



An
Bord
Pleanála

Inspector's Report

ABP-314224-22

Development	Demolition of existing house and the construction of 7 houses.
Location	Dungarvan Road , Clonmel , Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	211621
Applicant	Sean Murphy
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First and Third Party
Appellants	Sean Murphy Phil and Josephine O'Callaghan & Others
Observer(s)	None on file
Date of Site Inspection	30 th June 2023
Inspector	Sarah Moran

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1.0 Site Location and Description

1.1. The site is located in an existing established urban area on the southern site of Clonmel, Co. Tipperary, accessed via the Dungarvan Road R671. The area is predominantly characterised by residential development with neighbourhood services nearby to the east. The site has a stated area of 0.2292ha. It currently comprises an existing single storey, derelict dwelling situated close to the road frontage and a large, partially overgrown area to the rear which slopes steeply up from the road. There are mature trees at all site boundaries. The lands are bound as follows:

- Frontage to the Dungarvan Road at the northern site boundary.
- The Cascade Road L36714 runs along the eastern site boundary, serving several dwellings. The Cascade Stream runs on the eastern side of this laneway.
- A large, detached, two storey house and associated grounds to the south, which is accessed from Cascade Road.
- Another large dwelling and associated grounds to the west, accessed from the Dungarvan Road.

2.0 Proposed Development

2.1. Permission is sought to demolish the existing dwelling at the site and to construct seven no. two storey houses, with a new vehicular access from the Dungarvan Road. The development is to connect to the existing public sewer and water supply. The applicant states that the proposed dwellings are to function as retirement homes for older members of the local community. The applicant also sought a section 97 Part V Exemption Cert from Tipperary County Council.

2.2. The applicant submitted further particulars to the planning authority on 1st June 2022 in response to a further information request including:

- Design Impact Assessment;
- Details that the development is to comprise seven no. independent homes and it is not intended that it will be taken in charge.

- Part V Agreement in Principle issued by Tipperary County Council on 27th May 2022;
- Revised site layout to provide 15% public open space and 11 no. car parking spaces;
- Revised proposals for site entrance;
- Revised surface water management proposals;
- Proposals regarding treatment of a historic well at the site;
- Drawings of site boundaries;
- Details of proposed widening of the Cascade Road.

3.0 Planning Authority Decision

3.1. Decision of Tipperary County Council

- 3.1.1. The application was originally lodged with the planning authority on 5th November 2021. The planning authority issued a request for further information on 6th January 2021, as per the matters set out in the planning report of the same date as summarised below. The planning authority issued a notification of a decision to grant permission on 4th July 2022, subject to 21 no. conditions. Condition no. 2(a) of the permission requires the omission of dwellings nos. 1-3, to be replaced by public open space and condition no. 2(b)(iii) requires that units 4-7 be moved forward on site to provide a private open space area of minimum 48 sq.m. to the rear. The remaining conditions imposed do not require any other significant changes to the development. Condition no. 20 requires a special development contribution under section 48(20)(c) of the Planning and Development Act 2000 (as amended), to be agreed between the developer and the planning authority, towards the costs of providing additional surface water infrastructure to serve the development. Condition no. 21 requires the applicant to enter into a section 47 agreement restricting all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The following points are noted from the report of the Senior Executive Planner dated 6th January 2022:

- Discussion with the Area Engineer confirms that sight distances of 45m can be achieved from a setback of 2.4m at the proposed access from the Dungarvan Road. This is acceptable for an urban area with regard to DMURS section 4.4.5. However, a revised access layout is necessary to address the potential conflict with the existing access to the west of the site.
- There is a shortfall of two no. car parking spaces to meet development plan requirements.
- The proposed central open space will not meet the development plan requirement for 15% public open space as it will primarily function as a vehicular circulation area.
- The development includes the rear elevations of houses facing the Dungarvan Road. This should be revised.
- The applicant's application for a Part V section 97 Exemption Cert was refused, therefore Part V proposals are required.
- Recommends a further information request on matters relating to the nature of the proposed retirement use; whether the development is to be taken in charge by the local authority; Development Impact Assessment is required in accordance with section 9.10 of the Clonmel and Environs Development Plan; revised site access to address concerns raised by the Area Engineer; revised parking provision; revised public open space provision to meet development plan requirements; details of dwelling floor areas and private open space provision; recommended omission of units 1-3; revised proposal to address rear elevations facing the Dungarvan Road; revised layout to include adequate footpath provision; surface water details to address matters raised by the Area Engineer; outline proposals to protect the existing well at the site during construction; details of existing and proposed boundaries and boundary treatments; refuse

auto track layout; proposals for a road flexible pavement design; proposals for widening of Cascade Road; proposals for compliance with Part V.

