



An
Bord
Pleanála

Inspector's Report

ABP-319877-24

Development	2No semi-detached dwellings, landscaping and associated site works
Location	Site 22 Lakelands, Cullenagh, Ballina, Co. Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2360938
Applicant(s)	Lough Derg Marina Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party v. Decision
Appellant(s)	Lough Derg Marina Ltd.
Observer(s)	Barry & Aileen Russell Cullenagh Residents Committee Louise & Alan Johnston Tim & Virginia Carroll
Date of Site Inspection	03 August 2024.
Inspector	L. Gough

1.0 Site Location and Description

- 1.1. The site consists of an overgrown gap site on Lakelands Road between two existing detached dwellings within a cul-de-sac road. The site is accessed via Lakeview Road off the regional R494 road. The site is stated as having an area of 0.072ha and is located within the residential development of Lakelands at Cullenagh in Ballina town.
- 1.2. The subject site slopes from south-east to north-west, with the ground level dropping by approximately 3.6m across the site, from +60.74m to +57.13m. There is a block wall situated at the bottom of the site, between the subject appeal property and the rear garden on the neighbouring house to the north-west (rear).
- 1.3. Both dwellings located adjacent the proposed site (north and south), are situated at a lower level than the subject site and are separated by dense hedging. The dwelling to the south has a ridge height of 65.43m, whilst the dwelling to the north has a ridge height of +66.72m. The house to the north has a window at first floor level overlooking the site.
- 1.4. The houses within the cul-de-sac comprise large, detached dwellings of varying designs and sizes. Those to the south-west on the same side of the road are situated closer to the road (c.14m), entered at first floor level and generally of a bungalow size appearance when viewed from the road, albeit that they are in fact two-storey, whilst those to the north-east are on deeper, larger sites, set back further (c. 24m) and have a bulkier appearance when viewed from the road. Houses located on the opposite side of the road are also of variable design and two stories in height, albeit on smaller sites than both the subject appeal site and others situated along the road. Lough Derg is to the west of the site.

2.0 Proposed Development

- 2.1. The proposed development is for 2no. two-storey semi-detached dwellings, comprising a 93sq.m 2-bedroom/ 4 person dwelling on a 340sq.m plot and a 102sq.m 3-bedroom/ 5 person dwelling on a 385sq.m plot.

- 2.2. The proposed semi-detached dwellings measure a total of c.9.9m in depth and c.12.4m in width.
- 2.3. It is proposed that the dwellings would have a c.14m setback from the public road, provide a minimum rear garden depth of c.19.12m and include off-street car parking.
- 2.4. The southern semi-detached dwelling is proposed to be c.1.72m from the southern property boundary, whilst the northern one is proposed to be c. 2.1m from the northern property boundary.
- 2.5. The following design changes were proposed on submission of further information:
- The proposed dwellings would be setback c.20.7m from the public road, with a resultant minimum rear garden depth of c.12.5m.
 - The semi-detached dwelling to the south would be located c.1.76m from the property boundary, whilst that to the north, would be c.2m from the northern site boundary.
 - Ground floor levels have been lowered to +58.72 in line with site levels of neighbouring dwellings.
 - Reduction in ridge height to +66.72m.
 - The wrap-around window on the north-east window was omitted and any windows on north-east elevation were proposed to be opaque-glazed.
 - Introduction of rain gardens with biofiltration and pollinator habitat.
- 2.6. The house would be connected to the existing public water mains and public sewer.

3.0 Planning Authority Decision

3.1. Decision

The Council's decision to refuse permission for the proposed development was based on the following reasons:

1. Having regard to the location, scale, height and design of the dwellings proposed, the sloping gradient on the site and level difference to adjoining properties, it is considered that the proposed development would result in

negative impacts on adjoining residential amenity through overbearing and loss of light. The proposed development, would for the above stated reasons, be at variance with the requirements of Section 4.10 of Volume 3, Appendix 6, Development Management Standards of the Tipperary County Development Plan 2022 where they relate to infill development.

