



An
Bord
Pleanála

Inspector's Report

ABP-308934-20

Development	Demolition of existing buildings and the construction of 61 dwellings
Location	Thomas Street, Clonmel, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	20/283
Applicant(s)	Rockspring Developments Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Parties v Grant of Permission
Appellant(s)	(1) Peter & Anne Morrissey (2) Began Properties
Observer(s)	None
Date of Site Inspection	13.04.2021
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located on the eastern side of Thomas Street in Clonmel, approx. 250 metres south east of the railway station and adjacent to the south and east of Jones Oil.
- 1.2. The site was previously occupied by Eircom and there are derelict buildings and structures throughout. The site is surfaced in hard surfacing material. There are weeds and vegetation through the site. The rear elevations of two-storey houses in the Cúirt an Rí and Sweetbriar developments are visible to the south of the site. There is tree coverage along the northern boundary which is parallel with the railway line.
- 1.3. The site has an area of 1.67 hectares.

2.0 Proposed Development

- 2.1. Permission was sought for:
 - Demolition of existing buildings (2,550sqm),
 - Construction of 60 no. dwellings (40 no. houses and 20 no. apartments in 2 no. three-storey blocks),
 - Connection to services, car parking, roads, open space etc.
- 2.2. In addition to standard planning application plans and particulars the application was accompanied by:
 - A 'Part V Agreement in Principle' document,
 - A 'Civil Engineering Report' prepared by Michael Murphy Consulting Engineer dated 03.03.2020,
 - A 'Flood Risk Assessment' prepared by Michael Murphy Consulting Engineer dated 02.03.2020,
 - A 'Traffic Impact Assessment' prepared by Roadplan Consulting dated March 2020,

- A 'Development Impact Assessment' prepared by William Hanley Consulting Engineer dated 24.02.2020.

2.3. Further information was submitted in relation to, inter alia:

- Photomontages,
- Boundary treatment and boundary section drawings,
- Landscaping,
- A 'Stage 1 Road Safety Audit' prepared by Malachy Walsh and Partners dated September 2020, sightlines, and an updated 'Traffic Impact Assessment' prepared by Roadplan Consulting dated September 2020,
- Revisions to the site layout including the addition of 1 no. house (increasing the number of residential units proposed to 61 no.),
- A 'Civil Engineering Report Further Information' document prepared by Michael Murphy Consulting Engineer dated 11.09.2020 relating to foul and surface water issues and an amended 'Flood Risk Assessment' prepared by Michael Murphy Consulting Engineer dated 20.08.2020,
- An amended 'Development Impact Assessment' prepared by William Hanley Consulting Engineer dated 27.08.2020,
- Public lighting,
- Liaison with Irish Rail.

2.4. The application was re-advertised as significant further information.

2.5. Clarification of further information was submitted in relation to, inter alia:

- An updated suite of drawings addressing errors and omissions,
- A report from Michael Murphy Consulting Engineer in relation to civil engineering aspects of the development,
- Site section and elevation drawings and revised landscaping layout.

3.0 **Planning Authority Decision**

3.1. **Decision**

Tipperary County Council granted permission for the development subject to 25 no. conditions including submission of a Construction Management Plan, detailed compliance conditions relating to surface water, the development's road and footpath network, Part V provision, phasing proposals, Irish Water connection, boundary treatments, external finishes, construction practices, public lighting, landscaping, naming and numbering of the development, development contributions, security bond and submission of detail of compliance with the Multi-Unit Development Act, 2011.

3.2. **Planning Authority Reports**

- 3.2.1. Three Planning Reports form the basis of the Council's decision. The third report considers that the development complies with the policies and objectives of the Clonmel and Environs Development Plan 2013, as varied, and that the development does not have an adverse impact on the character of the area or the amenities of adjoining properties.

3.2.2. **Other Technical Reports**

District Engineer – A number of detailed comments and observations made over three separate reports.

Housing Section – The submitted Part V Agreement in Principle is agreeable to the Housing Section.

3.3. **Prescribed Bodies**

Iarnród Éireann – No comment or observation to make on foot of the further information response.

3.4. **Third Party Observations**

- 3.4.1. Three observations were received from local residents and three from local property owners (six observations in total). The issues raised are largely covered by the grounds of appeal with the exception of the following:

- The submission from Began Properties was accompanied by an ‘Engineers Report’ prepared by Malone O’Regan dated May 2020,
- Excessive density,
- Traffic congestion and road safety concerns,
- Public health/fire safety concern given the presence of two oil depots in the vicinity,
- The proposed development should not have an adverse impact on the development potential of the site to the south of the entrance given the proximity of the proposed entrance to the north and the entrance to Auburn Court (sic) to the south.

3.4.2. Further submissions were made by Peter & Anne Morrissey on both the further information and clarification of further information responses. The issues raised were similar to those set out in the original submission to the planning authority.