The second report on file of the Senior Executive Planner, dated 4th January 2022, recommends permission subject to conditions, including the omission of dwellings nos. 1-3.

3.2.2. Other Technical Reports

The following points are noted from the report of the Senior Executive Engineer dated 23rd December 2021:

- The proposed access from the Dungarvan Road will achieve sight distances of c. 19m to the west and c. 49m to the east from a 4.5m setback. The distance to the west is considerably less than the 45m required by DMURS. There is a potential conflict with the existing entrance to the west.
- The demolition of the existing house at the site creates an opportunity to widen the Cascade Road at this location, this should be discussed with the Area Engineer.
- The proposed sliding gate at the site access is unacceptable if the development is to be taken in charge.
- The proposed car parking provision of 9 no. spaces is inadequate with regard to development plan car parking standards.
- Autotrack details of access for a refuse truck are required.
- Revised surface water drainage proposals are required.
- 1957 maps indicate an old well at the site, known as Meaney's Well, this should be protected during the construction stage of development.
- Recommends refusal in relation to the above issues.

There is an AA Screening Report on file dated 5th January 2021, which concludes that AA is not required.

3.3. **Prescribed Bodies**

3.3.1. No submissions on file.

3.4. Third Party Observations

- 3.4.1. The planning authority received three no. submissions from local residents, which objected to the development on grounds similar to those summarised below as the grounds of the third party appeal.
- 3.4.2. The applicant published revised notices of the proposals submitted as further information. The above named current third party appellants made a second submission, which raised similar concerns to those summarised in the grounds of appeal.

4.0 Planning History

- 4.1. None on file.

5.0 Policy Context

5.1. National Planning Policy

- 5.1.1. The following national planning policy documents are noted:
 - Project Ireland 2040 National Planning Framework
 - Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009)
 - Circular Letter NRUP 02/2021
 - Regulation of Commercial Institutional Investment in Housing - Guidelines for Planning Authorities (May 2021)
 - Design Manual for Urban Roads and Streets (DMURS) (2013)
 - The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)

5.2. Clonmel and Environs Development Plan 2013 (as extended)

5.2.1. The site is within the boundary of the Clonmel and Environs Development Plan (CEDP). The 2103 development plan remains in effect pending its current review and the final adoption of the Draft Clonmel Local Area Plan 2024-2030.

5.2.2. The development site is zoned Residential under the development plan, with the following stated objective:

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.

The following related policy objectives are also noted:

Policy HSG 2: New Residential Development It is the policy of the Council to facilitate sustainable residential development on new residentially zoned lands subject to the policies and relevant criteria set out in this Plan being satisfied. Where Part V of the Planning and Development Acts 2000 – 2013 applies the application must also be supported by a Development Impact Assessment (DIA) (see Section 9).

Policy HSG 3: Urban Densities It is the policy of the Council 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 in order to provide a balanced pattern of house types throughout the town and within developments.

Policy HSG 4: Residential Amenity It is the policy of the Council to seek the provision and suitable management of Local Area's for Play and Local Equipped Areas for Play in new residential developments in accordance with the criteria set out under Chapter 9 Development Management. All new residential development will be required to comply with the amenity/open space standards set out under Chapter 9 Development Management.

Policy HSG 9: Nursing Homes/Retirement Villages It is the policy of the Council to encourage and facilitate the sustainable development of nursing homes and retirement villages on appropriately zoned land. All proposals will comply with the Development Management Standards set out in Section 9.

