



An
Bord
Pleanála

Inspector's Report

ABP-308575-20

Development	Construction of eight houses and all associated works.
Location	Killeigh, Cahir, Co. Tipperary.
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	19/600845
Applicant(s)	Maurice Casey
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V. Grant
Appellant(s)	(1) Darren Kirby (2) Tadhg Howard
Observer(s)	(1) Wesley Hampton
Date of Site Inspection	22nd January 2021
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The appeal site is located to the east of Cahir town, on the northern side of the Clonmel Road with access off the R640, within the 50km/h speed control zone. The appeal site comprises a single storey cottage type dwelling with a grassed and gravelled garden area to the rear and a domestic shed. Further behind (north) of the garden area is a long narrow unutilised area, which is presently in long grass. To the west of the site is the Butler Court residential development, to the north is the Galtee View residential development, to the east is a large two-storey dwelling on a generous plot size and to the south is the R640, regional route.
- 1.2. There is a 1.8 metre block wall and some planting along the western and northern boundaries. There is a post and wire fencing and tall leylandii trees (approximately 18-20 metres in height). on third party lands along the eastern boundary and a 1.5 metre wall along the roadside (southern) boundary.
- 1.3. The appeal site demonstrates site levels consistent with the neighbouring Butler Court residential development, where levels fall gradually from north to south, towards the R640. The site is rectangular in shape has a stated area of 0.447 hectares.

2.0 Proposed Development

- 2.1. The development would comprise the following:
 - Construct eight residential units,
 - All associated site development works including entrances, roadways, footpaths, boundary treatments, and connection to underground services,
 - Closing up entrance to existing dwelling and opening a new entrance to serve the existing dwelling and proposed development,
 - Provide foul connection for existing dwelling and de-commissioning of existing septic tank serving existing dwelling.
- 2.2. Further Information was submitted to Tipperary County Council on the 24th day of August 2020 and included the following: Clarity on density and layout in the context of

the existing adjoining residential developments; Clarity in relation to sightlines, adequacy of turning head and proximity to entrance serving the Butler Court Development; Details of boundary treatment along the western and eastern site boundaries and a cross section illustrating the current proposals in context with the neighbouring developments and details of connections to public water services.

- 2.3. The applicant submitted a traffic and transport assessment and access appraisal, including a swept path analysis accompanying the planning documentation.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to twenty-two conditions. The pertinent conditions can be summarised as follows:

Condition number two: Archaeological monitoring.

Condition number four: Agreements with Irish Water,

Condition number five; Boundary treatment details.

Condition number six: External finishes of dwellings.

Condition number eleven: Public lighting details.

Condition number sixteen: Submission of a Construction Traffic Management Plan.

Condition number twenty: Development Contributions.

Condition twenty-one: Special Development Contribution.

Condition number twenty-two; Security bond.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The Planning Officer recognised the underlying residential zoning of the site and following the request for additional information was satisfied that the density of development was acceptable, that the residential amenity of neighbouring residents would be respected and that the site would be capable of being serviced. An

Appropriate Assessment (AA) screening exercise concluded that there was no potential for significant effects and therefore that that AA was not required, given the separation distance from the nearest Natura 2000 sites. An Environmental Impact Assessment Preliminary examination concluded that there was no real likelihood of significant effects on the environment and therefore the submission of an Environmental Impact Assessment Report (EIAR) was not required. The Planning Officer recommended that planning permission be granted subject to conditions.

3.2.2. **Other Technical Reports**

- District Engineer: No objections, subject to conditions.

3.3. **Prescribed Bodies**

Irish Water: Further information requested regarding feasibility of connection to the Irish Water network.

Department of Arts, Culture and the Gaeltacht: Recommended that archaeological monitoring be conditioned.

3.4. **Third Party Observations**

Three submissions were received from residents within the Butler Court development to the west of the site and one from a resident immediately east of the site. The issues raised in the submissions are similar to those raised within the third-party appeal submissions and observation received by the Board.

4.0 **Planning History**

Planning Authority reference number 07/489, An Bord Pleanála reference number PL. 23.223897, in 2007, the Board granted planning permission for three dwellings on the site subject to eight conditions. Condition number two required that the dwellings be relocated further west on the site in order to achieve an 11-metre separation distance from the eastern boundary of the site.

