



An
Bord
Pleanála

Inspector's Report ABP-316310-23

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| Development | Family entertainment centre auxiliary to the existing hotel including all external signage, and associated works. |
| Location | Poppyfield Retail Park, Ballingarrane South, Clonmel, Co. Tipperary |
| Planning Authority | Tipperary County Council |
| Planning Authority Reg. Ref. | 22448 |
| Applicant(s) | Talbot Hotel (Clonmel) Ltd. |
| Type of Application | Permission |
| Planning Authority Decision | Grant Permission |
| Type of Appeal | Third Party |
| Appellant(s) | BPM 2 Limited Partnership |
| Observer(s) | None |
| Date of Site Inspection | 3 rd January 2024 |
| Inspector | Catherine Dillon |

1.0 Site Location and Description

- 1.1. The subject site lies approximately 2.5km to the west of Clonmel town centre. It is located within the Poppyfield Retail Park, on an area within the Talbot Hotel site which is to the west of the retail park. Access into the retail park and hotel is off a roundabout along the R707/Cahir Road, which spurs off the N24, c.300m to the west. There is a further internal mini roundabout serving the hotel and retail park. The Limerick to Waterford railway line and its embankment extend along the north western boundary of the site.
- 1.2. The subject site is located in an area currently used by the Talbot Hotel for car parking and is to the west/rear of the hotel. The hotel is a four storey building with a frontage onto the R707 and there is also a leisure centre within the hotel complex. The subject site is at a lower level than the regional road and below the railway embankment. It has a stated area of 1.352 hectares.
- 1.3. There are residential estates to the east of the retail park and south of the R707.

2.0 Proposed Development

- 2.1. The proposal is for the erection of a family entertainment centre auxiliary to the existing hotel, including all external signage, the installation of photovoltaic panels on the southeastern side of the roof structure together with all associated site works. The development would comprise a three storey building with car parking area on the ground floor and a gross floor area of 3338.3m². It would have a height of 11.49m and would be a separate structure to the hotel, with a contemporary design, clad in a mix of Kingspan panels in assorted colours. An attenuation tank is proposed to the west of the proposed building to collect surface water runoff from the development via a piped network discharging off site via an existing storm water manhole on the site.
- 2.2. The centre would include bowling lanes, soft play areas, a Grand Prix area, multi-use games area, climbing wall, arcade, laser tag arena, party zone areas, toddler soft play pit and sumo wrestling are, a restaurant/café including staff area and all associated activities.

- 2.3. Access to the proposal would be via the existing T-junction serving the hotel off the distributor road within Poppyfield Retail Park. The proposal includes 246 car parking spaces, of which 12 would be accessible parking bays, 24 EV spaces and 10 bicycle parking spaces.
- 2.4. It is proposed to employ 3 full time staff and 12-15 part time staff. Based on a similar development in Carlow (known as The Dome) owned by the applicant, the level of vehicular activity associated with the development would equate to 68 vehicular movements a day.
- 2.5. A Traffic & Transport Assessment (TTA), Architectural Design Report, A stage 1 & 2 Road Safety Audit (RSA), and details of the photovoltaic proposal (glint & glare details), were submitted with the planning application. Wastewater and surface water would connect to the public system.

3.0 Planning Authority Decision

3.1. Decision

Following a further information and clarification request and subsequent responses Tipperary County Council granted planning permission on 24th March 2023 for the development, subject to 13 conditions. Of relevance are the following conditions:

Condition 2- External finishes to be submitted prior to commencement.

Condition 3- Traffic Management Plan to be submitted for the construction phase.

Condition 4- Construction Environmental Management Plan to be agreed with the Planning Authority.

Condition 12- Opening hours to be between 1000-2200 hours Monday to Saturday, and 1230-2200 hours on Sundays and Bank Holidays.

3.2. Planning Authority Reports

Planning Reports

The initial planner's report dated 23rd August 2022, was assessed under the Clonmel & Environs Development Plan 2013 (as varied), and the principle of the development

was considered acceptable for the commercial land use zoning objectives for the site. Although the zoning matrix does not specifically categorise 'family entertainment centres' the use was compared to similar uses such as a dance hall/cinema which are 'open for consideration' on the zoning. The location, design, scale and massing were considered acceptable, and the development was considered to assimilate with the existing hotel. Overall, the planner's report concluded the proposed development would enhance the offering for the hotel for residents and guests.

Further information was sought regarding surface water collection and disposal; details of the size of the comparable development in Carlow, an assessment of the impact of the traffic generated by the proposed development including the free flow and safety of pedestrian and traffic movement between the retail park, roundabout and application site; A Road Safety Audit (RSA); parking provision; and ownership of the site.

The further information response was considered significant and was readvertised accordingly.

- 3.2.1. The second planner's report dated 23rd February 2023, following the response to the further information, requested clarification on the capacity of the receiving system to assimilate the additional surface and wastewater generated by the proposed development. The Planning Authority were not satisfied that the applicant had demonstrated legal entitlement to connect to the infrastructure and required further certainty.

The RSA and second TTA were noted but the applicant was requested to show how the pedestrian crossing point could be provided at the entrance to the site as it was outside of the applicant's control. The number of car parking spaces had increased from 237 car parking spaces to 246 spaces.

- 3.2.2. The third planner's report dated 23rd March 2023, following receipt of the clarification response was satisfied based on the details submitted that the applicant had demonstrated that they have sufficient control over the receiving infrastructure to facilitate the proposed development, the surface water management system proposed (attenuation tank) would lessen the rate of surface water discharge to the drainage network (compared to existing car park area), and the revised RSA was

acceptable. The proposal was screened for AA and EIA, and the report recommended a grant of planning permission subject to conditions.

Note: Although the clarification request referred to surface water and wastewater, the wastewater aspect was not addressed in the clarification response or in the planner's third report.

3.2.3. Other Technical Reports

District Engineer: Report dated 2/8/22: Replacement of 3 car parking lights which will be lost due to development will be replaced to ensure remaining car parking spaces will be lit when dark.

