



An  
Bord  
Pleanála

## Inspector's Report ABP-320113-24

<b>Development</b>	Change of house type and increase from 4 to 6 dwellings, demolition of wall, completion of detached dwelling and all associated site works.
<b>Location</b>	Lus an Ime, Spital, Cloyne, Co. Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	236364
<b>Applicant(s)</b>	Kenneally Developments Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Daniel Kenneally
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17 <sup>th</sup> November 2024
<b>Inspector</b>	Suzanne Kehely

## **1.0 Site Location and Description**

- 1.1. The site of 0.625ha as outlined in red is part of a new housing development, Lus an Ime, at the western side of Cloyne Village and south of the R631 between ribbon development and farmed lands. The site relates to an incomplete section of the housing development along The Close - a short cul-de-sac parallel to and visible from the R631. It also incorporates the internal road extending from its junction with the R631 along the spine route including and up to the end of The Court where it includes plot 26 which aligns with bungalow sites along the Crescent to the south which together back onto a minor local road off the R631.

## **2.0 Proposed Development**

- 2.1. Permission is sought for 7 houses in total. It is described as phase 3 works as part of the wider development and involves:

- 6 dwellings along The Close described as - a change of house type and increase in previously permitted (PA ref 16/5726) density by increasing number from 4 to 6 houses (comprising 4 detached houses and 2 semi-detached houses on previous sites no. 10, 11, 12 and 13). New numbering for the site is identified.
- 1 dwelling described as - completion of a house unit on plot no.29 The Court (previously identified in PA ref 16/5726 as site no.26)
- The house mix consists of 3 x three-bed and 4 x four-bed two-storey houses.
- A pedestrian link between The Crescent and The Court is reinstated in revised plans submitted as part of further information in accordance with the previous permission. FI also includes details on boundary treatments, drainage and site works.
- All houses are stated to be compliant with quality Housing for Sustainable Communities (2007) and Design Manual for Quality Housing 2022 , Dep Housing, Local Government and Heritage and Cork County Development Plan 2022-2028.

- 2.2. The layout plans show provision of screen walls between the northern boundary of the development (The Court) and partially alongside detached houses fronting the R631. This is revised in further information to include the boundary with the property

directly north of the house owned by an appellant party in the concurrent appeal.

Documentation includes:

- Drawings of details relating to boundary treatment, grading of rood and footpath, watermains layout, foul sewer sections and foul and surface water sewerage layout which serve and connect to the proposed dwellings. In further information an attenuation tank is shown as part of the surface water drainage network for the housing development of which the subject site forms a part.
- Planning and Architectural Design Statement Universal Design Statement
- Accommodation schedule
- Building Materials Report - for houses and boundaries - 'overall appearance of coherence and quality.
- An Archaeological Assessment dating from 2017 - This confirms that there are no archaeological remains on site nor is there considered to be any archaeological impediment to developing the site. No further archaeological intervention is recommended.
- In further information - Engineering and Infrastructure Report relating to the subject and wider development
- Draft Architectural Design statement relating to the next phase of development outside the subject site.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Following a request for **further information** on 26<sup>th</sup> January 2024 regarding insufficient capacity of the Cloyne WWTP, storm water disposal, pedestrian link, boundary details, footpath design and overall approach to completion and consideration of response, the planning authority by Order on 12<sup>th</sup> June 2024 decided to **grant permission** subject to 8 conditions

- C1 standard condition
- C2 S.48 contribution

- C 3 full connection agreement with Irish water prior to commencement of development and no commencement until full details of site-specific agreement is submitted to PA for written agreement at least 1 month in advance of any development commencing.
- C 4 Bond
- C 5 Parking
- C 6 Open space and play area completion
- C7 Boundary details in accordance with revised details on 16<sup>th</sup> May 2024.
- C 8 Public lighting

### 3.2. Planning Authority Reports

3.2.1. Planning Reports: (26/1/2024 and 11/6/2024). The PA describes the site as being within the development boundary of Cloyne and refers to the objective to encourage the development of up to 195 houses over the plan period within the development boundary. (DB-1). The assessment has regard to:

- The planning history and piecemeal approach but notes the engagement with the applicant in this regard and Preplanning meeting and benefits of completing the development particularly along the roadside frontage.
- The small increase in density having regard to the previous permission and the Sustainable Residential Development and Compact Settlement – Guidelines for Planning Authorities and its aims while having regard to the character of Cloyne in terms of density and growth.
- The similarity of the layout for 6 houses in the location of previously permitted houses and adherence to style and format of existing estate
- The overall impact of site layout on the footpath to the east where it is less than 1.8m in width and acceptable details in FI addressing this.
- No material difference in terms of overlooking,
- The single storey design for plot no. 29 will be consistent with adjacent and not generate overlooking
- The need to reinstate previous pedestrian inter-connection and which has been shown in FI. (drawing 10186-PL-003- Site Layout Plan)

- Boundary detail along north of The Court and acceptable details in FI which include 1.8m wall. (drawing 10186-PL-003- Site Layout Plan)
- Concern regarding overloading of wastewater system. From discussion with UE, connection for additional houses under CDS24001705 will be refused until upgrade timelines known. CDS2000161701 was a connection agreement for 21 houses which will be honoured. It is the view of the PA that it could take several years before the 21 dwellings (subject of the agreement to be honoured) are constructed. In this context a condition limiting commencement of construction to an agreed UE connection is reasonable and will allow the proposed dwelling to be built.
- It is noted that the stormwater attenuation as permitted under the original permission 03/5233 has not been completed but will be completed as part of the proposed development and a condition is recommended in this regard. Clarification of the future provision of the attenuation tank is required and regard also to SUDs and continued need for such a tank.
- In response to this matter the applicant has shown drainage and attenuation tank details on drawings 10186-PL-004 'Existing Drainage Layout Plan' and in the Engineering Infrastructure Report. Having regard to the legacy of the site and permitted system and absence of SuDS, the area engineer and Estates Division engineer are satisfied.
- As the proposal would not result in an excess of 75 units, there is no compelling reason to provide a creche at this stage, however its longer term provision in open space is of concern.
- No further archaeological appraisal is deemed warranted.
- No new Part V housing requirement.

### 3.2.2. Other Technical Reports

- **Water Services Report** on further information: Having initially recommended on 29/1/24 a deferral of decision pending Further Information this report appraises the details of the wastewater connection application and notes that there is an existing connection agreement for 21 houses and that this will be honoured by UE. A later application will be refused as all Cloyne PCEs and applications are refused now until Cloyne WWTP upgrade timelines are known which is circa

2027. This means connection will not be received until completion of the plant which will not be until 2027. Otherwise, there is no objection on environmental grounds subject to connection agreements.

- Estates: In report of 26/1/24, it is considered that there is an opportunity to address overall open space provision. Concern about footpath design. No objection subject to condition relating to a Bond, 2 parking spaces per unit and open space and play areas associated with this phase to be completed . .
- Archaeologists report: no archaeological intervention required.
- Public Lighting: No objections subject to condition in 16/5726.
- Housing: Part V not applicable to this proposal as the increase in density is two and does not increase to the next threshold for an additional unit.
- Area Engineer (3/5/2024) no objection on engineering grounds. Water and foul drainage are matters for UE although recommends conditions relating to surface water and satisfactory connection to water supply. Site notice was noted as being displayed on 2/5/2024.
- Water Services: 29<sup>th</sup> April 2024 This report flags capacity issues of the WWTP serving the proposed development as of 2023. There is no available capacity. The Cloyne WWTP upgrade is at early design stage and delivery of scheme is post 2027. Permission should be contingent on connection agreement in place. seeking applicant to engage with Irish Water and get pre connection agreement to confirm connection is feasible prior to permission.

### 3.2.3. Conditions

- The PA has attached a number of conditions relating to detailed specification for services such as public lighting, civil works and utilities as well requiring a **pre-connection agreement from Irish Water having regard to the capacity issues**. This is addressed in the assessment.

### 3.3. Prescribed Bodies

Uisce Eireann: 24/11/2023 in order to assess the feasibility of the connection further information is requested : The applicant is it required to engage with UE through the

submission of a pre connection enquiry in order to determine the feasibility of connection we'll share wastewater infrastructure the confirmation of feasibility must be submitted to the planning department as the response to this further information request break connection inquiries can be made In a letter to the applicant dated 20<sup>th</sup> July 2020, a connection agreement is made for the Lus An Ime development Inland Fisheries Ireland (11/12/23) concerned about overloading of existing treatment facility and would like to be informed of decisions.