4.0 Planning History

4.1. There have been two previous recent applications on site:

P.A. Reg. Ref. 17600223 – An application to demolish seven buildings, alter and extend two buildings to provide a creche, gymnasium and indoor children’s play facility, construct 12 no. apartments in a two-storey building, 33 no. houses and a revised entrance from the public road was withdrawn in 2018 (a significant further information submission proposed demolition of all existing structures and construction of 44 no. houses).

P.A. Reg. Ref. 18601311 / ABP Reg. Ref. ABP-304395-19 – An application was refused in 2019 for demolition of the existing buildings and construction of 35 no. houses because the development, in terms of its density, layout and design would represent an inappropriate development response for the site, would be contrary to national guidelines and policy, would seriously injure the amenities of future occupants and would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. South Tipperary County Development Plan 2009-2015 (as varied)

- 5.1.1. This Plan is in place until such time as a single County Development Plan is prepared for Tipperary subsequent to the preparation of the Regional Spatial and Economic Strategy. Section 1.6 (Relationship with Town Development Plans) states that Town Development Plans, including the Clonmel and Environs Development Plan 2013-2019, will remain the statutory plans for these areas until a review and preparation of local areas plans for these towns take place.

5.2. Clonmel and Environs Development Plan 2013-2019

- 5.2.1. The site is in an area zoned '01 – Residential; To preserve and enhance existing residential amenity including avoiding excessive overlooking, reduction in general safety and the reduction in the general usability and security of existing public and private open space'. Residential development is cited as permitted in principle in the Land Use Zoning Matrix.
- 5.2.2. Chapter 6 (Housing) and Chapter 9 (Development Management Guidelines) are particularly relevant to this application.

5.3. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and the Urban Design Manual (2009)

- 5.3.1. These guidelines are relevant to the application. Circular Letter NRUP 02/2021 is also of note.

5.4. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2018 (Updated 2020)

- 5.4.1. These guidelines are relevant to the application.

5.5. Urban Development and Building Heights Guidelines for Planning Authorities (2018)

- 5.5.1. These guidelines are relevant to the application.

5.6. Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities (2021)

- 5.6.1. These guidelines are relevant to the application. In particular, the condition restricting all houses and duplex units permitted to first occupation by individual purchasers, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing

5.7. Natural Heritage Designations

- 5.7.1. The closest heritage area is the Natura 2000 site Lower River Suir SAC (Site Code 002137) approx. 750 metres south of the site.

5.8. EIA Screening

- 5.8.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 5.8.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
 - Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, 'business district' means a district within a city or town in which the predominant land use is retail or commercial use).
- 5.8.3. It is proposed to construct 61 no. residential units. The number of dwellings proposed is well below the threshold of 500 no. dwelling units noted above. The site has an overall area of 1.67 hectares and is located within an existing built up area but not in a business district. The site area is therefore well below the applicable threshold of 10 hectares. The site is a derelict brownfield site in a mixed-use area. The introduction of a residential development would not have an adverse impact in environmental terms

on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage, the proposed development is not likely to have a significant effect on any European Site as per Section 7.7 (Appropriate Assessment (AA)), below, and there is no hydrological connection present such as would give rise to significant impact on nearby water courses, whether linked to any European site or other. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Tipperary County Council, upon which its effects would be marginal.

5.8.4. Having regard to:

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 (Infrastructure Projects) of Schedule 5 Part 2 of the Planning and Development Regulations, 2001 (as amended),
- The location of the site on lands that are zoned for 'Residential' uses under the provisions of the Clonmel and Environs Development Plan 2013-2019,
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

Third party appeals have been received from Peter & Anne Morrissey, St. Barbara, Thomas Street (the opposite side of the street from the site) and Began Property, 18

Market Street, Clonmel (landowner to the north of the site on the opposite side of the railway line). The main points made in each appeal can be summarised as follows:

6.1.1. Peter & Anne Morrissey

- Not opposed to the development in principle but have serious concerns about the unsatisfactory design of the three storey apartment building fronting Thomas Street.
- Change to this building could be achieved without reducing the overall number of units while improving open space and eliminating at least one awkward corner. The development as proposed contravenes Section 6.4 of the Clonmel & Environs Development Plan 2013 as it does not adequately integrate with its surrounding context or have regard to the character of the area. Three storey townhouses with an appropriate set back would be an appropriate design solution, would improve the housing mix and deliver a high quality development in line with Section 6.3 of the Development Plan.
- The proposed building results in poor presentation to Thomas Street because of the four balconies at first floor level and no landscaping or screening. Thomas Street is heavily trafficked, and the amenity of these balconies would be diminished as set out in Section 9.12.2 of the Development Plan. Good design would see balconies located on the eastern elevation, away from the street.
- Front facing balconies would allow for direct overlooking of the appellants' front garden and internal living space.
- The unsatisfactory elements of the proposed development must be addressed. An amended design addressing these concerns would be a satisfactory remedy. If it beyond the remit of the Board to require an amended design, the Board is requested to refuse permission.