5.0 Policy and Context

5.1. Cahir Local Area Plan, 2011

The appeal site is zoned 'existing residential' with the associated objective: To preserve and enhance existing residential amenity, ensuring that new development does not result in excessive overlooking of existing residential properties, does not reduce general safety for existing residents and does not reduce the usability and security of existing public and private open space. As per the zoning matrix, residential uses are acceptable in areas zoned 'Existing residential'.

The site is located outside of the designated Zone of Archaeological Potential as per out within Map number 4 of the Local Area Plan.

Section 6.3 Layout, Density and Design of New Residential Development:

It is desirable that all residential development proposals will have been designed so that they appreciate their context, complement the existing built environment, create sustainable movement systems where pedestrians, cyclists and vehicular traffic has been provided for, offer a range of house types and include for attractive and well considered detailing i.e. quality of the public realm and the interface between the public realm and buildings. All residential planning applications will be assessed under the minimum standards set out in the development management section of the County Development Plan (CDP).

Section 9.8- Residential Development on appropriately zoned lands:

The Council will seek appropriate, efficient and sustainable development on all residential zoned land and will apply the guidelines contained in the Sustainable Residential Development in Urban Areas December 2009 (DoEHLG) or any amendments thereto as appropriate. The Council will require all development proposals to incorporate the minimum standards for residential development set out in the CDP.

5.2. **South Tipperary County Development Plan, 2009 (as varied)**

The Settlement Strategy identifies Cahir as being within Tier 3-District Centres. These towns will continue to grow as part of a balanced urban structure and in support of the higher tier settlements. The residential function of these centres will be strengthened and improved, and they will be promoted as desirable places in which to live and work. District Centres will continue to perform an important role in the county by providing employment opportunities, high quality retail choice, regional transport services and community services for their hinterlands in line with their capacities for growth and expansion.

The relevant policies and objectives of the Development Plan are set out below.

- Policy SS2: Growth and Development in Urban Centres,
- Policy SC2: Sustainable Residential Development in Towns and Villages,
- Chapter 10: Development Management Guidelines is also relevant,
- Section 10.9.5-Car parking standards,
- Section 10.11-New residential development,
- Section 10.11.3-Multi-unit residential design standards.

5.3. **National Guidance**

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- Design Manual for Urban Roads and Streets (DTTAS & DoECLG 2013).

5.4. **Natural Heritage Designations**

None relevant.

5.5. **Environmental Impact Assessment-Preliminary Screening**

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced suburban location, there is no real likelihood of significant effects on the environment arising from the proposed

development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required

6.0 The Appeal

6.1. A third-party appeal is being made by two adjoining residents, one appellant resides to the west from within the Butler Court residential development, and another by a resident immediately east of the appeal site.

6.2. Grounds of Appeal

A number of issues were raised within the third-party appeal submissions which include the following:

Access and Traffic:

- The proposals will generate additional traffic movements.
- A safety risk would arise at peak school times due to the volume of traffic serving the local secondary school and a Primary Care centre.
- Visibility for traffic egressing from Butler Court would be obstructed in an easterly direction.
- When traffic would be turning right into the development from the Clonmel Road, other cars would be required to use the cycle lane to get passed turning traffic,
- An extra 64 traffic movements per day would be generated by the proposed development according to their Consultant Engineers, 64 further opportunities to cause obstruction to other motorists.
- The Planning Authority requested that a reduced density of development be presented, given the location, 50 metres east of an existing entrance accessing Butler Court.
- The applicant has failed to demonstrate how multiple emergency vehicles could be accommodated on site.
- The proposal to run an access road to the rear of existing residential properties represents an unusual planning practice.

Residential Amenity:

- The security of properties within Butler Court would be adversely impacted upon.
- The proposals would increase light pollution into the rear of properties within Butler Court from streetlighting serving their access road
- That a condition be included for the erection of a 1.8 metre concrete post and panel fence along the eastern site boundary on the developer's side of the existing post and wire boundary.

Design and Layout:

- The density is not consistent with the character of the adjoining residential developments.