The proposed development would be overbearing and out of character with the established pattern of development in this area, would create an undesirable precedent for other similar development and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the extent of areas on the site that require drainage management, the sloping gradient on the site and the absence of any site testing to demonstrate ground conditions can accommodate on site disposal of surface water the Planning Authority is not satisfied that the proposed development site can accommodate on site disposal of surface waters as proposed. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Tipperary County Council Planning Report forms the basis of the decision. The first report provides a description of the site and surrounds and an outline of the proposed development, including in terms of its design, visual and neighbouring amenities, access and services. In addition, it provides an indication of responses from internal departments of the local authority, summaries of observations/submissions made by third parties, as well as an overview of the policy and development management standards that are applicable to the development proposal and summarises the planning history of the site and nearby dwellings.

- 3.2.2. In terms of their assessment of the application, the planning authority noted An Bord Pleanála's decision (ABP PL22.225284) in relation to the overall site and specifically condition No. 3(b) which omitted a dwelling for the subject appeal site – stating *“house number 22 shall be omitted to protect the amenity of property to the rear*

having regard to its design and restricted size of site.” The planner’s report also identified the fact that the proposed dwelling to be omitted at that time related to a split-level house, with a maximum ridge line of +66.83m and matching front building line of the existing dwelling to the south-west, with a building depth of 14.3m.

3.2.3. The initial planner’s report sought further information to address:

- Impact on streetscape
- Impact on adjoining residential amenity
- Landscape plan
- Accuracy of Visualisations
- Accuracy of north-east elevation drawing
- Internal storage
- Vehicular entrances
- Surface water drainage
- Part V agreement.

3.2.4. On receipt of the further information response the Planning Authority considered the further information to comprise significant additional information, in respect of a revised site layout plan which indicated the proposed dwelling relocated on the site, a drainage plan, revised photomontages. The application was subsequently readvertised.

3.2.5. Notwithstanding the submission of requested further information and having examined same, the planning authority decided to refuse the application for the reasons as outlined previously above.

3.2.6. Other Technical Reports

- District Engineer: Proposed development poses a risk of surface water ponding at the neighbouring site of No. 8 Lakeview, Cullenagh. Existing footpath contains dropped kerbs for one access only. Details of surface water design, to include SUDS measures, as well as details of the proposed double access, including works to the existing footpath, were requested.
- District Engineer – Response to Further Information submitted: Not satisfied with SUDs measures. High percentage of impermeable surfaces with the site

relying on the permeability of the subsoils to dispose of surface water, the permeability of which has not been established in accordance with BRE 365. Rain garden proposal is generic and fails to take account of the steep slopes on the site.

3.3. Prescribed Bodies

None.

3.4. Third Party Submissions/Observations

The planning authority received a number of submissions, both to the initial advertised application, and to the subsequent advertisement of significant further information being received. Issues raised included:

- Proposal is contrary to the Cullenagh Masterplan and the principles outlined therein, including precluding increases in housing density and the subdivision of sites. The Masterplan also states that “Social, affordable and high-density housing should not be encouraged within Cullenagh”.
- Contrary to previous planning decisions issued on the site by both Tipperary County Council and An Bord Pleanála and would set a precedent for sub-division of sites and multi-unit development elsewhere in the Cullenagh estate.
- Single storey or split level design which is sympathetic to the sloping nature of the site would be more appropriate, in accordance with section 4.1 of the Cullenagh Master Plan.
- Impact of surface water drainage on house to the rear (north-west) - The existing boundary wall is approximately 20 meters long and is 1.3 meters in height. At the foot of the wall there are a number of pipes from the site into the adjacent rear garden, constantly draining into the garden which is permanently very wet and flooded in parts.

- The house on this site proposed and rejected as being too large under ABP PL22.225284, had a ridge height of +66.83m – 1.4m lower than currently proposed.
- Proposed house dwarfs the dwellings on either side of it and neighbouring properties, including the dwelling to the rear (north-west) and is larger than the building rejected by ABP and should be rejected on the same grounds.
- Proposed dwelling would be overbearing in terms of massing/ density, in relation to adjacent dwellings and would negatively impact their quality of life, light and privacy amenity.
- Would negatively impact the amenity and value of properties in the area.
- Drawings provided do not clearly or accurately indicate the proposal in context with adjacent dwellings.
- Proposal comprises overdevelopment of the site and is inconsistent with the surrounding pattern of development of the area in terms of density and height.
- Similar semi-detached type development proposal, on a larger site, at 58 Lakelands was refused by both Tipperary County Council and ABP (PL92.243910).
- There are potential wayleaves for sewer and surface water drainage services which may extend under the property boundary and under the proposed build; a 5m wayleave should be maintained to provide access to services.
- Surface water runoff could cause waterlogging in the garden of adjacent dwellings, including that of no.8 Lakeview to the rear of the proposed semi-detached dwellings.
- Proposal to only include a single parking space for each dwelling is insufficient and will result in on-road parking, representing a hazard to both road and pedestrian users.
- Design, scale, positioning and ridge height are inconsistent with the established pattern and parameters in the area and will impede the ability of the adjacent dwelling (No.22) to meet Part L Building Regulations

(Conservation of Fuel and Energy), through shadowing of the property and blocking of natural light.