5.2.3. Chapter 9 of the plan sets out development management standards. The following points are noted in particular:

- All proposals for new development must have regard to, and where necessary demonstrate compliance with, the Flood management & Mitigation Measures contained within the attached SFRA (Volume 2) and the River Suir CFRAM (when available).
- Provision of at least 15% of the site area for public open space. Integration of buildings and public amenity areas to ensure overlooking and passive supervision. Provision of pedestrian and cycle linkages within and without the site. Existing vegetation such as hedgerows, trees and natural features shall be retained and incorporated into the design where practicable. Emphasis will be on high quality usable spaces.
- Satisfactory mix of dwelling types including 1-2 bedroom units with direct access from ground level, extendable/flexible housing which can accommodate change over their life cycle, semi-detached and detached units, serviced sites and large detached units on generous plots etc, ensuring that a range and choice of building types, finishes and sizes are available.
- New residential development proposals (which are subject to the provisions of Part V of the Planning and Development Acts 2000 – 2013) shall be accompanied by a Development Impact Assessment (DIA) to be submitted at Planning Application stage.

Development plan section 9.4 states in relation to development contributions not relating to the adopted Development Contributions Scheme:

All permitted developments will be subject to the requirements of the relevant Development Contributions Scheme. Where specific exceptional costs not covered by the above are incurred, a special development contribution may be charged.

5.3. Natural Heritage Designations

5.3.1. The site is c. 0.1 km from the nearest relevant designated site, the Lower River Suir SAC (site code 002137).

5.4. EIA Screening

- 5.4.1. Having regard to the modest scale and nature of the proposed development being seven no. residential units on an infill site that has already been partially subject to development, I consider that the requirement for submission of an EIAR and carrying out of an EIA may be discounted at a preliminary stage.

6.0 The Appeal

6.1. Grounds of First Party Appeal

- 6.1.1. The applicant has appealed condition no. 2 of the planning authority decision, which omits houses nos. 1-3. The following points are noted from the appeal submission:
- Condition no. 2 is an unwarranted intervention into the design proposal and is outside the scope of a normal condition.
 - The design provides a compact dwelling with ground floor bedroom and optimum orientation and secondary accommodation for a nurse or family member on a visit. The layout encourages social contact and engagement with neighbours and a degree of interdependent care. The gated layout ensures a high degree of security.
 - The site is located in an accessible, serviced urban area and close to services and amenities. The use of a site at such a location should be maximised in accordance with national planning policy. The proposed development has a density of 30 units/ha.
 - The proposed dwellings effectively function as ground floor apartments and provide private open spaces in accordance with development plan policy. The outdoor communal open spaces provide amenity space and offer social opportunities for residents. The development is to be landscaped to a high standard.
 - The applicant is willing to accept a condition limiting the scheme to occupancy by retirees and to comply with Part V requirements and development contributions.

- The reduction in dwelling numbers to four no. units will make the scheme financially unviable, given the cost of demolishing the existing structure at the site and of ground works.
- The development will provide planning gain as Cascade Road is to be widened.
- It is submitted that a condition requiring an insurance bond is unnecessary as the development is to remain private and will not be taken in charge by the local authority.
- It is submitted that the special development contribution relating to surface water disposal is unreasonable. Adequate surface water infrastructure is available on site and the planning authority requires the special contribution to divert the surface water to an alternative location.
- Condition no. 21 requiring an occupancy restriction on dwellings is unreasonable as the site is zoned residential under the development plan. It is feasible that the sale of the dwellings may not be envisaged and that part sale or lease may be more advantageous to both the developer and to occupants.

6.2. **Grounds of Third Party Appeal**

6.2.1. The third party appeal is submitted by local residents. The following points are noted from the grounds of appeal:

- The appellants welcome the reduction in the number of dwellings from seven to four no. houses. However, they have not seen any drawings of the revised development and have no opportunity to comment on same.
- The development may potentially have a direct adverse impact on their property which adjoins the western site boundary.
- Ground levels within the site will be raised by c. 1m to facilitate the development. the existing hedge will be replaced by a 2m high boundary wall. This would result in a 3m high wall at the appellants' property. They have not been consulted by the developer about boundary treatments.

- The development includes a communal bin area adjacent to their property. This may result in odours and/or vermin if not maintained properly. Individual dwellings should not require a communal bin area.
- The appellants are concerned about the location of the proposed access from Dungarvan Road, which is too close to the access to their property. This will potentially result in a traffic hazard and conflicting vehicular movements. The location of the entrance might be better relocated to across the road from the existing housing estate opposite the site.