6.1.2. Bekan Property

- The foul and surface water services serving the appellant's property run through the application site. The services serving Tesco run through the appellant's property before connecting to the existing services on the application site. Tesco has a wayleave through the appellant's property entitling it access to maintain services. Services serving Supermac's run through the appellant's

property before connecting to the existing services on the application site and the appellant has the responsibility to maintain services to Supermac's. The appellant has the responsibility to maintain services to Mr. Price. The appellant also has the responsibility to permit access to ensure the maintenance of the services which connect Teagasc to the public mains which ultimately connect into the application site.

- No objection in principle to the development. Submissions were made on the previous applications expressing concern over the lack of detail and assurances in respect of foul and surface water services. The Board Inspector under ABP-304395-19 noted it was unfortunate Irish Water had not responded to a referral request. The appellant considers that its position in terms of maintaining ongoing servicing of its property and neighbouring property has not been adequately safeguarded.
- It would have been appropriate for the applicant to have engaged with Irish Water in advance of submission of this application. The planning authority sought the same further information as in previous applications and got the same incomplete response. Condition assessment reports in respect of foul and storm sewers were not submitted. The further information response was not referred to Irish Water. There was no professional engineering input to assess existing or proposed infrastructure.
- Sewers traversing the appellant's property are ducted under the railway line. A Planner's Report under 18601311 refers to a combined sewer on site which has to be diverted while correspondence from Clonmel Borough Council in 2004 refers to separate foul and surface water sewers on site connecting to a combined sewer on Thomas Street. Whether it is separate or combined sewers which require to be diverted remains unconfirmed and would require a condition survey to determine.
- The Planner's Report for 18601311 states that matters relating to diversion and protection of the sewer(s) are matters between the applicant and Irish Water. However, if it is a combined sewer, it is a matter for the local authority and Irish Water.

- The planning authority's Condition 3 attempts to address the issues of the location and condition of the surface water sewers and to provide for protection, maintenance, and wayleaves. However, if it is a combined sewer the condition cannot be complied with.
- The planning authority's Condition 7 attempts to ensure no development commences until Connection and Diversion Agreements have been reached with Irish Water in relation to wastewater. Again, if there is a combined sewer it is unclear where the shared responsibility lies. Notwithstanding, the planning authority cannot enforce a condition which requires agreement between an applicant and an outside agency. No permission should be granted until it is established what services exist, their condition and their capacity.
- The planning authority's Condition 11 appears to give the applicant/developer licence to modify surface or foul water infrastructure as it sees fit. Given the uncertainty, the condition is inappropriate. The modifications which could be facilitated have the potential to impact the appellant's property. The appellant will not be aware of such modifications and will have no opportunity to seek alterations to such modifications. In the case of storm and foul drainage, detail will be agreed with Irish Water who may have very little knowledge of potential impacts upstream. The condition allows an inappropriate degree of latitude which could have serious adverse impacts on the appellant.
- The planning authority's Condition 17 assumes there are no combined sewers.
- It is unclear whether the planning authority's Condition 24 includes for the protection and maintenance of existing surface water and foul sewers prior to being taken in charge. It is unclear whether Irish Water is a party to the proposed 'tri-party' bond agreement. If not, it is unclear how services will be safeguarded in the event of an issue preventing the applicant/developer from providing or completing services or disconnecting services.
- The Board is requested to either obtain the necessary information to address concerns raised and allow the appellant to comment, or overturn the planning authority's decision.

6.2. Applicant's Response

The applicant submitted responses to both grounds of appeal. These can be individually summarised as follows:

6.2.1. Peter & Anne Morrissey

- The development will provide for an animated street frontage providing entrances at ground floor and terraces at first floor. The street is a mixed-use urban street. The applicant does not accept the scheme will result in poor presentation to the street and believes it will enhance this part of the street.
- The 'balconies' are generous west facing terraces providing a higher amenity value than the alternative of east facing balconies to the rear.
- Private open space is generally considered as space to the rear of a property. Notwithstanding the location on a busy street, the submitted drawing clearly shows the front garden, not normally considered private space, will not be overlooked. The separation distance between the buildings is 26 metres. The applicant does not accept the development will 'seriously injure the residential amenity and quiet enjoyment' of the house or its front garden.

6.2.2. Bekan Properties

- The refusal of the previous application was on grounds of density only.
- There is no legislation requiring a letter from Irish Water prior to lodging a planning application. It is evident from the development plan that there is spare capacity in the foul and mains water. The developer is obliged to apply to Irish Water for a connection agreement and a self-lay agreement. The process involves a separate bond payable to Irish Water and the engaging of the on-site field engineer representative of Irish Water who will supervise all foul sewer and mains water works on site, as well as any diversions or connections to their assets.
- The planning authority comprehensively addressed in the conditions all other concerns raised by Bekan Properties.

- As the issues raised are similar to their previous appeal, and the pipe network has not changed, the response to the original appeal answers all queries currently raised.
- The applicant's response includes a copy of the appeal from Began Properties under ABP-304395-19, including an engineering report that accompanied that appeal and a copy of the applicant's response to the Board comprising of a report prepared by Michael Murphy Consulting Engineer dated 11.06.2019.