- Sightlines and views from the proposed building from ground and first floor, on multiple elevations, directly and unacceptably overlook the adjacent dwelling (No.22).
- The subject appeal site is the applicant proposed and allocated Part V site relating to LA planning ref. 22/156. The site is the smallest site in their portfolio of Cullenagh sites and falls well below the 10% Part V provision requirement.
- Development of the 2No. semi-detached homes for Part V social housing within Cullenagh is inconsistent with the planning and development pattern of the area.
- No provision made for access to services at rear of the site for maintenance.
- Whilst proposed revised location provides some minor benefit in relation to a reduced ridge height and improved visual appearance from the road, it would be closer to both No.8 Lakeview and No. 22 Lakelands. This will negatively impact their visual amenity and block southern light, limiting the potential energy efficiency plans relating to solar gain of No.22 Lakelands adjacent to the east.
- Revised plans result in proposed hard surface areas being increased by over 30%, exacerbating concerns with surface water.

4.0 Planning History

On site: ABP PL22.225284 – Permission sought for 35No detached dwellings. Permission was granted for 30No dwellings, with Condition 3(b) omitting a dwelling for the subject appeal site: *“house number 22 shall be omitted, to protect the amenity of property to the rear having regard to its design and restricted size of site.”* The Inspector’s report also noted the following in relation to the site: *“house number 22 shall be omitted to protect the amenity of property to the rear having regard to its design and restricted size of site”*.

Adjoining Lands:

No.22 Lakelands (north-east) – PA Ref. 17601412: Grant for single storey extension to rear, pergola/ carport to side; internal modifications and revised elevation treatment to sides and rear.

No.2 Lakeview (south-west) – PA Ref. 5121808: Change of house type from previously granted under PLC/20550.

No.8 Lakeview (rear/ north) – PA Ref. 2274: Demolition of existing garage, single storey pitched roof extension to the north, garage to the south-east corner of the site, dormer window at roof level, internal alterations.

5.0 Policy Context

5.1. Development Plan – Tipperary County Development Plan 2022-2028

- 5.1.1. The site is zoned 'Existing residential' within the Development Plan, the objective of which is, 'To preserve and enhance existing residential development and residential amenity and provide for additional facilities where gaps are identified.'
- 5.1.2. Section 4.2 of the Development Plan refers to Tipperary's Towns and Villages, with Table 4.1 providing the County Settlement Hierarchy. Ballina is identified as a 'Local Town' within Tipperary's settlement hierarchy.
- 5.1.3. Section 5.4 supports Specialised Housing and Housing Mix. This includes regard to Age Friendly Housing. *New residential development shall consider 'Age Friendly Principles Guidelines for the Planning Authority', Age Friendly Ireland 2021. Where possible, homes in new residential developments are to be universally designed to the 'Lifetime Homes' standard set out in Quality Housing for Sustainable Communities (DEHLG, 2007).*
- 5.1.4. Policy 5-5: Support and facilitate the delivery of new residential development in towns and villages and where the applicant has demonstrated compliance with a number of criteria, including the following:
- New residential development shall meet the relevant Development Management Standards as set out in Volume 3.

- New development shall be of an appropriate density and quality in accordance with the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, (DHLGH, 2009), and any amendment thereof, and shall demonstrate that all opportunities for connectivity and linkages have been explored and incorporated in accordance with the 10-Minute Town concept and supporting active travel options.

5.1.5. Policy 5-7: Ensure that new residential development accommodates housing for a range of specialised needs, including those of the elderly, and contain appropriate mix of housing types and sizes. New housing shall incorporate the principles of Lifetime Adaptable Homes and Universal Design to cater for groups with specific needs in the county, as informed by a 'Statement of Housing Mix' as part of a 'Sustainability Statement' where applicable.