Further report dated 13/2/23- no further comments.

Tramore House Road Design Office (THRDO): Reports dated 7/7/22 & 24/1/23. No conflict with the proposed development and the N24 project.

Chief Fire Officer: No observations made.

Roads Capital: Email correspondence dated 3/2/23: No concerns raised.

3.3. Prescribed Bodies

HSE: Report dated 3/8/22: Recommended control of dust and noise during construction.

Transport Infrastructure Ireland (TII): Reports dated 18/7/22 & 26/1/23: No observations to make.

Tipperary Childcare Committee: Report dated 22/1/23: No comment to make.

Irish Water: No observations made.

3.4. Third Party Observations

A submission was received from BPM 2 Ltd. Partnership, the appellants and the owners and operators of Poppyfield Retail Park, on similar issues as raised in the grounds of appeal. A further submission was received to the further information on the clarification of ownership, right to connect to infrastructure, parking, appropriate assessment, details on construction and traffic management and compliance with building control legislation.

4.0 Relevant Planning History

- 4.1. **P.A Ref: 6602:** Planning permission granted for the construction of a 60-bedroom hotel with bar/restaurant, leisure and function room facilities, 199 car parking spaces, ancillary plant, storage area and service yard. A 7 unit retail park with garden centre ancillary plant, storage areas and service yard totalling 10,340m², 5 retail starter units totalling 623m² with ancillary plant, storage areas and service yard petrol station with canopy and convenience store and a drive through fast food unit, parking for 449 car parking spaces and ancillary uses including service yards and ESB substation. Also the provision of playing pitch with changing rooms and parking for 14 cars, landscaped areas, boundary fence, provision of new roundabout and access road.
- 4.2. **P.A Ref: 179/04:** Planning permission granted as modifications to P.A Ref: 6602 to increase the number of bedrooms in the hotel to 96 and an increase in the number of car parking spaces to 222. The planner's report for this application noted 218 car parking spaces were required for the modifications and the plans indicated 221 parking spaces in addition to 3 coach parking spaces, which was considered acceptable.

5.0 Policy Context

5.1. Background

Tipperary County Council has commenced the process of preparing a new Local Area Plan (LAP) for Clonmel & its Environs and this will replace the current Plan. The subject site is zoned 'Mixed Use' within this Draft LAP, the objective of which is 'To support the role of the town centre and enable primarily; retail, commercial and civic uses'. Sports & Leisure facilities are 'open for consideration' on mixed use zoning. The site is not identified as being subject to flooding in this Draft LAP.

5.2. Clonmel & Environs Development Plan 2013 (as varied)

- 5.2.1. The Clonmel and Environs Development Plan, 2013, as varied, is the relevant policy document pertaining to the subject site. The site is located within an area zoned 'commercial', the objective for such zoning is 'To provide for mixed commercial

facilities that do not compete with the Town Centre function'. The site is not identified as being subject to flooding within this Plan.

5.2.2. Relevant policies in this Plan for the proposed development include:

Section 5 – Infrastructure including Policies INF 3 (Pedestrian/Cycle infrastructure) INF7(Wastewater), INF8 (Surface water management), INF13 (Waste management),

Section 7- Built & Natural Heritage, Amenity & Recreation including Policy AH 6 (Amenity & Recreation),

Section 9- Development Management Guidelines including Policies DM 1 (Development Standards).

5.3. **Tipperary County Development Plan 2022-2028**

Clonmel is identified as one of three designated 'Key Towns' within the county, and it is a key aim and strategic objective of the Plan to seek to facilitate and promote the development of Clonmel, as a Key Town, in addition to an economic driver and service centre for the Southern Region. Relevant volumes and sections include:

Volume 1- Relevant chapters include Chapter 4 – Settlement Strategy, Chapter 6- Sustainable Communities, Chapter 11-Environment & Natural Assets, Chapter 12- Sustainable Transport.

Volume 3- Appendix 6- Development Management Standards, in particular Section 3 Low Carbon & Climate Resilient Development, Section 6 – Parking, Traffic and Road Safety.

5.4. **Natural Heritage Designations**

The nearest designated site is the Lower River Suir SAC (site code: 002137) c.1km to the south of the site, Nier Valley Woodlands SAC (site code 000668) and Comeragh Mountains SAC (site code: 001952) are 11.2km and c. 12.7km respectively to the southeast of the site and the Galtee Mountains SAC (site code: 000646) is c.21.5km to the west of the site.

5.5. **EIA Screening**

Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary

examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required, refer to Appendix 1- Form 2 Preliminary Screening/Examination.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. BPM 2 Limited Partnership the owners and operators of Poppyfield Retail Park adjacent to the subject lands, has submitted the following summarised grounds of appeal:

1. Consent to connect to wastewater & ownership of the site

The surface water drainage infrastructure is fully within the ownership of BPM2, and they have not given, not been asked for, consent to connect the proposed development to this infrastructure.

As it currently stands the application cannot be implemented, as there is no consent by the appellant to include lands in their ownership, and the lands do not benefit from a right to connect to appellant's attenuation tank (required by Condition 6 of P.A's permission) nor is there any right to use the road for parking in the appellants ownership.

2. Road Safety Audit

The Road Safety Audit prepared on behalf of the applicant identified a number of issues, which were dismissed by the applicant's agent as 'matters of detail and can be dealt with by condition'. The Notification to grant permission did not include a requirement to implement the requirements of the Road Safety Audit.

3. Parking

There will be a shortfall of 7 car parking spaces provided for the hotel and proposed development, with the additional cars either parking in the retail park car park or unsafely on the access road outside the applicant's ownership.

4. Appropriate Assessment (AA) Screening

OPR Practice Note PN01 on 'Appropriate Assessment Screening for Development Management' requires a screening process must be carried out for all applications for planning permission and address whether the project is likely to have a significant effect, either individually or in combination with other plans or projects in view of the site's conservation objectives.