6.3. Planning Authority Response

The main points made can be summarised as follows:

- The points made in the grounds of appeal were fully considered in the assessment of the application.
- The design is an acceptable response to the challenges presented.
- The planning authority is satisfied that the proposals and measures contained in the Civil Engineering report submitted as part of the further information response deal with some of the concerns raised. The report identifies a foul sewer to be diverted and a separate surface water sewer. Proposals to protect the sewers and ensure continuity of service were provided.
- Condition 11 is to provide a degree of flexibility to allow for construction tolerances.
- The security required under Condition 24 includes drainage services.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Reports, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning
- Density
- Site Layout and Design
- Impact on Adjacent Amenity
- Site Services
- Daylight and Sunlight
- Appropriate Assessment (AA)

7.1. Zoning

- 7.1.1. The proposed development is located in an area zoned for residential use. Residential development is permitted in principle under this zoning in the Clonmel and Environs Development Plan 2013-2019. The principle of development is therefore acceptable, subject to the detailed considerations below.

7.2. Density

- 7.2.1. The previous application on site was refused, inter alia, because it was considered that the development of 35 no. units on a 1.67 hectare site, a density of approximately 21 no. units per hectare, would represent an inappropriate design response for this brownfield site close to the centre of Clonmel.
- 7.2.2. 61 no. residential units are proposed in the current application. This is a density of approximately 36.5 units per hectare. Policy HSG 3 (Urban Densities) in the Clonmel & Environs Development Plan 2013-2019 states it is policy to encourage a range of densities and housing types and styles having regard to neighbouring developments, the urban form of the town and the objectives of proper planning and sustainable

development. No specific densities are set out in the Plan for development in areas such as this. Under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), the site can be considered as an inner suburban/infill development.

- 7.2.3. As set out in Section 7.2.4 (f) of the Inspector's Report for ABP-304395-19 and the 2009 Guidelines, having regard to the site location, the level of services provided within the town and the efficient use of land, a density range of 35-50 units per hectare is appropriate. Therefore I consider the proposed density to be acceptable.

7.3. Site Layout and Design

- 7.3.1. The grounds of appeal from Peter & Anne Morrissey include reference to the layout and design of the development, specifically the area fronting onto Thomas Street.

Site Layout

- 7.3.2. The proposed site layout is significantly different to the most recent application on site in terms of vehicular access, road network, public open space locations etc. The existing vehicular access point on site is retained with two no. three storey duplex apartment blocks to the front/west; Block 1 addressing Thomas Street and Block 2, perpendicular to Block 1, overlooking an open space and car parking area facing in a southerly direction. Two-storey terraced houses are located in the central and eastern/rear area of the site constructed along the site boundaries and generally addressing a relatively central public open space area. The layout of the housing area was considered acceptable by the planning authority and was not raised as an issue in the grounds of appeal, or in the submissions received by the planning authority. I consider the housing area in the central and eastern part of the site to be acceptable. I note the District Engineer made a number of observations relating to the positions of features such as pedestrian crossings and speed cushions and also to public lighting. I consider these issues of detail can be addressed by way of compliance conditions should permission be granted.

Design

- 7.3.3. Blocks 1 and 2 are similar in terms of design. They are three storeys in height with relatively shallow, metal, mono-pitch roofs and external finishes in a mixture of render and brick. I consider the two blocks to be acceptable in terms of design.

- 7.3.4. The proposed houses are two storeys in height, externally finished in render with blue/black tiles and have recessed ground floor entrances. Fenestration is proportionate to the houses. There is some variation in the overall design of the houses but there is a consistency in design throughout. I consider that House Nos. 1, 13, 30, 31, 38, 39, 41 should have an improved dual aspect design given their positions overlooking public areas of the site i.e. roads and/or open space. Drawing No. 1985(PD)104B 'Proposed Siteplan Boundary Types' shows the boundary to all of these houses (bar No. 31) to be a 2 metres high block wall so ground floor gable windows would be of limited value for passive surveillance. These alterations can be addressed by way of a compliance condition in the event of a grant of permission.
- 7.3.5. The area of the site addressing Thomas Street is the main concern in the grounds of appeal from Peter & Anne Morrissey. Block 1 is a duplex block with 4 no. ground floor one bedroom apartment units accessed from the east elevation and 4 no. two bedroom units at first and second floor level with first floor balconies overlooking Thomas Street. The duplex units are access from the Thomas Street elevation. Private open space for the ground floor units is located to the eastern/access side of the units. There is a landscaped privacy strip approx. 3 metres long fronting onto Thomas Street separated from pedestrians on the footpath by a 1.8 metres high low brick wall and steel railing. This can be seen in Photomontage 02.
- 7.3.6. It is unclear how Ground Floor Unit 48 is accessed. It cannot be accessed from the east because that would involve crossing the private open space area of No. 46. The alternative means of access appears to be through the refuse store adjacent to the north which is obviously not acceptable. Therefore, it appears from the drawings submitted that this unit cannot be adequately accessed. I consider revised drawings are required to ensure adequate access to No. 48 which may involve an alternative location for the bin store to serve Block 1. This can be addressed by way of a condition.
- 7.3.7. All units in duplex Block 2, perpendicular to the north east of Block 1, are accessed from the southern elevation. The balconies for the upper level units are at first floor level facing south. The ground floor units have their open space areas to the north. These private open space areas are in excess of 30sqm.
- 7.3.8. The appellants suggest that townhouses could be provided in lieu of Block 1, set back from Thomas Street. There is no reference to how this would affect Block 2 or the

remainder of the overall site which would have to be significantly altered to make up any shortfall in the number of units that would occur. No layout plan showing the implications of the alternative suggestion has been submitted.