5.1.6. Chapter 15, Section 15.4 refers to Sustainable Surface Water Management (SuDS). *The Council is responsible for the on-going maintenance and monitoring of sustainable drainage systems within our towns and villages and will seek to maintain drainage having consideration to Water Sensitive Urban Design and application of a nature-based SUDS approach. The Council will require all new development to provide a separate foul and surface water drainage system and to incorporate water sensitive urban design and a nature based SUDS approach, where appropriate, in new development and the public realm.*

5.1.7. Policy 15-7: Require all new development to provide a separate foul and surface water management system and to incorporate nature-based water sensitive urban design, where appropriate, in new development and the public realm. New developments, or retrofit/upgrading works, including those contributing to combined drainage systems where streetscape enhancement programmes or resurfacing programmes are planned, will incorporate measures to reduce the generation of storm water run-off, and to ensure that all storm water generated is managed on-site, or is attenuated and treated prior to discharge to an approved storm water system, with consideration to the following:

- a) Nature-Based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas (water sensitive urban design) Best Practice Interim Guidance Document (DHLGH, 2001) and any review thereof,
- b) The infiltration into the ground through the development of porous pavement such as permeable paving, swales and detention basis,
- c) The holding of water in storage areas through the construction of green roofs, rainwater harvesting, detention basis, ponds and wetlands etc.
- d) The slow-down in the movement of water

5.1.8. Volume 2 Settlement Guide and Settlement Plans: Section 8.0 Specific Objectives – Sustainable Communities

SO6: To seek the development of high-quality neighbourhoods with an appropriate mix of house types, amenities and services to cater for housing needs of the community.

5.1.9. Volume 3 Development Management Standards of Tipperary County Development Plan includes:

4.6: Applications for residential development will be assessed against the design criteria set out in the Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, (DHLGH, 2009) and the Urban Design Manual: A Best Practice Guide, (DHLGH, 2009). This section applies to all new residential development in settlements, including serviced sites and should be addressed at planning application stage to the satisfaction of the Council.

4.10: Backland and Infill Development: Backland residential development relates to small scale development located to the rear of or adjacent to existing buildings in built-up areas. To make the most sustainable use of existing urban land, the Council will consider the appropriate development of backland/infill housing on suitable sites on a case-by-case basis. Backland/infill housing should comply with all relevant development plan standards for residential development. Proposals should:

- Align with the prevailing density and pattern of development in the immediate area including plot sizes, building heights, and proportions;

- Not impact negatively upon the residential amenities of surrounding properties such as the potential loss of daylight or increased overlooking;
- Take cognisance of the potential of adjacent infill/backland sites being developed and shall not prejudice the development potential of such lands.
- Ensure adequate amenity is afforded to the existing and proposed development.

Section 6.5.1 of the Development Management Standards specifies (inter alia) that all new developments will normally be required to provide adequate off-street car parking facilities and cycle facilities. Table 6.4 of the County Development Plan provides Minimum Car Parking Standards and this includes 1 space per dwelling unit (up to 2 bedrooms), and 2 spaces per dwelling unit, where such unit comprises 3+ bedrooms.

5.2. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024

- 5.2.1. These guidelines, issued under Section 28 of the Planning and Development Act 2000, as amended, came into effect in January 2024 and replaced the Sustainable Residential Development in Urban Areas Guidelines (2009). The Board is required to have regard to any relevant Specific Planning Policy Requirements (SPPRs) contained in the guidelines.
- 5.2.2. Chapter 3 'Settlement, Place and Density' sets out policy and guidance in relation to the key growth priorities for settlements at each tier in the national settlement hierarchy and in relation to residential density.
- 5.2.3. Small and Medium Sized Towns (1,500 – 5,000 population) outside of metropolitan areas.
- 5.2.4. Small / Medium Town Edge: The edge of small to medium sized towns are the lower density housing areas constructed around the centre, while urban extension refers to greenfield lands at the edge of the built-up area that are zoned for residential or mixed-use (including residential) development. It is a policy and objective of these

Guidelines that densities in the range 25 dph to 40 dph (net) shall generally be applied at the edge of small to medium sized towns.