The application contains no formal 'AA screening', and contains no information on drainage often the primary pathway to receptors, construction management, waste, operations, or building life cycle. There is simply no information to allow the competent authority to make a screening decision on the likely impacts through all stages of the proposed development.

5. Construction Management & Construction Traffic

Note that the notification to grant includes a requirement for a Traffic Management Plan and Construction Environmental Management Plan to be submitted prior to commencement. This provides no opportunity for neighbours and owners of the access road, to provide any comments or input required to protect the safety of customers, tenants, and staff, as well as other road users including vulnerable pedestrians.

There are no details regarding the delivery of materials, removal of waste and construction staff vehicles submitted with the application. There is no Traffic Management Plan provided to show how the construction traffic will be managed to ensure safety, maintain traffic flows, control dust, parking etc., during the construction phase.

6. Energy Efficiency & Sustainability

Apart from a short statement in Section 4.2 of the Architectural Design Report, there is no assessment to show compliance with Part L of the Technical Guidance Document, in addition to the lack of a zero Carbon Assessment/ESG Statement.

7. Fire & Disability Access Certificate (DAC)

There is no assessment of compliance with Parts B, L, or M of the Technical Guidance Document.

8. Information Lacunae

Do not believe it was possible for the Planning Authority to fully and accurately access the following due to a lack of information on the following:

- AA screening,
- Draft Construction Management Plan, Construction Waste Management Plan, Construction Traffic Plan and Environmental, Health & Safety, Operational Waste Management Plans,
- Design/technical note on Flood Risk,
- Building Control Regulations,
- External Lighting design,
- Building Recycle report,
- Zero Carbon Assessment,
- Compliance with County Development Plan/regional & National Objectives etc..

6.2. Applicant Response

6.2.1. Talbot Hotel (Clonmel) Ltd., responded to the grounds of appeal on the following summarised grounds:

1. Appeal is vexatious

Respectfully request that An Bord Pleanála dismisses the appeal under the provisions of Section 138 of the Planning and Development Act 2000 as amended. The applicant is also aware of the provisions of section 34 (13) of the Planning and Development Act 2000. If there is a property dispute with respect to this matter then it is well established that the planning system is not the correct forum for it to be addressed.

2. Development is in compliance with the County Development Plan policies and objectives for the site

The site is zoned 'commercial' and whilst there is no specific land use category for the proposed development, it fits comfortably within the stated objective for the site. There are positive synergies between the proposed development and the surrounding land uses such that multi-purpose trips will arise. The proposed development makes good use of brownfield land and is of an appropriate design and scale on the approach into Clonmel.

3. Applicant has the right to connect to services in the retail park

States that the applicant has the right to connect to services in the retail park and refers to two letters from their legal advisors confirming that this is the case. The planning authority has accepted that the applicant has the necessary rights to connect to services and attenuation tank.

The solicitor's letter dated the 28th February 2023 in response to the CFI request confirms that the hotel is the freehold owner of the site on which it is built. They submit the legal documentation clearly provides full rights for the applicant to connect to all services and these include all pipes and such like. If there is a dispute regarding connecting to the attenuation tank then that is a matter for legal interpretation.

Regarding the assertions from the appellant regarding connections to the tank, the applicant asks the board to note that the appellant has not submitted a single document, legal or otherwise to support its assertions in this respect.

Notwithstanding that the applicant has submitted legal documentation to confirm its rights to connect to services in the retail park to carry out the proposed development, the applicant refers to Section 34 (13) of the Planning and Development Act, The Development Management Guidelines for Planning Authorities (2007) and the OPR Practice Note PN03, which makes clear that the planning system has no role in deciding or adjudicating on property or title disputes.

4. Ownership of the application site

It is submitted that it is clear from the correspondence from the applicant's legal advisers that the applicant is the freehold owner of the application site. The applicant has not provided any details of where it is claimed the ownership and the application red line diverge. It may relate to a sliver of land at the northern extreme of the site

but if this is the divergence complained of, they contend this immaterial to the application and is de minimus in the assessment of the application and there is no effect in terms of the determination of the application.

5. Road Safety Audit (RSA).

A Road Safety Audit was carried out as requested by the planning authority and the auditors made 10 recommendations which are all matters of detail that can be addressed by way of condition. In this regard the applicant will accept a condition requiring the submission of revised details demonstrating and illustrating the implementation of the RSA recommendations.

6. Parking

The applicant notes that in terms of parking that the planning authority is satisfied with the onsite parking proposals and that there are no objections to the proposed development from the district engineers, the road design office or TII. At the further information stage the applicant increased the number of on site spaces from 237 to 246.

7. Appropriate Assessment (AA)

The appellant has misinterpreted the OPR guidance in terms of the submission of an AA screening information report with the application. There is no requirement for such a report and the Planning Authority had sufficient information available to it and undertook an AA screening. It is incorrect for the appellant to state in the absence of an AA screening report that there is an information “lacunae” such that the Planning Authority (Competent Authority at local level) is not capable of undertaking a screening.

8. Construction Traffic & Construction Management Plan.

There is no statutory requirement for these plans to be submitted with planning applications. Management of the construction site is not normally known until the main contractor is appointed and as such it makes more sense for a condition to be attached requiring the submission of these plans prior to the commencement of development for the written agreement of the planning authority. At a practical level it should be pointed out that all construction work gives rise to a degree of disruption, but the disruption is temporary and short lived. There is a busy hotel at this location

and the hotel will operate during the construction of the family entertainment centre, and it is clearly in the interests of the applicant to ensure the construction of the proposed development takes place with the least possible disruption.

9. Other studies & reports

There is no statutory requirement to submit reports on compliance with fire and DAC reports and reports dealing with parts of the building regulations as well as reports on building life cycle and zero carbon assessment. The development management guidelines (Section 7.8) recommend against attaching conditions requiring compliance with other codes. Condition 8 of the notification to grant deals with site lighting and again such a condition is a standard condition that ABP attaches to permissions for developments of this type. The proposed grant of a planning permission does not excuse or exempt an applicant from the requirement to comply with other codes.