- 7.3.9. Notwithstanding, this application is assessed on the development as approved by the planning authority. In this case I consider that Block 1 is appropriate at this location on the streetscape. The area is a mixed-use area with an undeveloped site adjacent to the south and residential development further to the south. There is an oil depot adjacent to the north and a three-storey building in use as a restaurant adjacent to that. On the opposite side of the road there is small commercial area and two houses set back behind relatively high front walls (one of which is the appellants and the other appears to be occupied by an architecture practice). Therefore, the proposed development would not, in my opinion, have any adverse impact on the streetscape or the character of the area. Given the proximity of the site to the town centre I consider Block 1 would bring an urban edge to the site, would increase passive surveillance of the public road and street and the boundary treatment proposed would add to the street while achieving privacy to the occupants of the ground floor units.

Conclusion

- 7.3.10. I consider that the site layout as approved by the planning authority is generally acceptable subject to provision of dual frontage houses. Having regard to the specific issue raised in the grounds of appeal in relation to design, I consider proposed Block 1 to be an acceptable design solution to the Thomas Street edge of the site.

7.4. Impact on Adjacent Amenity

- 7.4.1. The grounds of appeal from Peter & Anne Morrissey consider that Block 1 would result in overlooking onto the front garden of their property on the opposite side of Thomas Street and into the interior of the house.
- 7.4.2. The four balconies at first floor level on Block 1 are approx. 17 metres from the front boundary of the appellants' property and approx. 26 metres to the existing house. The front wall of the appellants' house is also relatively high. I do not consider there will be any undue overlooking onto this property. Block 1 is located within the built-up urban area and an urban edge to the site is appropriate. It is inevitable that there would be windows and/or balconies on this elevation and these would directly overlook the

public footpath and road, increasing passive surveillance of the public area, with limited overlooking potential on the other side of the road. I do not consider undue overlooking would occur to the appellants' property.

- 7.4.3. There is a discrepancy between the floor plan and elevation drawings of Block 1. The floor plans show only one north elevation window at first floor level. The elevation drawing shows one at both first and second floors. I have no issue with a second floor window, but I consider the window(s) should have opaque glazing. Block 2 is positioned approx. 4.4 metres from the boundary with Jones Oil. All rear/north elevation windows at first and second floor levels serve stores/WCs/halls/bathrooms. These can be fitted with opaque glazing so the future development potential of the adjacent property would not be adversely affected by overlooking issues.
- 7.4.4. House Nos. 1-12 have their back garden areas adjacent to the Jones Oil site. I do not consider this line of houses would have any undue adverse overlooking impact on the adjacent property or affect any future redevelopment of that property. House Nos. 13-30 back onto the railway line so there is no issue along this boundary. House Nos. 31-41 are located along the southern boundary and back onto existing houses in Cúirt an Rí and Sweetbriar. There are varying separation distances between the proposed houses and the site boundary, ranging between approx. 9 metres and approx. 18 metres. I do not consider there would be any undue adverse impact on properties to the south in terms of overlooking, notwithstanding the proposed increase in ground levels in this area of the site.
- 7.4.5. Given the relatively limited proposed heights, the nature of the existing land use to the north (oil depot and railway), the site location to the north of the closest housing developments and the separation distances involved, I consider there will be no impact on adjacent property in terms of shadowing or overbearing impact.
- 7.4.6. I do not consider the proposed development would result in any adverse impact on adjacent amenity including the property owned by the appellants on the opposite side of Thomas Street.

7.5. Site Services

- 7.5.1. The grounds of appeal from Began Properties relates to the foul and surface water services on site and how the proposed development would affect these as they are

culverted under the railway line into the appellant's landholding to the north. The issues are similar to those set out under the previous application on site.