- 5.2.5. Policy and Objective 3.1: It is a policy and objective of these Guidelines that the recommended residential density ranges set out in Section 3.3 are applied within statutory development plans and in the consideration of individual planning applications, and that these density ranges are refined further at a local level using the criteria set out in Section 3.4 where appropriate.
- 5.2.6. Chapter 5 'Development Standards for Housing' sets out policy and guidance in relation to the design of housing and standards to be applied in support of greater innovation within the housing sector and to facilitate more compact forms of residential development.
- 5.2.7. SPPR 1 – Separation Distances: Statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses.
- 5.2.8. SPPR 2 – Minimum Private Open Space Standards for Houses: 2-bed house: 30sq.m; 3-bed house: 40sq.m.
- 5.2.9. SPPR 3 – Car Parking: 2 spaces per dwelling (maximum).

5.3. Natural Heritage Designations

Lough Derg pNHA (site code: 000011) is c.294m to the west of the site, the Lough Derg (Shannon) SPA (site code: 004058) is c.492m north-west of the site and the Lower River Shannon SAC (site code: 002165) is c.915.4m to the south-east of the site.

5.4. EIA Screening

See Form 1 and Form 2. Concerning 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.

Having regard to the nature and scale of the proposed development and the receiving environment, which is a fully serviced location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- At further information stage the proposed design resulted in a lowered f.f.l from +59.85m to +58.72m, and a reduction in ridge height to match the dwelling to the north-east, thus bringing the proposed design in general alignment with neighbouring dwellings and also comprising an appropriate response to the site location and context. A proposed wrap around window on the north-east elevation which gave rise to overlooking was also omitted and the location of the house on site was moved further to the rear, in line with the existing streetscape to the north-east.
- Design reference has been taken from the neighbouring house to the east.
- Proposed development has had due regard to the proximity and amenity of neighbouring properties as well as zoning objectives, national guidance (including Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024) and policy, house type diversity and building forms in the area, topography of the site and existing boundary treatment.
- In accordance with the Tipperary County Development Plan policies, a sustainable surface water drainage system for each dwelling is proposed, with no discharge off site or impact to third party lands. This is based on on-site permeability simulating the eventual scenario. A comprehensive surface water drainage design has been prepared for the site as detailed in the accompanying Surface Water Management Report.

- Whilst condition No.5 of ABP PL22.225284 required that house no. 22 (the subject appeal site) be omitted, it did not require that the site remain as open space and the land thus remains suitable for development, in accordance with the Cullenagh Masterplan.
- The existing house to the rear of the subject appeal site has recently been subject of a sizeable extension, granted under planning reference 22/74, including demolition of the existing garage, construction of a new single storey pitched roof extension to the north of the dwelling and construction of a garage to the south-eastern corner of the site.
- One of the objectives of the Tipperary County Development Plan (Vol. 2 Settlement Guide and Settlement Plans), is “to seek the development of high-quality residential schemes, which provide a range of house types...”.
- The Planning Report on file confirms that the proposal, comprising 2no dwellings on the site, at a density of c.25 dwellings per hectare, is acceptable in principle.
- Amended drawings are submitted with the appeal statement which seek to address the concerns of the planning authority as stated in the reasons for refusal. These detail a reduction in ridge height from 66.72m to 66.58; a single vehicular access instead of two separate ones which also reduces the quantum of hard surface areas to the front (roadside) of the proposed dwellings; and a Surface Water Management report.

6.2. Planning Authority Response

None.

6.3. Observations

Third party appeal observations largely reflected observations made in relation to the initial planning application advertised, and those made in response to the significant further information submitted to the Planning Authority. In summary, these relate to:

- Loss of privacy amenity to neighbouring dwellings.

- Loss of light to neighbouring dwellings.
- Overdevelopment of the site.
- Surface water drainage and flooding.
- Subsidence and collapse of rear wall to existing rear boundary wall of No.8 Lakeview.
- Overlooking, overbearing and imposing relative to adjacent dwellings.
- Contrary to provisions of Cullenagh Masterplan as well as previous Tipperary County Council and An Bord Pleanála decisions.
- Nature, design, scale, positioning and character of proposal would be contrary to surrounding pattern of development.
- Contrary to building regulation requirements.
- Parking.

6.4. Further Responses

None.

7.0 Assessment

7.1. I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal, and noted the planning authority's request for additional information and the applicant's response to same. Having regard to the site being an infill site on zoned residential lands, I consider the principle of residential development to be provided on the site, to be acceptable. As such, I consider the main issues in this appeal to be those raised in the grounds of appeal and observations made to same, namely:

- Policy and planning history
- Nature, design, scale and positioning
- Surface water drainage and flooding.
- Parking.