Other Issues:

- No Development Impact Assessment has been submitted in accordance with Section 6.2 of the Cahir LAP.
- The applicants have failed to demonstrate compliance with Section 6.3 of the LAP, regarding layout and design
- No agreement with Irish Water has been submitted as part of the proposals.
- Some neighbouring residential properties experience low water pressure.
- No storm water drainage proposals have been submitted.
- The boundary line has not been depicted correctly within the planning documentation submitted.
- The original site maps submitted, depicting the eastern boundary treatment were incorrect.
- Condition number 5 set out by the Planning authority states that: Boundary treatments shall be in accordance with those submitted with the application in the 23.9/2019. This provides for the retention and strengthening of existing trees on third party lands.

6.3. Applicant Response

None received.

6.4. **Planning Authority Response**

None received.

6.5. **Observations**

A third-party observation from a neighbouring resident, within the Butler Curt development, west of the appeal site was received. The issues raised within the observation are similar to those raised within the third-party appeal submissions, summarised in Section 6.2 of this report.

7.0 **Assessment**

7.1. The main concerns to be addressed in this appeal relate to the grounds of the appeal/observation. Appropriate Assessment requirements are also considered. The main issues can be assessed under the following headings:

- Principle of Development
- Design and Layout
- Residential Amenity
- Access & Services
- Appropriate Assessment.

7.2. **Principle of Development**

7.2.1. The appeal site is zoned existing residential as per the Cahir Local Area Plan 2011. Residential development is acceptable subject to the usual development assessment criteria. These are set out in Section 10.11.3 of the South Tipperary County Development Plan 2009 (as varied) in relation to residential development in urban areas. The site at present is overgrown and underutilised. I am satisfied that the current proposals represent an appropriate use of zoned serviced lands within the Cahir development boundary.

7.3. Design and Layout

- 7.3.1. The density of development proposed would be approximately 17.9 units per hectare. This density of development is considered acceptable on zoned serviced lands, within a settlement boundary. The density is considered to accord with section 6.3 of the Cahir LAP 2011, in terms of complementing the pattern of development in the area.
- 7.3.2. The design of the dwellings is considered satisfactory and the internal floor areas would provide a satisfactory standard of residential amenity for future occupants and would accord with the residential standards as set out within Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- 7.3.3. Flexibility is provided for within Section 10.5.5 of the Development Plan in relation to development on infill sites where it outlines the following: The site density, coverage and open space requirements will be considered on a site-specific basis to permit a development to integrate with the existing adjoining development. The development management standards set out for new residential developments may be relaxed in the case of infill development. The standards referred to by the appellants largely pertain to greenfield sites. It is accepted that not all development management standards are achieved within these proposals. However, the scheme as presented provides for a satisfactory design and layout, adequate private and public open space on an infill site within a settlement boundary.
- 7.3.4. In conclusion, having regard to the sites location within the town boundary of Cahir and the pattern of development in the area, I am satisfied that the development is appropriately designed, could be accommodated on the subject site, that it would result in a development that would accord with the policies and objectives of the Cahir Local Area Plan 2011, the South Tipperary County Development Plan 2009 (as varied), and with the proper planning and sustainable development of the area.

7.4. Residential Amenity

- 7.4.1. The rear garden depths of Butler Court properties vary from approximately 11 metres to 13 metres in length. Separation distances between the Butler Court dwellings and the proposed dwellings all exceed 25 metres. The proposed dwellings would have rear garden depths ranging from approximately 7.7 metres to 8.6 metres except for

units 4 and 5, where the garden depth reduces to 6.4 metres approximately, as these particular dwellings are dual fronted facing onto the public open space and the internal service road. However, Section 10.11.3 of the Development Plan allows for flexibility in the development management standards. Therefore, with the introduction of appropriate rear boundary treatment for each of the dwelling units, as set out within the appeal submission to the Board, the amenities of the neighbouring properties would be adequately protected and respected, in compliance with the underlying land use zoning objective pertaining to the site.

7.4.2. Although, the 11-metre rear garden depth is not achieved in this instance, I note that the rear garden areas range in size from 47 square metre for the two-bedroom units and up to 67 square metres for the three bedroomed units, except for unit number 1, which has a generous rear amenity space of approximately 120 sq. m. Therefore, although not achieving the 11-metre garden depth, in this instance, I am satisfied that no adverse impact would arise in terms of impact upon neighbouring residential amenities.