### **3.4. Third Party Observations**

A number of observations were made objecting to the development on the basis of principle, density, boundary treatment and location, archaeology, and impact on amenities and open space. The occupant of the existing neighbouring dwelling on The Close refers to the 1m increase in height and need to address /finish boundary treatment and provide bicycle parking. The neighbouring farmland owner has concerns about level of attenuation tank and feasibility of discharging to river and consequent impact on localised flooding which will affect his lands. It should drain to the north rather than the south.

## **4.0 Planning History**

- 4.1. The planning authority report sets out the planning history for the housing estate in its planning report and refers to the original application for 103 houses (PA ref 03/5233) which were not completed and subsequent permission (PA ref 16/5726) relating to 18 houses in the western area only and further modified in 2018 (PA ref 18/5534) with an additional 3 dwellings in place of 5. A total of 62 houses of the original permission have been constructed.
- 4.2. ABP 320126/ PA 24/4567 is a concurrent live appeal case in the same area and relates to an area of 0.1098 hectares along 'the Court to the southwest.
- 4.3. In relation to the progress of the water supply for Cloyne, the following is relevant.:

- ABP317334 refers to permission for construction of extension to existing Whitegate Regional Water Treatment Plan, County Cork. (Date of Order 29<sup>th</sup> January 2024.)

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The site is within the development Boundary of Cloyne which is a 'Key Village' in Volume 4 and is zoned for 'Existing Residential/Mixed Residential and Other Uses' as indicated in Volume 6 of the Cork County Development Plan 2022-2028 (CDP).
- 5.1.2. The vision and objectives for the village are set out in Volume 4 of the CDP. The vision is to promote village centre renewal within a strong village core while protecting the unique character and setting of the village to achieve a sustainable level of residential and commercial development in conjunction with the provision of services and infrastructure. A total of 195 houses are envisaged in the plan period. Cloyne and Castlemartyr WWTPs are currently not compliant with Wastewater Discharge Licence emission limit values but are capable of achieving at least UWW standards.
- 5.1.3. **Water Supply** (section 3.7.20): A public water supply is available in the village and forms part of the Cloyne Aghada Whitegate Regional Water supply scheme. The interlinked Cloyne –Aghada scheme is operating close to full capacity however currently it is envisaged that there is capacity available to cater for proposed draft population targets. There is a risk of supply interruption during drought or freeze-thaw conditions. Further intervention may be required to provide a supply and level of service that meets best international standards. 3.7.21 Some works are required to reduce the vulnerability of the scheme to pollution of existing sources by augmentation and upgrade with new sources.
- 5.1.4. **Waste Water** (section 3.7.22- 3.7.23): Cloyne's wastewater treatment plant was commissioned in 2010 and has a PE design of 1,400. There are assimilative capacity issues concerning the stream receiving the treated effluent from Cloyne. The treatment capacity needs to be upgraded as the discharge is to designated shellfish waters and proposed designated bathing areas.



- 5.1.5. The Wastewater Treatment Plant is currently not compliant with Wastewater Discharge Licence Emission Limit Values. Cloyne WWTP therefore does not have the capacity to accommodate all proposed development in Cloyne. Cloyne is on the Draft Irish Water Investment Plan 2020 – 2024. Waste-water treatment capacity in Cloyne will be available once capital upgrade project is completed.
- 5.1.6. **Flooding** (section 3.7.24): Parts of Cloyne have been identified as being at risk of flooding. The areas at risk largely follow the path of the Shanagarry\* River north of the village and are illustrated on the settlement map. Government Guidelines require, and it is an objective of this plan, that future development is avoided in areas indicated at being at risk of flooding. The approach to Flood Risk Management is set out in Chapter 11 Water Management in Volume One of this Plan and in the updated Strategic Flood Risk Assessment (SFRA), October 2021. The updated SFRA should be consulted for any settlement specific comments and recommendations, including any site-specific recommendations made as part of any Justification Tests carried out, prior to any application for development.

\*[Note: on catchments.ie the River in the flood zone north of the village is identified as Knocknamadderee whereas the Shanagarry River is a few kilometres to the south east and they are not shown as hydrologically connected on these maps.]

## 5.2. Natural Heritage Designations

- 5.2.1. Cork Harbour SPA Site Code 004030 is approximately 2.5k from the site. The Great Island Channel SAC Site Code 001958 is approximately 3.7km from the site.