- 7.5.2. A surface water site layout was submitted showing the proposed surface water system discharging, via attenuation in front of Block 2, to a surface water sewer on Thomas Street. A wayleave is shown on the surface water site layout from the open watercourse to the south of the site between Cúirt an Rí and Sweetbriar, through the site in a straight line, to the corner of the site west of No. 13. This is the Old Boulic Stream; the main diverted stream now runs parallel to the bypass according to the submitted Flood Risk Assessment. It appears the wayleave relates solely to this culverted watercourse which comprises three no. 900mm diameter pipes. Most of the surface water currently generated by the site discharges to this stream. This will be diverted to the public system by the proposed development. The wayleave is labelled on the drawing as 'Wayleave here to be undeveloped. Underground services running to adjoining site as indicated'. Services 'running to the adjoining site' consists of a foul/combined sewer which does not conflict with the wayleave. (There appears to be conflicting information as to the precise nature of the sewer. The reports generally cite it as a foul sewer, but the drawings indicate a combined sewer). Among the documents submitted was a 'Civil Engineering Report'. The applicant states they have to raise part of the site to allow flow by gravity to the foul sewer on Thomas Street. The Report states that there is an existing combined sewer running from the Powerstown Centre under the railway, through the site and discharging to the existing combined sewer on Thomas Street. This combined sewer will be diverted at the same grade as existing to discharge to the combined sewer on Thomas Street. The old sewer will be replaced, increasing the flow characteristics. This appears to be the sewer subject of the grounds of appeal from Began Properties. The existing sewer would conflict with the position of housing proposed on the west side of the southern boundary. The appellant considered, in their submission to the planning authority, that the proposals do not appear to have sufficient regard to the services serving its property and it has not been clearly indicated how they will be safeguarded and maintained at all times by the local authority, including during construction. This includes issues relating to the impact of the raising of site levels, design of the road make-up over the services, wayleaves, condition of the existing network and protection of services. Item 9 of the further information request was based on issues raised in the submission.

- 7.5.3. A Civil Engineering Report Further Information document was received in response to, among other further information items, Item 9. The response states that a wayleave arrangement will be put in place over the diverted foul sewer if necessary and outlines construction specifications and practices to both that sewer and the culverted watercourse. The planning authority considered the response in relation to the foul sewer to be acceptable and noted that a condition assessment of the existing sewer was not required because it was being replaced. After a clarification of further information request and response, permission was granted by the planning authority.
- 7.5.4. The appellant's concern relates to the existing foul and surface water services on site, which are taken in charge and which serve its landholding. Dedicated, separate foul and surface water sewers are proposed to serve the development, and these would discharge to separate sewers on Thomas Street. An existing watercourse, the Old Boulic Stream, is culverted across the site and is unaffected by the proposed development. An existing sewer traversing the site, which has been taken in charge, services land to the north and discharges to a third, combined sewer on Thomas Street. It is proposed to divert this sewer to accommodate the proposed development in order to remove it from the footprint of proposed housing and the diverted sewer follow the same alignment under the internal roads as the proposed surface water and foul sewers. The applicant has set out how this sewer would be protected and constructed. I consider any works to it is ultimately a matter for the relevant authority, whether Tipperary County Council or Irish Water. I do not consider it a matter for the Board, in this application, to get involved in how the specific technical aspects of diverting a taken-in-charge sewer is carried out, or supervised, by the relevant authority. Overall I consider that this is a standard construction development and I consider adequate information has been submitted in order for a decision to be made.
- 7.5.5. In conclusion, as I consider that the basic principle of the diversion of the existing sewer on site is acceptable, I do not consider that there is a concern from a planning perspective in terms of site services. Standard conditions should be applied.

7.6. Daylight and Sunlight

- 7.6.1. The planning application does not contain documentation relating to the impact of the proposed development in terms of daylight and sunlight and it has not been referenced

in the grounds of appeal or observations received by the planning authority. Notwithstanding, it is an issue to be considered in applications for multi-unit residential development.

- 7.6.2. Section 3.2 of the Urban Development and Building Heights Guidelines (2018) states that ‘The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light’. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like BRE ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’.
- 7.6.3. Neither the Clonmel and Environs Development Plan 2013-2019 nor the South Tipperary County Development Plan 2009-2015 (as extended) make specific reference to either of these guidance documents. Section 9.9 (Multi Unit Residential Developments) of the Clonmel and Environs Development Plan 2013-2019 states, in terms of design, that ‘All proposed residential units will attain high standards of ... daylight analysis ...’ Section 9.12.2 (Private Open Space for Apartments) states that ‘Private open space at ground floor level should receive some sunlight ...’. Other relevant reference to daylight and sunlight is in the context of domestic extensions.
- 7.6.4. Having regard to the site layout, the relatively low density proposed, the low-rise nature of the development where the highest buildings are the two three-storey duplex apartment blocks, and, critically, the fact that each individual unit has dual aspect at a minimum, I consider the daylight and sunlight requirements set out in the Clonmel and Environs Development Plan 2013-2019 are achieved. Therefore, I consider appropriate daylight and sunlight standards would be achieved for future occupants. Given the low-rise nature of the proposed structures, the primarily commercial nature of adjoining land uses to the north and north west, and the location of the closest residential properties to the south of the site I do not consider there would be any undue shadowing impact on any adjacent property as a result of the proposed development.

7.7. Appropriate Assessment (AA)

Compliance with Article 6(3) of the Habitats Directive

- 7.7.1. The requirements of Article 6(3) of the Habitats Directive, as related to screening the need for appropriate assessment of a project under Part XAB, Section 177U of the Planning and Development Act, 2000 (as amended) are considered fully in this section.

