water services infrastructure,
- (j) the pattern of existing and permitted development in the area,
- (k) the planning history of the area,
- (l) the submissions and observations received, including the response submissions of the applicant and planning authority in relation to the zoning status of the site received by the Board on the 10th September, 2024, and

(m) the report and recommendation of the Inspector.

Appropriate Assessment Screening:

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion in the Inspector's report in respect of the identification of the European Sites which could potentially be affected, and the identification and assessment of potential significant effects of the proposed development, either individually or in combination with other plans or projects, on these European Sites in view of the sites' Conservation Objectives.

The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Lower River Suir Special Area of Conservation (Site Code: 002137), or on any other European Site, in view of the sites' Conservation Objectives.

This screening determination is based on the following:

- (i) the Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) the distance from the proposed works.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density of development in this serviced urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development 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.

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 19th day of February, 2024, on the 15th day of March, 2024, and on the 25th day of March, 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The road layout, including Link Road 01, shall be carried out in accordance with the Site Layout Plan drawing number P.01.03 and shall be provided to the northern boundary of the site. Access to Crotty's Lane at this time shall be confined to pedestrian and cyclist movements and this access point shall remain closed to vehicular traffic until such time as the planning authority deem it appropriate to allow access from Link Road 01 onto Crotty's Lane. Details of this arrangement shall be agreed in writing with the planning authority.

Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.

3. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction, including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a taking-in-charge drawing which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of permeability and proper planning and sustainable development.

4. Prior to commencement of development, the developer shall submit a revised site layout plan (1:500) incorporating the following amendments for the written agreement of the planning authority:
 - (a) An additional 26 visitor car parking spaces to be provided throughout the residential development (these shall not be provided on the amenity zoned lands).
 - (b) Details of the crossing point at the junction of the Link Road.



- (c) The combined footpath and cycleway to be extended along the full length of the site on the southern boundary.
- (d) The home zone areas to be reduced to five metres in width and the footpaths to be 1.8 metres in width.

Reason: In the interest of proper planning and orderly development.

- 5. (a) A detailed phasing programme that shall provide for the phased delivery of the entire development shall be submitted for the written agreement of the planning authority prior to commencement of development.
- (b) The construction of the proposed dwellings shall proceed in accordance with the identified phasing schedule ensuring that the appropriate section of access road, footpath, lighting, open space, landscaping and infrastructural services benefitting the particular dwellings shall be fully completed before those dwellings are occupied. Where phasing is not required, no dwelling shall be occupied until the infrastructure, including the completion of Link Road 01 to the northern boundary, landscaping and servicing of the development is complete.
- (c) The crèche facility shall be constructed prior to the occupation of any residential unit on site.
- (d) The public open space and associated play equipment, including lighting, shall be completed in full and all public areas landscaped, as submitted, and available for use prior to the occupation of any residential unit on site.

Reason: To ensure orderly development and a proper standard of construction and to ensure that residential facilities are in place prior to occupation.



6. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

7. (a) The approved landscaping scheme shall be undertaken in the first planting season following the occupation or substantial completion of the development or each phase of the development as agreed, whichever is the sooner. The planting shall thereafter be maintained and any plants that die, become diseased or are removed within three years shall be replaced within the following planting season by plants of a similar size and species, unless the planning authority gives its written consent to any variation.
- (b) The designated public open space areas, when developed in accordance with the agreed details, shall be made available for the continuous use and enjoyment of the public.

Reason: To ensure the provision of amenity afforded by appropriate landscaping design, and site treatment, and to ensure the sustainability of the approved landscape design through its successful establishment and long-term maintenance.

8. A site layout plan, to a scale of not less than 1:500, which delineates all proposed boundary treatments both within and bounding the site in colour shall be submitted for the written agreement of the planning authority prior to commencement of development indicating the following:

- (a) Detailed proposals for the external boundary treatment for the entire site ensuring same reflects the landscaping plan.
- (b) The eastern site boundary and the boundary to the rear of units 21-26, inclusive, to comprise a 1.8-metre concrete block-capped and plastered wall, a 1.8-metre concrete post and timber panel fence or concrete block wall between the rear gardens of the proposed dwellings.
- (c) Proposals for front garden separation treatment.
- (d) Proposal for boundaries for the proposed crèche.
- (e) Boundaries of all proposed folios within the development.

This shall be accompanied by a complete set of plans, sections and elevations to a scale of not less than 1:50, which delineates the corresponding boundary treatment. All boundary walls visible from public areas shall be appropriately capped and rendered.

Reason: In the interest of visual amenity.

- 9. 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.

10. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and unit 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 place names for new residential areas.

11. 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.

12. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit to the planning authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there have been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

13. 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 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 amenity of property in the vicinity.

14. 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 within each house plot 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. In relation to the apartments' element of the development, the plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

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

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

16. A minimum of 10% of all car parking spaces serving the development shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

17. Prior to commencement of development, the developer 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 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 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.

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18. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a Construction Management Plan which shall be adhered to during construction. This plan shall provide details of intended construction practice for the proposed development, including noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and 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 planning 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 the development in the interest of residential amenity.

20. (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 house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all relevant 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 specified housing unit, it is demonstrated to the satisfaction of the planning authority that 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 housing units, in which case the planning authority shall confirm in writing to the applicant 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.



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 requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 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.




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 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.



24. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of delivering a roundabout and pedestrian crossing points on the public road which benefits the proposed development. 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 may be agreed and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

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


Chris McGarry
Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this  day of  2024.