## 5.3. National planning policy

- 5.3.1. **The National Planning Framework - Project Ireland 2040.** This policy framework emphasises ‘making stronger urban places’ and a number of National Policy Objectives support this. NPOs 5,11, 13, 33 and 35 are relevant and notably NPO 35 seeks to increase density in settlements through infill development and increased building heights among other development formats.
- 5.3.2. **Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities** (2024). While encouraging higher density as part of land use

efficiency, these Guidelines acknowledge the need to respond to settlement size and contexts such as in cities, large and medium-sized towns and smaller towns and villages. The guidelines provide for greater flexibility in residential design standards such as in the provision of open space, parking (car and cycle), and separation distances.

#### 5.3.3. **Design Manual for Urban Roads and Streets, Government of Ireland**

**Publication**, (2019) sets out design guidance for incorporating planting, natural drainage and pinch points into urban streets.

### 6.0 **EIA Screening**

- 6.1.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics of the proposed development and its location in an urban area where services are provided and likely to be enhanced within the next five years and also noting the location removed from any sensitive locations or features and having regard to the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not therefore required.

### 7.0 **The Appeal**

#### 7.1. **Grounds of Appeal**

- 7.1.1. Daniel Kenneally has appealed the decision to grant permission on grounds relating to the increase in housing for reasons based on:
- Increase in density by 50% and change of character from a detached type layout in a prominent location which is unwarranted in context of available land.
  - Reduced quality of development due to shared surfaces such as footpaths and associated complication of ownership and management
  - Confusing numbering – 2 x no.14

- Increase in flooding due to increased development footprint will not help the adjacent farmlands
- Loss of permeable surfaces.
- Non-engagement with appellants has resulted in appeal.
- There is no financial basis to justify the development and effective reduction in unit cost by increasing g density. The site was purchased in 2020 based on a lower density.

## **7.2. Applicant Response**

7.2.1. A planning consultant has responded to the issues raised and in the first instance sets out the background and planning history and requirements for compliance with regulatory standards (BCAR). The issue of density, numbering, ownership, and flooding are addressed and specific points made in refutation include:

- House numbering can be addressed by condition
- Density is advocated in planning policy the proposed infill is very similar to previously permitted layout as noted by the PA.
- Mix of house types is also supported in planning guidance policy. The claim of shared ownership and quality is dismissed as making no sense
- Flooding: It is submitted that the site is not in a flood zone and that the proposal is acceptable to the Water Services Division and IW/UE. Flooding is addressed in FI primarily by a storm water tank.
- Loss of amenity space and associated permeable surfaces is minimal in overall context
- Non-engagement with residents /neighbours is not a planning requirement or consideration and by reference to section 128 of the PDA these grounds are without substance and foundation.
- Costing of development are not relevant planning considerations.
- Having regard to section 138 the Board is requested to consider dismissing the appeal.

### **7.3. Planning Authority Response**

In a letter dated 31<sup>st</sup> July 2024, that Planning authority has no further comments as all relevant issues are considered to have been addressed in technical reports on file.

### **7.4. Observations**

None

### **7.5. Further Responses**

None

## **8.0 Assessment**

### **8.1. Scope of issues**

8.1.1. Having read the file and inspected the site I consider the key issues fall under the following headings

- Principle of development having regard to density
- Flooding
- Amenities of future occupants
- Impact on no. 14, house numbering
- Procedural issues,
- Other

### **8.2. Principle of development**

8.2.1. The principle of additional houses is objected to on grounds of increased density and changing the character of the area at a prominent location in the housing development where it fronts the R631. The proposal seeks in fact only to build moderately smaller houses on narrower plots thereby replacing 4 previously permitted detached dwellings with 4 smaller detached houses and adding a pair of semidetached houses. As compared to the previous permitted development, the increase in density is marginal and not what I would consider out of character with the prevailing pattern of the area. It would in principle accord with the CDP aim for

Cloyne, a key village as it is sited within the urban development area and is supported by the Compact Settlement Guidelines as mandated by the National Planning Framework.