Background on the Application

- 7.7.2. A screening report for Appropriate Assessment was not submitted with this application/appeal case. Therefore, this screening assessment has been carried out de novo.

Screening for Appropriate Assessment – Test of Likely Significant Effects

- 7.7.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European Site(s).
- 7.7.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European site.

Brief Description of the Development

- 7.7.5. The development comprises the demolition of existing buildings (2,550sqm), construction of 61 no. dwellings (41 no. houses and 20 no. apartments in 2 no. three-storey blocks) and connection to services, car parking, roads, open space etc.
- 7.7.6. The site is an urban brownfield site within the built-up area of Clonmel. There is residential development to the south, primarily commercial development to the west and north west and a railway line to the north.
- 7.7.7. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- Construction related – uncontrolled surface water/silt/construction related pollution.

- Habitat loss/fragmentation.
- Habitat disturbance/species disturbance (construction and/or operational phases).

Submissions and Observations

7.7.8. None relate to impact on Natura 2000 sites.

European Sites

7.7.9. The development site is not located in or immediately adjacent to a European site. The closest European site is the Lower River Suir SAC (Site Code 002137) approx. 750 metres south of the site.

7.7.10. The next nearest European sites are Nire Valley Woodlands SAC (Site Code 000668) approx. 9.4km to the south and Comeragh Mountains SAC (Site Code 001952) approx. 10.5km to the south east. Given the distances involved, the location on the opposite side of the built-up urban area, changes in ground levels and absence of an ecological or hydrological link the exclusion of these site from further consideration is reasonable.

7.7.11. Therefore, the only Natura 2000 site within a possible Zone of Influence is presented in the table below.

Summary of European Sites within a possible zone of influence of the development

European site (Code)	List of Qualifying Interest/Special Conservation Interest	Distance from Proposed Development (km)	Connections (source, pathway, receptor)	Considered Further in Screening Y/N
Lower River Suir SAC (002137)	Atlantic salt meadows [1330] Mediterranean salt meadows [1410]	Approx. 0.75km	Possible hydrological	Yes

	<p>Watercourses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachium vegetation [3260]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior [91E0]</p> <p>Taxus baccata woods of the British Isles [91J0]</p> <p>Freshwater Pearl Mussel [1029]</p> <p>White-clawed Crayfish [1092]</p> <p>Sea Lamprey [1095]</p> <p>Brook Lamprey [1096]</p> <p>River Lamprey [1099]</p> <p>Twaite Shad [1103]</p>			
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	Salmon [1106]			
	Otter [1355]			

Identification of Likely Effects

- 7.7.12. The conservation objectives of the SAC are set out in the ‘Conservation Objectives Series Lower River Suir SAC 002137’ document published by the National Parks & Wildlife Service (NPWS). They are to maintain or restore favourable conservation condition.
- 7.7.13. There are 15 no. qualifying interests in the SAC. Given the urban location of the proposed development I consider a number of these qualifying interests can be omitted from assessment initially. The Atlantic salt meadows [1330] on Map 3 of the Conservation Objectives Series document are located east of Waterford city approx. 45km away. Map 4 shows two areas of Old sessile oak woods [91A0] with one of them approx. 3.5km away to the south east. Map 5 identifies the closer of the two downstream alluvial forests [91E0] approx. 25km away. Map 6 shows the Freshwater Pearl Mussel [1029] catchment area (Clodiagh Catchment) east of Portlaw, Co. Waterford. Given the nature and location of the proposed development I do not consider there would be any impact on these habitats and species.
- 7.7.14. The Mediterranean salt meadow [1410] is a coastal habitat and, according to the ‘Habitat area’ for this habitat in the Conservation Objectives Series document it ‘was not recorded in Lower River Suir SAC during the Saltmarsh Monitoring Project ...’ The *taxus baccata* woods [91J0] is known to occur at Cahir Park, upstream, though it has not been mapped in detail in the SAC. Therefore, I do not consider the development would have any impact on these habitats.
- 7.7.15. The habitat area for water courses of plain to montane levels [3260] states that little is known of the habitat’s distribution or its sub-types in the SAC. It is stated in the Conservation Objectives Series document that ‘The uncommon, protected opposite-leaved pondweed (*Groenlandia densa*) was recorded in the SAC from floodplain ditches of the Suir near Carrick-on-Suir and Clonmel...’ River flow is required for this habitat. The proposed development would have no impact on this. Also not mapped in detail is the hydrophilous tall herb fringe communities [6430]. They are terrestrial

habitats and, given the urban location of the proposed development, I do not consider there would be any impact on this habitat.

7.7.16. The white-clawed crayfish [1092] occurs extensively on the Suir and on many of its tributaries. Its distribution is shown on Map 7 of the Conservation Objectives Series document. Sea lamprey [1095] have little success in passing the weirs at Clonmel. The proposed development would have no impact on this. Artificial barriers are also referenced as concerns in relation to the brook lamprey [1096], river lamprey [1099], twaite shad [1103] and salmon [1106]. Terrestrial otter habitat is along the shoreline, and they tend to forage within 80 metres of the shore. Given the extent of otter [1355] within urban areas they are habituated to human activity.