- Other matters.

7.2. Policy and planning history.

- 7.2.1. The policy within the Tipperary County Development Plan and current Government policy seeks to make efficient use of zoned residential lands, provide for a mix of housing/ house types within residential areas, promote compact growth and reduce urban sprawl. Section 3.3.3 of the Compact Settlement Guidelines provides generally in the range of 25dph to 40dha, in Small and Medium Sized Towns; also, that the density of development should respond in a positive way to the established context. Section 3.3.6 provides Exceptions and includes: c) In the case of very small infill sites that are not of sufficient scale to define their own character and density, the need to respond to the scale and form of surrounding development, to protect the amenities of surrounding properties and to protect biodiversity may take precedence over the densities set out in this chapter.

Thus, whilst taking existing policy into account, and whilst previous planning history pertaining to the subject appeal site reflects a number of associated refusals, having reviewed these applications, I am of the opinion that they related largely to the respective proposed design proposals, and are not necessarily reflective of a precedent or policy context which would preclude the consideration of a positive planning decision for the site, subject to the proposal of an appropriate design solution for same.

- 7.2.2. Nature, design, scale, and positioning

Review of the quantitative aspects of the proposed development illustrates that the proposal complies with such requirements, as set out in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024, as well as the extant Tipperary County Development Plan. In addition, in accordance with the provisions of policy 5-7, the proposed development would assist in ensuring that a range and mix of housing types and sizes is incorporated into the existing urban fabric of the housing estate. Notwithstanding, the design of the proposed units does not incorporate the principles of Lifetime Adaptable Homes and Universal Design, contrary to the provisions of that same policy (5-7).

The first party appellant refers to having had regard to neighbouring dwellings and in particular the dwelling to the east (No.22), as reference points (in the revised proposal submitted as further information), for the proposed dwelling(s) design, in relation to ridge heights and proximity to adjacent dwellings. In my view, having visited the site and taken account of the surroundings, existing dwelling setbacks from boundaries and the topography of the site and area, an appropriate design response would be to primarily consider the adjacent sites to the south-west and north-west. In repositioning the proposed building further down the site, the proposed ground floor level of the dwellings would be c.+58.72. This is almost 3m higher than the ground level of the rear garden of No. 8 Lakeview, which is indicated as c.+55.63, with the proposed building being only c.12.5m from the rear boundary wall. Whilst the revised positioning of the proposed building on site therefore addresses the matter of ridge height and transition when viewed from the adjacent road, it would have a consequently increased negative impact on the residential amenity, in particular, of No 8 Lakeview to the north-west, by reason of being overbearing. In addition, as the rear wall of the existing dwelling at No. 8 is situated within close proximity of the rear boundary wall, the proximity and elevated height difference between No.8 and the proposed dwellings would result in an unacceptable degree of negative impact to the existing occupants, by virtue of overlooking and privacy amenity, notwithstanding the appellants revised fenestration proposals.

As regards potential impact of light amenity to the adjacent dwelling at No. 22 Lakelands, the existing dwelling at No.22 faces north-west, elongated along a north-west/ north-east axis, with a relatively generous existing side boundary setback from the subject appeal site - particularly when compared against the setbacks between other dwellings within the estate and also from a 'figure and ground' perspective. Thus, whilst the proposed repositioning of the building on the appeal site may provide some shadowing to No.22, this will be limited to early morning sunrise and it is therefore considered that No.22 would not be unduly negatively affected.

7.3. Surface water drainage and flooding

The Surface Water Management Report submitted by the appellant in their appeal, proposes a sustainable urban drainage layout for the appeal site, designed in accordance with the principles of Sustainable Urban Drainage Systems (SUDS), as

set out in CIRIA document C753 'The SuDS Manual', 2015. The proposal has been designed to cater for critical storms across a range of Annual Exceedance Probabilities – i.e. 1 in 10, 1 in 30, and 1 in 100 years, whilst also factoring in an additional 20% to allow for potential climate change impact. Appendix D of the report also provides information relating to the assessment of on-site permeability testing. On the basis of the analysis and assessments undertaken, the required storage volume for surface water run-off is 6.02 cu m, on the dwelling to the north. The proposed trench system will provide for a storage volume of 4.6 cu m, with additional storage being provided within the permeable paving system proposed to the parking area, equating to 2.8 cu m, giving a total of 7.4 cu m.