6.3. Planning Authority Response

None

7.0 Assessment

7.1. I have examined the file and the planning history, considered local and national policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development, and I am satisfied that the main issues raised adequately identify the key potential impacts and can be dealt with under the following headings:

- Vexatious appeal
- Policy context and principle of the development
- Connection to the existing infrastructure
- Traffic
- Title/Ownership
- Compliance with other codes
- Appropriate Assessment.

7.2. Vexatious appeal

- 7.2.1. The applicant in their response to the grounds of appeal consider the appeal should be dismissed on vexatious grounds. Section 138 of the Planning and Development Act 2000 as amended enables the Board to dismiss an appeal if the Board is of the opinion that the appeal or referral –
- (i) is vexatious, frivolous or without substance or foundation, or
 - (ii) is made with the sole intention of delaying the development or securing the payment of money, gifts, consideration or other inducement by any person.

Having regard to the information as presented I am of the opinion the grounds of appeal are valid in this instance and should therefore be given due consideration on material planning grounds.

7.3. Policy context and principle of the development

- 7.3.1. The site is located on lands zoned for commercial use in the current Development Plan on an existing surface car park area associated with the Talbot Hotel within the settlement boundary of Clonmel town. Although the land use zoning matrix does not specifically include a family entertainment centre use or leisure facilities, similar uses are 'open for consideration' within commercial zoned lands. I note that a restaurant is not permitted on commercial zoned lands, however I would consider the restaurant ancillary to the main use.
- 7.3.2. Given the location of the site, the proposed development would meet the objective for the commercial zoned lands specified in the Development Plan 'to provide for mixed commercial facilities that do not compete with the Town Centre function'. I am generally satisfied that there is no objection in principle to the proposed development, subject to a number of policy objectives within the Development Plan and County Development Plan including in particular, those relating to surface and waste water, traffic issues and appropriate assessment. I propose to address these issues below.
- 7.3.3. I note the proposed hours of operation for the centre were 1000 hours to 2100 hours, 7 days a week. In condition 12 of the planning authority's Notification to Grant the opening hours for the entertainment centre were conditioned to be between 1000

hours to 2200 hours Monday to Saturday, and between 1230 hours and 2200 hours on Sundays and Bank Holidays, to protect the residential amenity of properties in the vicinity. The applicant nor the appellant have sought to appeal this condition. I consider condition 12 as set by the planning authority is reasonable and therefore recommend these hours are attached in the event the Board are minded to grant planning permission to protect the interest of other third parties.

7.4. Connection to the existing infrastructure

- 7.4.1. The third party has raised concerns primarily regarding consent to connect the proposed development to the existing surface water drainage infrastructure and the right to connect the attenuation tank to the drainage system. The third party mentions wastewater but their grounds of appeal refer specifically to surface water only. Nevertheless, I note on Uisce Eireann's Wastewater Treatment Capacity register published June 2023 (accessed 17th January 2024) that Clonmel WWTP has a green status, i.e that there is capacity available in the WWTP. I consider when planning permission was granted for the parent permission for the retail park and hotel (P.A Ref: 6602), this included the discharging of surface and wastewater from the hotel into the drainage network which would have included traversing those areas outside the red line boundary of the hotel.
- 7.4.2. Although the third party are not stating in their grounds of appeal the existing infrastructure is insufficient, I note the applicant by way of their further information response provided a memo dated 12th October 2009 from Clonmel Borough Council engineering section, confirming compliance with condition 30 of the parent permission regarding the completion of a full CCTV survey of the foul and surface water sewers with the Planning Authority. As such there are no issues regarding compliance in this regard with the parent permission. I also note the District engineer had no comment to make on this aspect of the appeal development.
- 7.4.3. By way of further information, an attenuation tank is proposed on the subject site to accommodate and control the surface water volumes into the receiving infrastructure. Whilst the proposed development would not increase the surface water volumes, as the footprint of the proposed building would equate to the reduction of the existing hard surface car parking area, the attenuation tank is proposed to control and enhance the storage capacity of surface water flow rates

from the development and provide the maximum volume of storage (89.9m³) required for a 12 hour storm period. I consider this attenuation tank benefits the overall drainage system for the site, as it would allow for the slow release of surface water into the receiving infrastructure in the event of a storm period.

- 7.4.4. Condition 18 of the parent permission (P.A Ref: 6602), required by way of a prior to commencement the applicant/developer to submit to the Planning Authority for their written approval complete details of the establishment of a Management Company for the maintenance of structural services for the proposed development including sewers and roads. I note in the memo submitted by way of further information dated 12th October 2009, the Planning Authority were satisfied that this condition had been complied with. The applicant submitted a letter from MJ O'Connor solicitors confirming the hotel has rights and access to all services within the Poppyfield centre serving the hotel and proposed development. This aspect is disputed by the third party, however I will consider the issue of ownership consent rights in detail in Section 7.6 below of this report. As such I am satisfied the proposed development can cater for surface water and there is availability within the Municipal wastewater treatment plant to facilitate the development.

7.5. Traffic

- 7.5.1. The third party has raised concerns about problems identified in the RSA, the parking deficit for the development and the management of construction traffic. I will address these issues under the following headings:

Road Safety Audit (RSA):

- 7.5.2. Transportation Ireland Infrastructure's Publication on Road Safety Audits (RSA) 2017 states the primary purpose of a RSA is 'to identify potential safety hazards within a development's design or construction and make recommendations on how to improve the situation. Recommendations are practical and constructive and, in most cases, easy to implement.' There are 4 stages to a RSA, Stage 1 Preliminary design, Stage 2 Detailed Design, Stage 3 Post Construction and Stage 4 Post opening monitoring.
- 7.5.3. A Stage 1 and 2 RSA was carried out for the proposed development and identified 10 problems and associated recommendations to address the safety issues identified. The recommendations included improved signage, tactile paving, lighting

and the rearrangement of car parking spaces, which are matters that could be implemented without impacting the safety of the overall development. I would recommend if the Board is minded to grant planning permission the recommendations in the RSA are agreed with the Planning Authority prior to commencement. I do not envisage the problems identified and associated recommendations would impact on the overall layout of the development and would not impact on third parties but would serve to improve the overall development.