7.7.17. Construction related – uncontrolled surface water/silt/construction related pollution –

The site is a residentially zoned, brownfield site located within the built-up urban area where the surrounding land uses are a mix of residential, commercial and transportation. There is a culverted stream, the Boulic, running in a general north-south direction under the site. The proposed development would have no interaction with this watercourse. It is stated in the application documentation that most of the surface water currently generated by the site discharges to this stream. All surface water from the proposed development would be diverted to the public system. No hydrological link is shown on the Ordnance Survey or NPWS websites between the Boulic at this location and the Suir. However, a hydrological connection is shown on the Environmental Protection Agency website between the watercourse and the River Suir. The connection appears to be largely culverted.

7.7.18. The 15 no. qualifying interests of the Lower River Suir SAC have been outlined in Sections 7.7.12-7.7.16. The development site is a zoned, urban, brownfield site and, notwithstanding the location of the Boulic, there is no direct inter-relationship or hydrological connection between the proposed development and the Boulic. The development site is approx. 750 metres from the River Suir. There would be no surface water discharge to the watercourse. A comprehensive Construction Management Plan should be submitted for written agreement with the planning authority prior to commencement of development. However, this would have been required as a central part of the development in any event, irrespective of there being a European site to consider.

- 7.7.19. In conclusion, given the lack of a hydrological connection between the proposed development and the Boulic and Suir, I do not consider there is any likelihood of the proposed development having a significant effect on the qualifying interests of the Lower River Suir SAC in terms of the potential for construction-related pollution on the River Suir.
- 7.7.20. Habitat loss/fragmentation – The development would not result in any loss or fragmentation to the habitat of the SAC.
- 7.7.21. Habitat disturbance/species disturbance – The development would not result in any undue disturbance to habitat or species during the construction or operational phases.
- 7.7.22. Cumulative Impacts – As the proposed development subject of the application will not affect the qualifying interests of the Lower River Suir SAC there are no projects that, together with the development, could affect the site. The proposed development is a stand-alone project, unrelated to any other development.

Mitigation Measures

- 7.7.23. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination

7.7.24. Finding of no likely significant effect

The proposed development was considered in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site No. 002137, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on the following:

- The site is not part of any Natura 2000 site, and it does not require any resources from, or interaction with, any Natura 2000 site. It is approx. 750 metres from the Natura 2000 site.
- An assessment of the proposed project.

- An assessment of in-combination effects with other plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Lower River Suir SAC.

8.0 Recommendation

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Clonmel and Environs Development Plan 2013-2019, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of the Environment, Heritage and Local Government in May 2009, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2018 (Updated 2020) issued by the Department of Housing, Planning and Local Government, the Urban Development and Building Heights Guidelines for Planning Authorities (2018) issued by the Department of Housing, Planning and Local Government, the Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities (2021) issued by the Department of Housing, Local Government and Heritage, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of zoning, layout and design and would not seriously injure the amenities of the area. 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 15th day of September 2020, 18th day of September 2020 and 5th day of November 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 proposed development shall be amended as follows:
 - (a) House Nos. 1, 13, 30, 31, 38, 39 and 41 shall be revised to provide appropriate dual aspect frontages.
 - (b) An appropriate means of access to Ground Floor Unit No. 48 in Block 1 shall be provided.
 - (c) There is a discrepancy between the floor plan and elevation drawings in the number of windows on the northern elevation of Block 1. Revised drawings showing consistency shall be submitted.

Revised drawings 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 visual and residential amenity.

3. All upper floor windows on the northern elevations of Blocks 1 and 2 shall have obscure glazing.

Reason: In the interest of the amenity of the adjoining property.

4. Details of the materials, colours and textures of all the external finishes to the proposed duplex blocks and dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. 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. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs,

(ii) Details of screen planting [which shall not include *cupressocyparis x leylandii*],

(iii) Details of roadside/street planting,

(iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) A timescale for implementation.

All planting 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 or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

6. A comprehensive scheme indicating heights, materials and finishes of all boundary treatments around the external site boundary and internally between individual houses and apartment units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. 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. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

8. If the development is to be carried out on a phased basis, detail of a phasing scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

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

Reason: In the interest of public health.

10. Proposals for an estate 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. Ducting shall be provided at all proposed house units to facilitate the installation of electric vehicle charging points. A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle (EV) charging stations/points and ducting shall be provided for all remaining car parking spaces to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the making available by the developer for occupation of any of the residential units in the proposed development.

Reason: In the interest of sustainable transport.

12.(a) 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 apartment unit 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.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

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. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;

(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

(i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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 1800 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.

16. 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.

17. The internal road network serving the proposed development including turning bays, junctions, parking areas, 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.

18. 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.

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 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.

20. 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, 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.

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 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.

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 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.

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.

Anthony Kelly

Planning Inspector

28.07.2021