Notwithstanding the above, from the point of view that the majority of surface water runoff will be derived from surfaces which occur beyond the proposed parking area permeable storage provision and from a precautionary basis, it would be my view that a storage volume which closer approximates the total required storage volume of 6.02 cu m, should be provided at the bottom of the subject appeal site to appropriately and adequately store surface water run-off so that it would not negatively impact on the amenity of No.8 to the north-west.

- Parking.

Parking provision proposed is in accordance with the Tipperary County Development Plan as well as the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024, and is therefore deemed to be acceptable.

- Other matters.

Observers have raised an issue of the proposed development negatively impacting the value of houses in the area, as a result of the development. Issues regarding negative equity and the market value of a property are not a planning matter.

In addition, matters relating to Building Control Regulations are also raised. In this regard, I am cognisant of the guidance set out in the Development Management Guidelines, 2007 in relation to matters that are the subject of more specific controls under other legislation. The guidelines state that it is not appropriate to deal with such matters as part of the development management process.

8.0 Recommendation

I recommend that permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the location, scale and design of the dwellings proposed, the sloping gradient on the site and level difference to adjoining properties, it is considered that the proposed development would result in negative impacts on adjoining residential amenity through overbearing and loss of privacy amenity. The proposed development, would for the above stated reasons, be at variance with the requirements of Policy 5-5 and Section 4.10 of Volume 3, Appendix 6, Development Management Standards of the Tipperary County Development Plan 2022 where they relate to infill development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the extent of areas on the site that require drainage management, the location and scale of development and the sloping gradient of the site and level difference to the adjoining properties and No.8 Lakeview in particular, the Board is not satisfied that the proposed development site can accommodate the maximum surface water storage volume required in an appropriate location on site. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

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.

L. Gough
Planning Inspector

09 November 2024

Appendix 1 - EIA Pre-Screening

An Bord Pleanála Case Reference	319877-24		
Proposed Development Summary	2No semi-detached dwellings, landscaping and associated site works		
Development Address	Site 22 Lakelands, Cullenagh, Ballina, 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		Class.....	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)
No	X		No EIAR or Preliminary Examination required
Yes		Class/Threshold ...	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	X	Preliminary Examination required	
Yes		Screening Determination required	

Inspector: _____

Date: 09/11/2024

Appendix 2 Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference	319877-24	
Proposed Development Summary	2No semi-detached dwellings, landscaping and associated site works	
Development Address	Site 22 Lakelands, Cullenagh, Ballina, Co. Tipperary	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p>	The proposed development is for the construction of 2No. two-storey detached houses on a serviced site within an established residential housing estate.	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	No significant waste, emissions or pollutants are likely.	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	The size of the proposed development, of 2No dwellings, is notably below the mandatory thresholds in respect of a Class 10 Infrastructure Projects of the Planning and Development Regulations 2001 as amended.	No
<p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	There are no other developments under construction in proximity to the site. All other developments are established uses.	No
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p>	<p>There are no ecologically sensitive locations in the vicinity of the site. The site is not within a European site and the nearest European sites to the subject appeal site are:</p> <ul style="list-style-type: none"> Lough Derg pNHA (site code: 000011) is c.294m to the west of the site 	No

<p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<ul style="list-style-type: none"> • Lough Derg (Shannon) SPA (site code: 004058) is c.492m north-west of the site • Lower River Shannon SAC (site code: 002165) is c.915.4m to the south-east of the site. <p>The site is serviced in terms of wastewater and storm water disposal. In the event that planning permission is granted, any surface water arising from the proposed development will be managed by condition that will include for standard best practices and methodologies for the control and management of surface water on site, as well as implementation in accordance with the Surface Water Management proposal submitted as part of the First Party Appeal.</p> <p>Given the absence of pathways to any sensitive ecological sites / receiving environment, it is considered that no issues arise.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	<p>No</p>
<p style="text-align: center;">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment in terms of the nature, size and location of the proposed development and having specific regard to the criteria set out in Schedule 7 of the P&D Regs 2001 (as amended).</p> <p>EIA not required.</p>		

Inspector: _____

Date: 09/11/2024