7.4.3. The proposed dwellings would comprise two storey houses with maximum ridge heights of 8.1 metres. I would be satisfied, given the separation distances between the proposed dwellings and the existing properties to the west and north (17 metres at the nearest point) and with the introduction of a suitable boundary treatment between the properties (a matter that could be conditioned), that the impact could not be construed as significant. The proposed development would not result in overshadowing or overlooking of the neighbouring properties so as to warrant a refusal of permission on this issue.

7.4.4. I, therefore, conclude that the proposal would afford a satisfactory standard of amenity to future residents, would not adversely impact upon the amenities of neighbouring residents and that the development would be compatible with the pattern of development in the area.

7.5. Access and Services

7.5.1. The applicants are proposing to open a new entrance at the point of an existing double gated field entrance and to close up the domestic entrance serving the single storey cottage style dwelling to the front (south) of the site which would be retained under the proposals. The area is governed by the 50 kilometres per hour speed limit.

There are footpaths and street lighting east of the town as far as the Butler Court residential development which would be continued along the frontage of the proposed development.

- 7.5.2. The proposal would see the development of an internal service road, along the western site boundary and behind the rear boundary walls serving the Butler Court development and introduce a new turning bay and two metre footpaths along its side. Each of the dwellings would have two on-site car parking spaces, which would be laid out side-by-side to facilitate independent access/egress from the driveway.
- 7.5.3. I am satisfied that the width of the adjoining public roadway is sufficient to cater for the level of traffic generated by the eight proposed residential units. No objections were raised by the District Engineer of Tipperary County Council in relation to roads or access matters subject to a number of matters being conditioned. A special contribution of €2,000 was included as condition number twenty-one, to contribute towards the cost of providing a right-turning lane into the development, off the R640. No justification has been provided for this special contribution within the District Engineers report nor within the planning report. Therefore, the merits of this condition cannot be supported in this instance.
- 7.5.4. A Traffic and Transport Assessment was submitted as part of the further information response. This report confirms that the site is located within the 50 kilometre per hour speed control zone of the town and that the Design Manual for Urban Roads and Streets (DMURS) 2013, would require sight stopping distances of up to 49 metres in both directions from the proposed access, from a 2.4 metre set back from the carriageway edge. This standard is achievable as set out within the planning documentation submitted. The Traffic Assessment Report concludes that “there would be no significant potential conflicts in traffic turning movements and associated increase in road safety risks”.
- 7.5.5. Therefore, I am satisfied that the proposed eight dwelling houses would be capable of being accessed satisfactorily and safely from the adjoining regional route in accordance with best practice national standards and that their parking arrangements would, likewise, be satisfactory.
- 7.5.6. In terms of servicing the site, I note that the District Engineer raised issues in relation to surface and storm water management on site and that Irish Water did request

further information in relation to the feasibility of accessing the services network. These are matters that can be addressed by means of an appropriate planning condition, given the modest scale of development proposed on an infill/brownfield site development.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development on zoned serviced lands, the separation distance from the nearest European site and lack of ecological connection from the appeal site to any European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission be granted subject to conditions.

9.0 Reasons and Considerations

- 9.1. Having regard to the zoning objective for the site and the policies and objectives of the Cahir Local Area Plan 2011 and the South Tipperary County Development Plan 2009 (as varied), it is considered, subject to the conditions set out below, that the design and layout of the proposed development would not adversely impact upon the residential amenities of the area and would be acceptable in terms of traffic safety. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 24th day of August 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 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 operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the 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 material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

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.

- 3 a) 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.

b) All plantings 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 shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

c) Prior to commencement of development the applicant shall submit and agree in writing with the Planning Authority details of a physical boundary treatment along the site boundaries of the site.

Reason: In the interest of residential and visual amenity.

- 4 The construction of the internal road network serving the proposed development, including the turning area, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

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

- 5 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 traffic management, intended construction practice for the development, including noise management measures and off-site disposal of construction / demolition waste.

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

- 6 Proposals for house naming and a 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.

Reason: In the interest of urban legibility.

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

Reason: In the interest of public health.

8 The applicant shall enter into water and waste-water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

9 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 amenities of property in the vicinity.

10 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.

11 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.

Reason: In the interests of amenity and public safety.

12 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 of roads, footpaths, watermains, drains, 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 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 of the development.

13 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

Fergal O’Bric
Planning Inspector

23rd February 2021