- 8.2.2. The proposed houses will be alongside a detached house at former plot 14 which is self-contained on a larger plot as is the more established house to the west. The houses align with the building line set by existing plot 14 and the house style and finishes proposed are cohesive and would, in visible terms, constitute orderly development and further advance the completion of the estate as well as addressing the wider issue of potentially ensuring an overall improved standard of development.
- 8.2.3. I also note that the site is prominently situated at the entrance to the housing development off the main R631 and the completion of this part of the Lus an Ime development along The Close would be consistent with the overall orderly development of the area.
- 8.2.4. While not at issue, the change in house type at an end plot on The Court, given its siting and juxtaposition with the other houses at right angles on The Court would I consider constitute a minor alteration that would be easily assimilated into the overall development by way of harmonised materials and finishes and consistent boundary treatment. It maintains a single storey design and is accordingly consistent with the pattern of development along The Crescent to the south. In urban design terms the proposal is appropriate to the scale and context of the area. While in overall terms the proposal is for relatively minor alterations there are potentially servicing issues arising with the increase in dwellings.
- 8.2.5. As in the concurrent case, I consider the wider issue of access to the foul sewer network for an increased number of dwellings is grounds for concern having regard to the capacity issues of the Cloyne Wastewater Treatment Plant and may be a consideration in refusing permission on principle. The Planning authority sought further information on the connection agreements with Uisce Eireann and it was clarified that the pre connection agreement under CDS2000161701 was for 21 houses but that this has not been availed of. Accordingly, the proposed houses that overlap with this agreement potentially have an outstanding connection. However, in this case the additional units consequent on the subject proposal are likely to be

refused under CD24001705. The planner's report has taken account of the fact that the permissions have not been implemented, and it could several years before completion, by which stage greater clarity on the network upgrade will likely be in place. The Water Services report of 17/1/24 refers to a plant upgrade timeline of post-2027 and that it is at early design stages. Permission by the PA is only recommended on condition of full connection agreements in place and condition 6 of the order specifies that:

- (a) Prior to the commencement of any development on site the developer shall enter in a full Connection Agreement with Irish Water in relation to the development.
- (b) No development shall commence on site until such time as full Connection Agreement required under (a) above has been secured and a signed copy of this site-specific Connection agreement between the applicant/developer and Uisce Eireann is submitted to the planning authority for agreement in writing at least 1 month in advance of any development commencing.

8.2.6. The planning authority is of the view that in view of the extant agreement with for 21 houses and the lead in time that capacity could be available within the next 2-3 year and therefore compliance with such a condition is I note technically feasible. As in the concurrent case there are benefits to completing this urban development and permission subject to such a condition would expediate delivery which would I consider be in the interest of safeguarding amenities in the area. Accordingly, in view of the planning history and pattern of development, on balance I consider permission in principle is acceptable and in accordance proper planning and sustainable development of the area.

### **8.3. Flooding and surface water**

8.3.1. With respect to flooding, concerns are raised about impact of run-off on surrounding lands and this is raised in the observation to the planning authority and is elaborated on in the concurrent appeal. The matter of surface drainage and attenuation with the inclusion of SuDs was addressed by requesting further information which was submitted and reviewed to the relevant engineering divisions. The approach to using an attenuation tank is generally accepted and the legacy of the permitted drainage scheme is also acknowledged. I note that the site is not in an area designated as a

flood risk zone. This does not mean there are no localised drainage issues which are typically managed through suitably designed infrastructure and land management. In this regard I noted during inspection surface water ponding peripheral to the housing to the southeast. This issue was raised in the concurrent case but is more relevant to the subject case given the much larger site area which includes an extensive road network and the drainage system therein. While the proposal will increase loading on run-off (and other services), the scale is like that previously permitted and for which infrastructure has been provided and which is subject to conditions and compliance with the conditions of permission and non-compliance is matter for enforcement. However, the subject case provides an opportunity to upgrade the system. The PA sought further information in addressing run-off issues and sought the inclusion of SuDs. I refer the Board to the Engineering and Infrastructure Report lodged on the 16<sup>th</sup> May which describes the stormwater disposal as constructed - it being without an attenuation tank and discharging directly to an existing watercourse to the south of the site. Stormwater attenuation is now proposed and includes for stormwater discharged from hard surfaces associated with PA ref 16/5726 and 18/5534 and subsequent development. The drawings show the pipe network extending along The Court, The Crescent and The Close and extending east along The Green. The storm water attenuation tank of 375m<sup>3</sup> is shown outside the development site but I am satisfied it is within the applicant's holding and it is accepted by the planning authority. It is not however fully clear to what extent all the run-off from the houses outside the site outlined in red are captured by this and to what extent it will impact on the surrounding lands but in overall terms provides for an improved situation. Section 3.1 of this FI report also lists SuDs measures notably tree pits, rainwater harvesting and permeable surface and an overall adherence to a greenfield run-off rate which are all in accordance with good practice.