Parking for the proposed development:

- 7.5.4. Planning permission was granted for 96 bedrooms at the hotel in P.A Ref: 179/04 with an increase in the number of car parking spaces to a total of 224 (221 car spaces and 3 coach spaces), from the parent permission. Nevertheless, the Clonmel & Environs Development Plan 2013 as varied, and the current Tipperary County Development Plan 2022, require a minimum of 1 space per room for a hotel development. The existing car parking spaces would exceed the parking requirement for the hotel rooms and the 122 spaces (221-99) adequately serves the existing additional facilities on the site, (i.e bar/restaurant, leisure facility and staff parking). In the further information response, it is stated there are currently 225 car parking spaces on site. I observed on the day of my site inspection the hotel car park was not at capacity with the majority of the cars parking close to the entrance and not to the rear of the hotel. I also observed a number of vehicles parked in the hotel and the passengers walked to the retail park from the hotel car park. I am satisfied the existing hotel has adequate parking provision within its curtilage.
- 7.5.5. The TTA submitted with the application makes reference to a similar type of development as the appeal proposal known as The Dome which is adjacent to the Talbot hotel in Carlow town to provide a breakdown of vehicular movements, visitor and staff numbers. The footprint area of The Dome was specified in the further information response and has a similar footprint and floorspace as the appeal development. I also note it has similar characteristics to the subject site, in that it is located in a retail park on the outskirts of the town, adjacent to a hotel, surrounded by residential areas and next to a motorway, and I therefore consider it is a reasonable comparison to the appeal development.

- 7.5.6. According to the TTA, The Dome facility receives an average 204 visitors a day, which equates to 68 vehicular movements a day based on 3 people per car, with 25% residing in the adjoining hotel, and the remaining visitors to the facility utilising 51 car parking spaces, in addition to 6 staff car parking spaces. During busy periods, it is calculated that the demand for customer parking spaces can double, reaching 20 car parking spaces every two hours. Allowing for these calculations the maximum number of car parking spaces would be 26 spaces (visitors plus staff). Based on the existing level of hotel car parking spaces as granted being 221 car parking spaces and the proposed development requiring 26 spaces a total of 247 car parking spaces are required for the development. The development proposes 246 car parking spaces, which would equate to a deficit of 1 car parking space.
- 7.5.7. There are no specific car parking standards for the development proposed within the relevant plans, as the use would fall within the category of a recreational/leisure use. The current CDP states such uses are to be considered on a case-by-case basis dependent on the nature, scale and location of the use, which I consider to be a reasonable approach.
- 7.5.8. Traffic counts were undertaken in May 2022 as part of the TTA at the Poppyfield roundabout, and were compared to similar traffic counts carried out in 2018, in addition to traffic generation for the proposed development and other committed developments in the surrounding area. Poppyfield roundabout has a high volume of daily traffic as it serves several developments in the vicinity and is along the primary route into and out of the town centre. The TTA concluded the proposed development will increase the traffic levels by a maximum of 3.1% AM peak and 2.7% in the PM peak which would not exceed the 5% threshold capacity on national roads as specified by Transport Infrastructure Ireland (TII). I also note TII had no objections to the development. The ARCADY transport modelling software used to assess the impact of the development on the access road into the retail park, identified it, as currently working below its capacity and the proposed development would not therefore negatively affect its functionality.
- 7.5.9. Having regard to the site location, within walking distance from the town centre, the existing pedestrian and cycle facilities, and the pedestrian connectivity of residential properties to the site, I do not consider a deficit of 1 car parking space, or 7 as specified by the appellant, is significant. There will be dual usage visits to the site by

those dropping children off at the facility, using the hotel or retail park, and visitors to the leisure centre. The concentration of mixed uses in addition to pedestrian and cycling facilities, will promote the use of alternative modes of transport to the development, other than the car. The CDP accepts a reduction in car-parking requirements where the Council is satisfied that a Mobility Management Plan or statement, as the case may be, for the development, demonstrates that a high percentage of modal shift in favour of sustainable modes will be achieved through the development. I would therefore recommend if the Board are minded to grant planning permission that the applicant is required to submit a Mobility Management Plan and the number of secure bicycle spaces are increased from 10 to 20 spaces to promote a modal shift away from the car for the proposed development.

Traffic Management & Construction Management traffic

7.5.10. The appellant refers to the lack of input from third parties to conditions regarding a Traffic and Construction Environmental Management Plan to be agreed by the Planning Authority prior to commencement (Condition 4 of Notification to grant). Such a condition is not considered unreasonable and is regarded as best work practice and integral to the carrying out of a development. I also note the HSE have recommended conditions regarding dust and noise and it is recommended this would be included within any Traffic and Construction Management Plan. Although the applicant has not provided a construction management plan, construction traffic on a development site is not a material planning consideration and is determined by other codes.

7.6. Title/Ownership

- 7.6.1. The third party raises issues concerning the red line area of the subject site not being in the ownership/title of the applicant and the ambiguity of the solicitor's letter submitted by the applicant. This issue was raised by the Planning Authority by way of further information to the applicant and the Planning Authority were satisfied the applicant owned the site within the red line boundary and had sufficient control over the receiving infrastructure so as to facilitate the development.
- 7.6.2. Whilst I acknowledge that there may be a dispute about control over the land, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision. I also note Section 5.13 of

the S.28 Development Management Guidelines 2007, regarding issues relating to the title of land makes clear the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning and Development Act 2000 as amended states, 'a person is not entitled solely by reason of a permission to carry out any development'.