6.3. Applicant Response

6.3.1. None on file.

6.4. Planning Authority Response

6.4.1. The following points are noted from the response of the planning authority:

- The planning authority is satisfied that the proposed development, subject to the conditions imposed, would not have any adverse impact on the amenities of the property to the west of the site and would not present traffic issues or concerns.
- The decision to grant permission subject to the omission of houses nos. 1-3 is considered appropriate and the planning authority requests the Board to uphold this decision.
- The required special development contribution arises from the applicant's unsatisfactory surface water management proposals. The Area Engineer requires that surface water from the site must drain to an existing road gully located at the junction of the R671 Dungarvan Road and the L36717 and that the applicant's proposal to drain to the Auk stream were unacceptable. The Board is requested to uphold related condition no. 21.

6.5. Observations

6.5.1. None on file.

6.6. Further Responses

6.6.1. The third party appellants have submitted a further response to the above correspondence. The following points of same are noted:

- The site is close to a water course and is steeply sloping, located at the foot of the Comeragh Mountains. The proposal to raise the ground levels of the site could result in flooding of their property to the immediate east. The appellants have witnessed flooding at the area in the past.
- The development ignores an existing well at the development site.
- The development will result in the removal of an existing healthy Chestnut tree at the site.
- Repeats concerns about a potential traffic hazard at the site access. This is a very busy road close to local schools and residential areas. The development will result in severe traffic disruption.
- The appellants wish to attend an oral hearing of the appeal.

7.0 Oral Hearing Request

7.1.1. The submission on file of the third party appellants, in response to previous correspondence, dated 26th August 2022, states that they wish to attend an oral hearing of the appeal. In my opinion there is sufficient information on file to allow for a proper and full assessment of the case without recourse to an oral hearing, noting the limited scale of the development. I therefore do not recommend that an oral hearing be held in this case.

8.0 Assessment

8.1. I have read through the file documentation and the relevant provisions of the Clonmel and Environs Development Plan and have carried out a site inspection. The main issues are those raised in the grounds of the first and third party appeals. Overall, I am satisfied that no other substantive issues arise. The development is in accordance with the residential zoning of the site and the third party appellants do not object in principle to the proposed demolition and new residential development at

this location. The relevant issues can therefore be dealt with under the following headings:

- Density, Design and Layout of Residential Development
- Impacts on Visual and Residential Amenities
- Roads and Traffic Issues
- Site Services, Surface Water Drainage and Flooding
- Section 47 Condition
- Appropriate Assessment

These issues may be considered separately as follows.

8.2. **Density, Design and Layout of Residential Development**

8.2.1. The applicant has submitted a Development Impact Assessment (DIA), as required by the CEDP. The development comprises seven no. houses on a site measuring c. 0.22 ha, laid out around a central area of hardstanding. The issues of density, design and layout may be considered separately as follows.

8.2.2. Density

The development comprises a residential density of c. 30 units/ha, noting that the site does not contain any significant infrastructure or public open space serving the wider area. National planning policy guidance as per the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas applies. Section 5.9(i) of these Guidelines refers to infill development sites in suburban areas:

In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should set out the planning authority's views with regard to the range of densities acceptable within the area. The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc. ...

Section 5.11 of the Guidelines recommends residential densities between 35-50 units/ha at outer suburban or greenfield sites within cities and larger towns. Development at net densities less than 30 units/ha is generally discouraged in the interests of land efficiency, particularly on sites larger than 0.5 ha. Section 5.12 of the Guidelines also states that, in order to facilitate a choice of housing types, limited provision may be made for lower density schemes provided that, within a neighbourhood or district as a whole, average densities achieve the recommended minimum standards. Circular Letter NRUP 02/2021, dated 21st April 2021, provides further guidance on residential densities in towns and villages, on foot of the policies on compact urban areas set out in the NPF. It states that the full range of outer suburban density, from a baseline figure of 30 units/ha (net) may be considered, with densities below that figure permissible subject to Section 5.12 of the Sustainable Residential Development Guidelines.