- 8.3.2. I consider a condition in this regard should provide for agreeing precise details of siting, design and capacity of tanks and measures to reduce loading such as rainwater harvesting and SuDS Measures and that outstanding compliance matters in this regard, if any, are not compromised. In terms of the interface with open space and landscaping I note that the proposed layout by widening of The Close housing plots eliminates a small strip of trees planted area to the east. If maintained as soft landscaping this will have no material impact and could also be compensated for

elsewhere in the development. The subject site also includes The Court roadway, and I note this previously included a landscaped strip along the northern boundary and was denoted with trees and consider this should be retained. I note in the concurrent case that the details of this boundary are potentially at issue, and I also note the mature vegetation. A detailed landscaped plan to include appropriate design of the wall which is sensitive to the mature vegetation should be required and can be addressed by condition more appropriately in this case given the site delineations.

- 8.3.3. The subject development will provide an opportunity to further safeguard an overall adequate standard of development. In this regard I note detailed requirements of the technical divisions as carried through in planning conditions. This applies to roads, water supply, estate layout and standards. I note the matter of drainage is addressed to the general satisfaction of the engineering divisions of the planning authority and that notably the applicant is in discussion with the planning authority to also address drainage in a wider masterplan context. I do not consider flood risk, and related issues to constitute reasons to refuse planning permission.

#### **8.4. Impact on residential amenity of future residents**

- 8.4.1. The appellant raises concern about the shared footpath and difficulties with ownership. My understanding of this concern appears to relate to the shared side passages between the properties. An alternative would be to have one exclusive passage on one side and the end house could also have a side door into the garden. However, there is also the benefit of full access to the external walls of the dwellings. The applicant dismisses this issue as making no sense. The benefit to the developer of one way over the other is not apparent and I consider this is matter for the developer to determine. Once rear gardens are fully segregated and private open space is maintained as such, I see no issue with maintaining the proposed layout. A condition requiring boundary details to be submitted for agreement would address this matter.
- 8.4.2. The alterations in this case consequent on the revised and increased number of plots and includes a reordering of plot widths and a widening of the overall plot to incorporate a narrow landscape strip and corresponding reduction in a residual area.



I do not consider this to be a significant deviation from the original plans as the proposal retains the character as previously permitted. I note adherence to amenity standards in the Sustainable and Compact Settlement Guidelines, such as complying with SPP1 in terms of separation distances and SPPR2 in terms of provision of open space. I do not consider impact on standard of amenities for future occupant to constitute grounds for refusal. In terms of loss of tree planting in this area I note the reference to incorporating tree pits and by reference to design guidance in DMURS (2019). I refer to examples of pinch points in figure 4.71 creating a low-speed environment while providing for soft landscaping. I see no reason why these cannot be provided elsewhere through the site and as previously stated this can be addressed by condition.

#### **8.5. Impact on existing No.14**

- 8.5.1. The grounds of appeal refer to the issue of numbering and duplication. This is ordinarily a matter for the planning authority to regularise and the applicant has no objection to this. Accordingly, this matter can be addressed by condition of permission and does not constitute grounds for refusal of permission.

#### **8.6. Procedural issues**

- 8.6.1. The appellant raises the matter of lack of engagement by the applicant who in response requests that this is not valid grounds of appeal. It is further submitted the appeal should be dismissed by reference to section 138.
- 8.6.2. In the first instance I consider in view of the foregoing planning issues raised that the appeal is valid. With respect to consultation and engagement, the requirement in this regard is to provide public notification of the proposed development and provide details in accordance with the PDR 2001 as amended, requirements which I am satisfied have been substantially met. While personal engagement may be a courtesy, it is not a legal requirement under the Planning and Development Act. Accordingly, I do not consider this to constitute grounds to either dismiss the appeal or refuse permission.

## **8.7. Conditions**

- 8.7.1. In view of the site area including the road network and services therein I consider it appropriate to attach conditions relating to overall standards of development. I consider including such conditions while also updating to include reference to DMURs, SuDs and EV connections and overall landscaping is appropriate. Such conditions would address issues arising in a comprehensive manner while taking account of existing development. This would not I consider compromise outstanding compliance matters. I do not consider the provision for a play area which has not been shown in the subject drawings to be part of this application and consider omitting the condition in this regard as it relates to outstanding compliance matter. Otherwise, conditions substantially in accordance with those attached by the planning authority should be upheld.