7.7. Compliance with other codes

- 7.7.1. The appellant has raised concerns regarding the planning application not containing details and information on fire safety and non-compliance with Parts B, L & M of the Building Control Regulations. The Chief Fire Officer was consulted by the Planning Authority but did not comment on the proposal. The grant of planning permission does not absolve a developer/applicant from the necessity to obtain any other consent required by law. The S.28 guidelines on planning conditions recommends 'At best the imposition of conditions in relation to matters that are the subject of other controls is an undesirable duplication. In practice, such an approach can give rise to conflict and confusion if the effect of a condition on a development is different from that of the specific control provision. In this context, it should be remembered that the Building Regulations require certification by the developer's design team.' The issue of compliance with Fire and Building Regulations will be evaluated under a separate legal code, and the Local Authority is responsible for the implementation of the relevant Building Regulations and has its own processes established to preside over same. I therefore do not consider the omission of these details are a matter for the Board and do not agree with the appellant that these are 'lacunae' matters that prevent an assessment to be made on the development.

7.8. Appropriate Assessment (AA)

The third party in their grounds of appeal have raised the matter that the applicant has not submitted an AA screening with the planning application. However, it is not a mandatory requirement for the applicant to do so under section 177U of the Planning and Development Act 2000 (as amended), but rather the screening for an appropriate assessment of an application for consent for a proposed development shall be carried out by the competent authority (in this instance An Bord Pleanála) to assess, in view of best scientific knowledge, if the proposed development,

individually or in combination with another plan or project is likely to have a significant effect on the European site before consent can be given. I note the Planning Authority carried out an Appropriate Assessment screening and made the determination that an AA was not required.

1.1 Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) 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.

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives.

1.2 Background on the Application

A screening report for appropriate assessment was not submitted with the application/appeal case.

1.3 Screening for Appropriate Assessment- Test of likely significant effects

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).

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it will give rise to significant effects on any European site.

1.4 Brief description of the development

The applicant provides a description of the project in the Architectural Design Report and the Traffic & Transport Assessment. I refer the Board to Section 2 of this report. In summary, the development comprises:

- Three storey building with a ground floor car parking area.
- Family entertainment centre with a gross floor area of 3338.3m².
- Alterations to the existing hotel car park layout comprising a total of 246 car parking spaces.
- A proposed attenuation tank with a volume of 89.9m³.

Drainage measures on site include an on-site attenuation tank for surface water. Surface water and foul water will discharge via the public mains and sewer which in turn would be treated, and all discharges from the Waste Water Treatment Plant (WWTP) to the River Suir which runs adjacent to the plant and to Clonmel town. No Natura 2000 sites have a direct hydrological connection to the proposed development site. The routine monitoring carried out by the EPA for Clonmel WWTP demonstrates that the discharge from Clonmel wastewater treatment plant does not significantly impact the River Suir. Wastewater discharge from the WWTP is required to comply with its Discharge Licence (D0035-01) issued by the EPA in 2022.

For the purposes of the Water Framework Directive (WFD), the most recent river waterbody assessment of the River Suir identified the River Suir south of Clonmel town as having 'Good' status (2016-2021) and as being 'not at risk' for the purposes of compliance with the WFD objectives. In summary there will be no changes to the surface water emissions to the River Suir as a result of the proposed development.

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)

1.5 Submissions and Observations from prescribed bodies

At the planning application stage, the application was referred to the relevant prescribed bodies by Tipperary County Council. In response to the referrals no submissions in relation to appropriate assessment were received from the prescribed bodies. The Health Safety Executive submitted a report as outlined in Section 3.3 above.

1.6. European Sites

The development site is not located in or immediately adjacent to a European site. Having regard to the Source-Pathway-Receptor model, the closest European site is the Lower River Suir SAC (site code 002137), which is c1km to the south of the proposed development. The surface water run off from the development will continue to drain to the existing surface water drainage network.

Given that there will be no alteration to the existing hydraulic link between the proposed development and the downstream SAC, (i.e surface water from the development continuing to be subject to existing treatment regimes), this European site is excluded from further assessment.

A summary of European Sites within a possible zone of influence (ZOI) of the proposed development is presented in Table 1 below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

Table1. Summary Table of European Sites within a possible zone of influence of the proposed 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 |
|-------------------------|--|--|---|--|
| | | | | |

| | | | | |
|---|--|----------------------------|--|------------|
| <p>Lower River Suir SAC (002137)</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets for which the SAC has been selected.</p> | <p>(1029) Freshwater Pearl Mussel <i>Margaritifera margaritifera</i></p> <p>(1092) White-clawed Crayfish <i>Austropotamobius pallipes</i></p> <p>(1095) Sea Lamprey <i>Petromyzon marinus</i></p> <p>(1096) Brook Lamprey <i>Lampetra planeri</i></p> <p>(1099) River Lamprey <i>Lampetra fluviatilis</i></p> <p>(1103) Twaite Shad <i>Alosa fallax fallax</i></p> <p>(1106) Salmon <i>Salmo salar</i></p> <p>(1330) Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>)</p> <p>(1355) Otter <i>Lutra lutra</i></p> <p>(1410) Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>(3260) Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation</p> <p>(6430) Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels</p> | <p>c.1 km to the south</p> | <p>None</p> <p>The surface and foul water would be connected to the existing infrastructure.</p> | <p>Yes</p> |
|---|--|----------------------------|--|------------|

| | | | | |
|---|---|-------------------|------|----|
| | <p>(91A0) Old sessile oak woods with Ilex,</p> <p>(91E0) Alluvial forests with <i>Alnus glutinosa</i> (Alno-Padion, Alnion incanae, Salicion albae)</p> <p>(91J0) <i>Taxus baccata</i> woods</p> | | | |
| <p>Nier Valley Woodlands SAC (000668)</p> <p><u>Conservation Objective:</u></p> <p>To restore the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum in the British Isles.</p> | <p>(91A0) Old sessile oak woods with Ilex and Blechnum in the British Isles</p> | 11.2km south east | None | No |
| <p>Comeragh Mountains SAC (001952)</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets for which the SAC has been selected</p> | <p>(3110) Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>)</p> <p>(3260) Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation</p> <p>(4010) Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>(4030) European dry heaths</p> <p>(4060) Alpine and Boreal heaths</p> <p>(7130) Blanket bogs (* if active bog)</p> <p>(8110) Siliceous scree of the</p> | 12.7km south east | None | No |

| | | | | |
|--|---|--|--|--|
| | <p>montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani)</p> <p>[8210] Calcareous rocky slopes with chasmophytic vegetation</p> <p>[8220] Siliceous rocky slopes with chasmophytic vegetation</p> | | | |
|--|---|--|--|--|

The likely effects of the development on the qualifying interests of the Lower River Suir SAC (site code:002137) shall be assessed below.