CEDP policy HSG3 in relation to urban densities states a policy to provide 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 in order to provide a balanced pattern of house types throughout the town and within developments. The development is located in an area of mixed character, with low density, suburban style housing development at Brook Crescent on the opposite side of the Dungarvan Road and to the east at Cascade Park, large individual dwellings on adjacent sites and more traditional housing types at Cascade Road and William O'Brien Street. I consider that the proposed density of c. 30 units/ha is not excessive in this context with regard to sections 5.11 and 5.12 of the Sustainable Residential Development Guidelines and would contribute to the achievement of the optimum development of zoned and serviced lands and of compact urban development within the established settlement of Clonmel, in accordance with national planning policy. The proposed residential density is therefore considered to be acceptable in principle.

8.2.3. Design and Layout

The development comprises seven no. houses arranged around a central open area. The area is covered by hardstanding and I agree with the assessment of the planning authority that this area will function as a vehicular circulation space rather than as an amenity space. The individual units have total floor areas of 81.5–113

sq.m. and are to function as retirement dwellings with layouts including a bedroom at ground floor level. The applicant is willing to accept conditions limiting their use to same and has separately agreed Part V proposals in principle with the planning authority. All of the units are two bed except for house no. 4, which has three bedrooms. I note that the development does not include any communal facilities, as would normally be typical in such 'retirement villages'. Individual private open spaces are provided at houses nos. 4-7 at the southern end of the site, however the space to the rear of houses nos. 1-3, at the Dungarvan Road end, appears to be laid out entirely as communal amenity space, noting however that only limited landscaping proposals have been submitted.

Condition no. 2(a) imposed by the planning authority omits houses nos. 1-3 at the northern end of the site, to be replaced by an amenity space, which is appealed by the applicant. The rationale for this omission, as stated in the planning reports on file, is due to the lack of 15% of the site area as public open space in accordance with development plan requirements, along with the unsatisfactory design of houses nos. 1-3, with the rear elevations facing the Dungarvan Road, as well as inadequate car parking provision for the overall development. The applicant's further information response, dated 1st June 2022, states that the layout provides 15% of the site area as open space but does not provide a detailed breakdown of same. I accept with regard to the proposed layout that much of the landscaped communal open spaces are marginal in nature and are therefore likely to have limited amenity function. In particular, the area at the northern end of the site, inside the Dungarvan Road frontage, will have limited passive surveillance and also noting that no private open spaces are provided for units nos. 1-3.

I consider overall the development will provide a satisfactory standard of residential accommodation, generally in accordance with national planning policy and that the development represents a reasonable response to the need to achieve optimum use of this zoned and serviced lands on a steeply sloping site. However, given the lack of private open space to serve houses nos. 1-3 and the unsatisfactory provision of communal amenity space, which does not meet development plan requirements, I concur overall with the planning authority decision to omit units 1-3 by condition.

Separately, condition no. 2(b)(iii) requires that units nos. 4-7 be moved forward on site to provide a private open space area of minimum 48 sq.m. to the rear. I consider

that this is reasonable and recommend that this requirement also be included as a condition if the Board if permission is granted.

8.3. Impacts on Visual and Residential Amenities

- 8.3.1. With regard to the design and layout of the development, to the orientation of the site and to the intervening distances to adjacent dwellings and having regard to the cross sections on file and to my site inspection, I do not consider that the development will result in any significant adverse impacts on the residential amenities of adjacent dwellings by way of overlooking or overshadowing. I note the concerns of third parties regarding differences in ground levels and potential impacts on shared boundaries. Drawing no. RFI-08, submitted to the planning authority in response to the further information request, details proposed boundary treatments, including a 2m high blockwork wall along the western site boundary. This boundary type would be considered standard for many residential developments and is considered reasonable in this instance. I recommend that conditions are imposed such that final details of landscaping and boundary treatments are agreed by condition to the satisfaction of the planning authority.
- 8.3.2. Third parties have also stated concerns about tree removal, noting that there is a significant amount of mature trees at the site. I consider that the proposed layout, as revised by the recommended conditions, will not result in the removal of a significant amount of trees to facilitate the development. Conditions should be imposed requiring (i) a tree survey and agreement on which trees are to be retained / removed with the planning authority prior to the commencement of development and (ii) the agreement and implementation of tree protection measures during construction, if permission is granted.
- 8.3.3. In terms of visual impacts, I consider that the development will have a limited visual presence at the Dungarvan Road due to the boundary wall at the road frontage and to its relatively low roof profile overall, notwithstanding the sloping nature of the site. I am satisfied overall that the development has a high quality of design and finish and I consider that the proposed architectural treatments, landscaping and public realm will enhance the overall appearance of the area when compared to the existing derelict dwelling and overgrown lands at the site. While the development will change the outlook from adjoining residential properties, I consider that this would be the

case for any redevelopment of these zoned and serviced lands, in accordance with national and development plan policy to consolidate existing urban areas and achieve housing targets and I do not consider that this issue warrants a refusal of permission or any significant amendments to the proposed development.