## **9.0 AA Screening**

- 9.1. I have considered the housing development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 9.2. The subject site is not located in or adjacent to any European site. The nearest site is Cork Harbour SPA at a distance across land of 2.5km to the north west. It is at a distance of just over 3km from the same site to the southwest. The SAC is 3.9km away further northwest. The site drains to the south east and the nearest river in this direction, based on the catchments.ie website, is the Shanagarry River which drains to Ballycotton Bay SPA. The river is at least 2km away across land and Ballycotton SPA is over 7km away over land. Catchments.ie also shows an extensive field boundary/drainage network but there is no river nearby as indicated by the planning authority in its screening report.
- 9.3. The proposal is for seven houses onto a substantially constructed road network as previously permitted and the number of houses are increased by only two over what was previously granted permission. Ancillary site works are proposed which include provisions for stormwater management and this includes an attenuation tank with interceptor and silt trap. This is described in the infrastructure report (further Information) as discharging to the local drain which I note is a considerable distance via the drain network to the river network draining to any European site. The only

connection therefore between the development site and sensitive habitats is via the Wastewater Treatment Plant in Cloyne which discharges by license to waters in the order of 2km upstream of Cork Harbour. As development requires a connection agreement with Uisce Eireann, notwithstanding the capacity of the plant, the issue of pollution is regulated under license and screening for indirect impacts via the treatment plant is I consider outside the scope of this application.

9.4. Inland Fisheries have commented in relation to the WWTP capacity which has been addressed above. The submission contains no other comments.

9.5. Accordingly, having considered the nature, scale and location of the project I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The small scale of and nature of development in an urban and serviced location.
- Its remoteness and from the Cork Harbour SPA or Ballycotton Bay SPA or any other European site and lack of connections to same.
- The considerations of the planning authority in its screening report.

9.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

9.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **10.0 Recommendation**

I recommend a decision to grant permission subject conditions based on the following reasons and considerations.

## **11.0 Reasons and Considerations**

Having regard to national planning policy, including the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), the planning history and the pattern of development within an existing housing development within the development area of Cloyne, a designated Key Village in the Cork County Development Plan 2022-2028, it is considered that, subject to

compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity and would not be prejudicial to public health, and would contribute to the orderly development of the immediate environs and would therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on 16th May 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity</p>
2	<p>Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network. No development shall commence until details of this agreement together with connection and plot specific details are submitted to the satisfaction of the planning authority for its prior written agreement.</p> <p>No houses shall be constructed where connections of such will breach the capacity of the Wastewater Treatment Plant for Cloyne.</p> <p>Reason: In the interest of clarity and the interest of public health and to ensure adequate water/wastewater facilities.</p>

3	<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>Prior to the commencement of development, the developer shall submit details for the prior written agreement of the planning authority of the provision, siting, design and capacity of the surface water attenuation tank as shown in details submitted on 16<sup>th</sup> May 2024 together with details for the disposal of surface water from the site which shall incorporate the SuDs measures such as tree pits, landscaping and rainwater harvesting in addition to other suitable measures and as outlined in the accompanying Engineering and Infrastructure Report.</p> <p>Reason: In the interest of public health and sustainable drainage.</p>
4	<p>(a) The site including the road corridor shall be landscaped in accordance with the submitted site layout and with SuDs measures which may include pinch points in the road network in accordance with Design Manuals for Urban Roads and Streets,(DMURS 2019) shall be provided, all details of which shall be submitted to, and agreed in writing with the Planning Authority prior to commencement of development.</p> <p>(b) The developer shall include details of a planting scheme along the strip of ground along the northern boundary of The Court together with measures to protect the mature trees and hedges during the site development works.</p> <p>(c) The agreed landscaping scheme shall be implemented fully in the first planting season following completion of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.</p> <p>(d) Details of hard landscaping materials and all boundary treatment shall be submitted to and agreed in writing with the planning authority</p>