1.7 Identification of likely effects

- Potential surface water run-off, during the construction and operational phases of the proposal, into the Lower River Suir SAC, and
- Habitat loss/removal

Surface water run off

The construction works for the proposed development would be carried out in accordance with routine best practice measures for Environmental Protection as required in a CEMP. This will ensure the appropriate management and control of surface water runoff in the areas of construction works. Once the scheme is completed surface run off from the development will continue to discharge into the current drainage network in the area.

The Clonmel WWTP discharges treated effluent to the River Suir in accordance with licensed conditions (Wastewater discharge licence Reg number D0035-01). The Annual Environmental Reports (AER) prepared by Uisce Eireann for the Clonmel agglomeration for 2019-2021 show that there were no exceedances of emission limit values (ELVs) at the treatment facility.

There will be no direct discharge or new emissions to the River Suir as a result of the proposed development. Therefore, there is no pathway for pollution as a result of the proposed development during the construction or operational phase of the development.

The proposed development would be not likely to have a significant effect on the quality of the waters in the Natura 2000 sites downstream of the application site. I am of the opinion that any construction works would be carried out to best practice construction standards and that any measures in a construction management plan are not needed to avoid, prevent or reduce significant effects on nearby European sites, in particular the Lower River Suir SAC, and that no mitigation has been put forward in this regard.

There is no hydrological link between the site and the nearest Natura 2000 site the Lower River Suir SAC, c.1km to the south of the subject site and having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Habitat loss/removal

The proposed development is within an urban setting on an existing brownfield site. There would be no removal of trees or hedges as a result of the proposed development. The development is not located within a European site and there is no risk of fragmentation of any designated sites as a result of the proposed development given the location of the works within an urban area, the type of work proposed and the features for which the Lower River Suir SAC is designated, there is no anticipated indirect impact through air quality or acoustic impacts from the construction or operation of the proposed development.

Table 2: Screening summary matrix

| Summary Screening Matrix | | | | |
|--|---|------------------------------|-------------------------------|------------------------------|
| European Site (link to conservation objectives www.npws.ie) | Distance to proposed development/source/pathway/receptor | Possible effect alone | In combination effects | Screening conclusions |
| | | | | |

| | | | | |
|-----------------------------|--|---|------|------------------------------|
| Lower River Suir SAC | Within 1km This site is outside of any zone of influence of the development due to the lack of ecological connections to the specific habitat type for which the site is designated site. | No possibility of effects due to the distance from and lack of connections to the habitat for which this site is designated | None | Screened out for need for AA |
|-----------------------------|--|---|------|------------------------------|

1.8 Mitigation measures

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.

1.9 Screening Determination

The proposed development was considered in light of the requirements of Section 177U of the Planning and 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 the Lower River Suir SAC, or any other European site, in view of the site's Conservation Objectives, and an Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on the following:

- The distance of the proposed development from the European Site and lack of any ecological connections.
- The urban and brownfield nature of the existing site.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations, subject to the conditions set out below.

9.0 Reasons and Considerations

Having regard to the land use zoning of the site, the existing infrastructure and the site's proximity to the town centre, it is considered that, subject to compliance with the conditions, the proposed development would not seriously injure the amenities of the surrounding area, would be acceptable in terms of public health and would not give rise to the creation of a traffic hazard. The proposed development would be in compliance with the proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | The Development shall be carried out and completed in accordance with the plans and particulars lodged with the application received by Tipperary County Council on 30/06/2022, as amended by the plan and particulars received as further information on 23/01/2023 and clarification of further information on 02/03/2023 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity. |
| 2. | Full details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted and agreed in writing with the planning authority prior to commencement of development. In default of agreement the matters in dispute shall be referred to An Bord Pleanala for determination. |

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| | Reason: In the interest of visual amenity. |
| 3. | <p>The opening hours of the family entertainment centre shall be between 1000hours to 2200 hours Monday to Saturday and between 1230 hours and 2200 hours on Sundays and Bank Holidays.</p> <p>Reason: In order to protect the residential amenities of property in the vicinity.</p> |
| 4. | <p>Prior to commencement of any works associated with the development, the developer shall submit a Traffic Management Plan (TMP) for the construction phase of the development for the written agreement of the planning authority. The agreed TMP shall be implemented in full during the course of construction of the development and shall incorporate the following:</p> <ul style="list-style-type: none"> a) Details of on-site car parking facilities for site workers during the course of construction; b) 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; c) Measures to obviate queuing of construction traffic on the adjoining road network; d) 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 works; e) Provision of parking for the existing hotel during the construction period; <p>Reason: In the interest of road safety.</p> |
| 5. | <p>Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following:</p> |

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| | <p>a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;</p> <p>b) Location of areas for construction site offices and staff facilities;</p> <p>c) Details of site security fencing and hoardings;</p> <p>d) Details of lighting during construction works;</p> <p>e) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>f) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>g) 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;</p> <p>h) Off-site disposal of construction/demolition waste and details of how it is proposed to manage same;</p> <p>i) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;</p> <p>j) A record of daily checks that the works are being undertaken in accordance with the CEMP shall be kept for inspection by the planning authority;</p> <p>The agreed CEMP shall be implemented in full in the carrying out of the development.</p> <p>Reason: In the interest of amenities, public health and safety.</p> |
| 6. | <p>The recommendations in the Road Safety Audit (Stages 1 & 2) shall be submitted on plans for the written agreement of the planning authority prior to commencement of the development. Post Construction Stages 3 and 4 of the RSA shall be submitted to the Planning Authority for their written agreement.</p> <p>Reason: In the interest of orderly development.</p> |