- 8.3.4. I note the concerns of third parties regarding the location of the proposed bin store and associated potential adverse impacts due to noise and vermin at the development. I do not consider that these issues at this scale of residential development warrant a refusal of permission. I consider that this aspect of the development would not result in undue adverse impacts on residential amenities subject to management and standard refuse collection. The development is not to be taken in charge and a condition requiring a management company is recommended.

8.4. Roads and Traffic Issues

- 8.4.1. Third parties and the report on file of the Senior Executive Engineer state concerns about sight distances at the proposed access to the Dungarvan Road, also the relationship between the proposed access and the existing access serving the adjoining residential property to the west of the site.
- 8.4.2. DMURS section 4.4.5 and Table 4.2 provide a standard of 45m sight distance at a 2.4m setback in urban areas. The setback may be reduced to 2m where vehicle speeds are slow and flows on the minor arm are low. The planning authority states satisfaction that these sightlines may be achieved at the proposed access and I accept this view. While I note concerns about potential conflicts with the adjacent access to the west, I do not consider that this issue will give rise to significant traffic hazard given that both accesses are lightly trafficked and that the site is within the 50 kph zone. The proposed sliding access gate is considered acceptable given that the development will not be taken in charge. Separately, the applicant has consulted with the planning authority regarding proposals to widen Cascade Road, which represents a significant planning gain, and a condition requiring agreement between the applicant and the planning authority on same is recommended.
- 8.4.3. With regard to the internal roads layout, I note the lack of footpaths, but am satisfied that this issue could be addressed by condition. The car parking standards set out in section 9.20 of the CEDP require one car parking space per two-bed unit and two spaces per three-bed unit, i.e. 11 no. spaces to serve the entire development. The

revised layout submitted as further information indicates 11 no. spaces in accordance with this requirement.

- 8.4.4. The proposed vehicular access, internal roads layout and parking provision are considered acceptable on this basis.

8.5. Site Services, Surface Water Drainage and Flooding

- 8.5.1. I note third party concerns about potential flooding at the proposed development. The site is outside of any identified flood zone as per the Strategic Flood Risk Assessment of the CEDP and is within Flood Zone C. I note that the planning authority states no concerns in relation to flood risk at the site, as per the report on file of the Senior Executive Engineer. I am satisfied that the development is not located in an area at risk of flooding and will not result in any increased risk of downstream flood impacts, subject to the implementation of satisfactory surface water management measures.
- 8.5.2. The technical reports on file indicate that the surface water outfall from the site is to connect to a road gully located at the junction of the R671 and the L36717 and that the existing drain under the R671 would need to be upgraded to facilitate the development. The applicant has proposed to discharge directly to the Auk stream, however this is not satisfactory to the planning authority. Condition no. 20 of the permission requires an unspecified special development contribution under section 48(20)(c) of the Planning and Development Act 2000 (as amended) to facilitate the necessary works. This is considered reasonable. I accept that the planning authority has not provided a detailed rationale for the cost of the works, however the condition has not specified an amount and same may be agreed with the planning authority if permission is granted.
- 8.5.3. According to the documentation on file, historical mapping indicates a well in the northern part of the site, however no evidence of same remains on the ground, the well may be overgrown. The applicant is willing to protect the well during construction and I consider that a condition requiring this is feasible, given that this part of the site will not be subject to development.

8.6. **Section 47 Condition**

- 8.6.1. Condition no. 21 of the permission requires the applicant to enter into an agreement with the planning authority pursuant to Section 47 of the Planning and Development Act 2000 (as amended), that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing. While I note the comments on this condition in the first party appeal, it is imposed by the planning authority in order to comply with the section 28 Guidelines on Regulation of Commercial Institutional Investment in Housing as issued in May 2021 and is therefore also recommended in this instance.