	Reason: To ensure a satisfactory completion and maintenance of the development in the interests of residential and visual amenity and sustainable drainage.
5	<p>All of the in-curtilage car parking spaces serving the residential units shall not exceed two spaces per unit and shall be provided with electric connections to the exterior of the houses to allow for the provision of a future electric vehicle charging point.</p> <p>The front gardens shall otherwise be maintained with permeable surfaces.</p> <p>Reason: In the interest of sustainable transportation and sustainable drainage.</p>
6	<p>The rear gardens shall be fully screened from neighbouring dwellings and all details of height, material and finish of boundary walls/screens shall be submitted for prior written agreement with the planning authority.</p> <p>Reason: In the interest of residential amenity.</p>
7	<p>The internal road network serving the proposed development including turning bays, entrances, parking areas, footpaths and kerbs shall comply with the detailed construction standards of the planning authority for such works having due regard to design standards outlines in Design Manuals for Urban Roads and Streets (DMURS). The footpaths shall be constructed and dished in accordance with the requirements of the planning authority.</p> <p>Reason: In the interest of pedestrian safety.</p>
8	The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authorities

	<p>Taking In Charge standards. In the absence of specific road to standards the standards as set out in the 'Recommendations for Site Development Works for Housing Areas,' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer in compliance with these standards until taken in charge by the planning authority.</p> <p>Reason: to ensure that the development is carried out and completed to an acceptable standard of construction.</p>
9	<p>Proposals for street names and numbering and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Thereafter all estate and street signage shall be provided in accordance with the agreed scheme.</p> <p>Reason: In the interest of urban legibility.</p>
10	<p>Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.</p> <p>Reason: In the interest of amenity and public safety.</p>
11	<p>Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.</p>

	Reason: To safeguard the amenities of property in the vicinity
12	<p>A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.</p> <p>Reason: In the interest to public safety and residential amenity.</p>
13	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
14	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development</p>



	<p>Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission</p>
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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.

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Suzanne Kehely  
Senior Planning Inspector

25<sup>th</sup> April 2025

**Form 1**  
**EIA Pre-Screening**

<b>An Bord Pleanála Case Reference</b>		<b>ABP 320126</b>	
<b>Proposed Development Summary</b>		7 dwellings and associated site works	
<b>Development Address</b>		Lus an Ime, Cloyne, Co. Cork	
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	x
		No	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
Yes	x	Class 10	Proceed to Q3.
No			
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>			
Yes -the proposed development is of a Class but is sub-threshold.	x	Class 10 (b)(i) - threshold >500 dwellings. The proposed development for 4 houses on a site of 0.1098 hectares in an urban area is below this by a significant magnitude.	Preliminary examination required (Form 2)
<b>4. Has Schedule 7A information been submitted?</b>			
No	x	Pre-screening determination conclusion remains as above (Q1 to Q3)	

Inspector: \_\_\_\_\_

Date:\_\_\_\_\_

**Form 2****EIA Preliminary Examination**

<b>An Bord Pleanála Case Reference</b>	<b>ABP 320126</b>
<b>Proposed Development Summary</b>	7 dwellings and associated site works
<b>Development Address</b>	Lus an Ime, Cloyne, Co. Cork
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
<b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The proposal is for the construction of 7 houses and associated site works two separate infill site within an existing housing development It also includes site works relating to boundary walls and the road network and drainage. The houses are generally consistent with the adjacent house types. The development site has access to connections for public water supply and wastewater disposal as regulated by Uisce Eireann and likely to be provided within the next 5 years. There will be a modest increase in loading. Subject to compliance with the agreements in place and future agreements which restrict connections subject to capacity, this will not result in pollution. Disposal of storm water to a proposed attenuation tank is not likely to result in significant pollution, details of which are subject to further agreement with the planning authority. The proposed development will not result in the production of significant waste, emissions, or pollutants. This is a relatively small development in this urban context. There is no real likelihood of significant cumulative effects with other permitted or related developments such as the concurrent case within the same housing development subject to compliance with conditions.

<b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The site is in a built-up area and is of an urban infill nature. The site is not designated as having particular environmental sensitivities nor are there significant sensitivities in the immediate environs. The lower level farmlands surrounding the site have, by third party account, experienced localised flooding and the surface water issues are addressed by the relevant engineering divisions for the planning authority.	
<b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	While there are issues raised in the appeal concerning localised flooding and capacity of the wastewater treatment plan, I do not consider them to be of a significant magnitude to warrant an EIA given that such matters can be addressed under normal planning considerations and wastewater issues are also regulated by Uisce Eireann which operates within the limitations of its license.	
Conclusion		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>  <b>EIA is not required.</b>	x
<b>There is no real likelihood of significant effects on the environment.</b>		
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.		
There is a real likelihood of significant effects on the environment.		

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_  
 DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_  
 (only where Schedule 7A information or EIAR required)