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| 7. | <p>Prior to commencement of the development a Mobility Management Plan (MMP) shall be submitted to and agreed in writing with the planning authority. This shall provide incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company of the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.</p> <p>Reason: In the interest of encouraging the use of sustainable modes of transport.</p> |
| 8. | <p>A minimum of 10% of the proposed car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fit out of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of sustainable transportation.</p> |
| 9. | <p>Parking for the development shall be in accordance with a detailed car parking layout which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development. The layout shall provide for:</p> <p>(a) 247 standard sized parking spaces [which shall not be less than 2.4 by 4.8 metres],</p> <p>(b) 12 number of spaces shall be reserved for persons with impaired mobility. These spaces shall be located as close as possible to the entrance of the development. The layout, dimensions and markings for these spaces shall be in accordance with the guidance set out in the</p> |

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| | <p>document “Building for Everyone- a Universal Design Approach” (National Disability Authority),</p> <p>(c) Circulation aisles with a minimum width of 6metres,</p> <p>(d) Lining or other method of demarcation of the individual spaces.</p> <p>Reason: To ensure a satisfactory parking layout in the interest of pedestrian and traffic safety and that the development is accessible to all users.</p> |
| 10. | <p>Twenty bicycle parking spaces shall be provided to serve the proposed development. Prior to the commencement of development, the layout and demarcation of these spaces shall be submitted for the written agreement of the planning authority. Failing agreement, the details shall be submitted to An Bord Pleanála for determination. The bicycle parking spaces shall be provided prior to the development being opened for business.</p> <p>Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.</p> |
| 11. | <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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment and the amenities of properties in the vicinity</p> |
| 12. | <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> |

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| 13. | <p>Prior to the commencement of development, the developer shall enter into a Connection Agreement(s) with Uisce Eireann to provide for a service connection(s) to the public water supply and wastewater collection network.</p> <p>Reason: In the interest of public health and to ensure adequate water/ wastewater facilities.</p> |
| 14. | <p>All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground.</p> <p>Reason: In the interest of visual amenity</p> |
| 15. | <p>a) Proposals for the building and site lighting, including lighting type, fitting detail and illumination to be submitted for the written agreement of the planning authority prior to commencement of the development.</p> <p>b) Any site lighting shall be directed inwards towards the proposed development site. Direction and intensity shall be adjusted as required by the planning authority. The developer shall provide directional hoods or other cut off devices to ensure that the lights do not shine onto adjoining property, or shine so as to provide a hazard to users of public road.</p> <p>c) No signs, symbols, nameplates or other advertisements shall be erected externally on the building, without the prior written agreement of the planning authority.</p> <p>Reason: In the interest of amenity and public safety.</p> |
| 16. | <p>Certified 'As constructed' drawings (scale 1:500) showing the 'constructed' development including the location of services, cables, ancillary equipment, the lines of watermain levels, gradients, manhole positions of foul or storm water sewers as constructed shall be submitted to the Planning Authority.</p> <p>Reason: In the interest of orderly development.</p> |
| 17. | <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</p> |

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| | <p>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 Contribution Scheme made under Section 48 of the Act be applied to the permission.</p> |
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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.

Catherine Dillon
Planning Inspector

26th January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | |
|---|--|---|---|
| An Bord Pleanála Case Reference | 316310-23 | | |
| Proposed Development Summary | A family entertainment centre auxiliary to the existing hotel including all external signage, the installation of photovoltaic panels on the roof structure. | | |
| Development Address | Talbot Hotel, Poppyfield Retail Park, Ballingarrane South, Clonmel, Co.Tipperary | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings) | Yes | X | |
| | No | No further action required | |
| 2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class? | | | |
| Yes | | | EIA Mandatory EIAR required |
| No | X | | Proceed to Q.3 |
| 3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]? | | | |
| | | Threshold | Comment (if relevant) |
| | | N/A | Conclusion |
| No | | | No EIAR or Preliminary Examination required |
| Yes | X | Part 2 Class 10(b)(iv) 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 | Proceed to Q.4 |

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| | | <p>of a built-up area and 20 hectares elsewhere. ("business district" means a district within a city or town in which the predominant land use is retail or commercial use.)</p> <p>The site is below 2 hectares and is therefore below the stated threshold.</p> | | |
|--|--|--|--|--|

| 4. Has Schedule 7A information been submitted? | | |
|---|---|---|
| No | X | Preliminary Examination required |
| Yes | | Screening Determination required |

Inspector: Catherine Dillon

Date: 26th January 2024

Appendix 1 FORM 2

EIA – Preliminary Examination

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|--|--|-----|---------|
| An Bord Pleanála Case Reference | 316310-23 | | |
| Development Summary | A family entertainment centre auxiliary to the existing hotel including all external signage, the installation of photovoltaic panels on the roof structure at Talbot Hotel, Poppyfield Retail Park, Ballingarrane South, Clonmel, Co.Tipperary. . | | |
| Examination | | | |
| | Yes / No / Uncertain | | |
| 1. Is the size or nature of the proposed development exceptional in the context of the existing environment? | No | | |
| 2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants? | No | | |
| 3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*? | No | | |
| 4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area? | No | | |
| Comment | | | |
| Having regard to the limited nature and scale of the proposed development in an urban area and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. | | | |
| <ul style="list-style-type: none"> • Conclusion: EIAR not required | | | |
| Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment **? | | | |
| There is no real likelihood of significant effects on the environment | EIAR not required | X | |
| There is significant and realistic doubt in regard to the likelihood of significant effects on the environment | Screening Determination required | | |
| | Sch 7A information submitted? | Yes | No X |
| There is a real likelihood of significant effects on the environment | EIAR is required (Issue notification) | | |

Inspector: Catherine Dillon

Date: 26th January 2024

* Sensitive locations or features include SAC/ SPA, NHA/ pNHA, Designated Nature Reserves, and any other ecological site which is the objective of a CDP/ LAP (including draft plans)

** Having regard to likely direct, indirect and cumulative effects