8.7. **Appropriate Assessment**

- 8.7.1. 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). There are no designated sites within or immediately adjoining the development site, however it is c. 0.1 km from the Lower River Suir SAC (site code 002137). There is no direct hydrological connection to the SAC, and while the stream on the eastern side of the Cascade Road flows to the SAC, there is a buffer of vegetation and a public road between the development site and the stream. I note the Habitats Directive Assessment Screening Report on file by Tipperary County Council, which considers the proposed development with regard to the Qualifying Interests and Conservation Objectives of all designated sites within 15 km, and screens out AA. Having regard to the nature and limited scale of the proposed development, and to the partially developed nature of the existing site, and to the nature of the receiving environment, with no direct hydrological or ecological pathway 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.

9.0 **Recommendation**

- 9.1. Having read the appeal and submissions on file, had due regard to the provisions of the Clonmel and Environs Development Plan 2013 (as extended), carried out a site

visit and all other matters arising. I recommend that permission is granted subject to the conditions set out below.

10.0 Reasons and Considerations

10.1. Having regard to the provisions of the Clonmel and Environs Development Plan 2013 (as extended), to the residential land use zoning of the site, the nature of the proposed development and to the pattern of development in the surrounds, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the Further Information submitted on 1st June 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) Houses nos. 1-3 shall be omitted and replaced with open space.</p> <p>(b) Houses nos. 4-7 shall be moved forward on site to provide a private open space area of minimum 48 square metres to the rear.</p>

	<p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: In order to achieve a satisfactory standard of residential development.</p>
3.	<p>Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>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.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Final details of all proposed site boundary treatments shall be agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of visual and residential amenities.</p>
6.	<p>The boundary planting and areas of communal open space shown on the lodged plans shall be landscaped in accordance with a landscape scheme which shall be agreed in writing with the planning authority prior to the commencement of development, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any</p>

	<p>trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.</p> <p>Reason: In order to ensure the satisfactory development of the open space areas, and their continued use for this purpose.</p>
7.	<p>The developer shall submit an Arborist Report to the planning authority prior to the commencement of development, which includes a Tree Survey and assessment of the quality of all trees at the development site and clearly identifies any trees to be removed, to be agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interests of protecting the existing trees at the site.</p>
8.	<p>The developer shall implement the following tree protection measures:</p> <p>(a) Prior to commencement of development, all trees which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.</p> <p>(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.</p> <p>(c) Excavations in preparation for foundations and drainage, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.</p>

	<p>(d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained adjacent to the site unless otherwise agreed with the planning authority.</p> <p>Reason: To protect trees and planting during the construction period in the interest of visual amenity.</p>
9.	<p>The developer shall submit proposals for the protection of any historic well discovered at the site during construction, for agreement in writing with the planning authority prior to the commencement of development, and shall carry out the proposed measures.</p> <p>Reason: In order to protect any historic well present at the site.</p>
10.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
11.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
12.	<p>The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
13.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each unit shall be submitted to, and agreed in writing with, the</p>

	<p>planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
14.	<p>Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interests of amenity and public safety.</p>
15.	<p>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.</p> <p>Reason: In the interests of visual and residential amenity.</p>
16.	<p>The internal road and vehicular circulation network serving the proposed development, including turning bay, parking area, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
17.	<p>All car parking spaces shall be provided with functioning electric vehicle charging stations/points. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.</p>

	Reason: To facilitate the use of electric vehicles.
18.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
19.	<p>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 all intended construction practice for the development, including measures for protection of existing development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
20.	<p>Construction and demolition waste shall be managed in accordance with a final 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</p>

	<p>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.</p> <p>Reason: In the interest of sustainable waste management.</p>
21.	<p>Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
22.	<p>Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>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.</p>
23.	<p>The developer shall pay to the planning authority a financial contribution as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of the provision of new surface water drainage infrastructure facilitating the proposed development. The amount of the contribution and the arrangements for payment shall be agreed</p>

	<p>between the developer and the planning authority or, in default of agreement, shall be determined by An Bord Pleanála. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.</p> <p>Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.</p>
24.	<p>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.</p> <p>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.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Sarah Moran
Senior Planning Inspector

10th July 2023