



An
Bord
Pleanála

Inspector's Report ABP-321505-24

Development	Retention of a two storey, 3-bedroom, end of terrace house
Location	15 Connolly Park, Clonmel, Co. Tipperary, E91 FP82
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	2460858
Applicant(s)	Michael Guiry
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Maichel Guiry
Observer(s)	Andy and Mary Griffin
Date of Site Inspection	07/05/2025
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The subject site is a semi-detached dwelling and curtilage at 15 Connolly Park, Clonmel. This is a corner site, 0.037Ha, at the junction of Connolly Park and Western Road in central Clonmel town. The general area is a mature residential suburb of Clonmel town.
- 1.2. No. 15 Connolly Park is a semi-detached dwelling, with a front and rear garden area. The subject development has been constructed onto the gable end of No. 15 Connolly Road within the side garden area of No. 15 Connolly Park.
- 1.3. The curtilage has the benefit of a larger front garden area where the new extension has been constructed. The rear garden area is small in size.

2.0 Development

- 2.1. Retention of a two storey, 3-bedroom end of terrace dwelling. Works completed to date include foundations, external walls and roof.

3.0 Planning Authority Decision

3.1. Decision

Tipperary Co. Co. **REFUSED** Retention and Completion of the proposed development for two reasons:

1. This application seeks permission for the retention of a two-storey end of terrace dwelling as constructed and the completion of same at a site in an urban area to the west of Clonmel. The site is on land zoned “new residential” under the Clonmel and Environs Local Area Plan 2024.

It is objective of the plan to “provide for residential development and protect and improve residential amenity” on lands zoned for existing residential development.

Having regard to the form and scale of the dwelling to be retained it is considered that the proposal if permitted will seriously injure the amenities of property in the vicinity by reason of overlooking and overbearing.

Having regard to the above the proposal is considered to conflict with an objective of the Clonmel and Environs Local Area Plan 2024 (zoning objective for lands zoned existing residential) and would if permitted seriously injure the residential amenity of neighbouring properties and would be contrary to the proper planning and sustainable development of the area.

2. The two-storey end of terrace dwelling to be retained and completed, by reason of its form and scale would be out of keeping with the visual character of the receiving environment as it infringes upon the principle building line and ridge height established by the adjoining properties. The development, if permitted, would set an undesirable precedent for other similar development and is therefore considered to be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Having regard to national and local policy objectives, the location of the site within the development boundary of Clonmel, the residential zoning afforded to the site in the C&ELAP and the planning history on site, the principle of accommodating a residential unit at this location is acceptable, subject to normal planning considerations.
- The dwelling previously permitted on the site maintained the ridge height and front and rear building line of the terrace to the south. The requirement for the current application has arisen as the dwelling as constructed on site is not in accordance with the permitted plans and particulars. The dwelling is larger than that permitted, breaks the established ridge line and the front and rear building lines.
- The Planning Authority consider the works to be retained are visually incongruous with the character of the receiving environment, would break established building lines and permission ought to be refused on this basis
- In the parent application, the rear building line was retained at first floor level. The consequence of the current development is that the windows at first floor

level are now higher and closer to the boundary with the neighbouring property to the west. These changes are significant and give rise to legitimate concerns in respect of the potential for overlooking of the rear amenity space of the adjoining properties. It is also considered that the proposal results in an overbearing impact on the rear amenity space of the adjoining dwelling.

- It is not considered that the works to be retained give rise to significant overshadowing concerns.
- A refusal is recommended.

3.2.2. **Other Technical Reports**

- None received

3.3. **Prescribed Bodies**

3.3.1 Minister for Housing, Local Government and Heritage. No further archaeological mitigation is required for this proposed development.

3.4. **Third Party Observations**

The owners/ occupiers of No. 6 Connolly Park made an objection with the following concerns:

- Impact upon the privacy of adjoining properties,
- Overshadow the amenity space of the adjoining property;
- Out of character with the neighbouring houses,
- The developer continued works while knowing they were unauthorised.
- Depreciation of the value of neighbouring properties.

4.0 **Planning History**

4.1 **Planning Ref: 22/268**

Permission was granted to Michael Guiry for the demolition of an existing shed and a non boundary garden wall, construction of a two storey, 3 bedroom dwelling to adjoining part boundary wall of the existing No. 15 Connolly Park.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the ***Clonmel Local Area Plan 2024***

The subject site is zoned ***RS- Existing Residential*** – Provide for Residential Development and to protect and improve residential amenity.

Policy 3-1: Support compact growth through:

- (a) the collaborative redevelopment and reuse of vacant and underused sites and areas in the 'Urban Core' and 'Compact Growth Area',
- (b) the development of sites identified through the URDF; and
- (c) the redevelopment of Town Centre 'Regeneration Sites' and areas zoned 'Regeneration'.

5.2.3 One-off Housing in the Town and Town Environs

Single housing units will be facilitated throughout the town on serviced and infill sites and assessed on a case by case basis.

5.2. Natural Heritage Designations

The site is not located within or near any pNHA site.

The site is 160m north of the Lower River Suir SAC (Site Code 002137)

Two sites, The Nire Valley SAC (site code 000668) and Comeragh Mts (Site Code 01952) are over 10km from the subject site.

5.3. EIA Screening

See completed Forms 1 and 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- It is not accepted the form and scale of the dwelling will seriously injure the amenities of the property in the vicinity by reason of overlooking and overbearing. The rear wall and windows are only marginally closer and higher to the rear property than the version approved by the planning authority under planning reference 22/268.
- The proposal does not conflict with the Clonmel Local Area Plan and is not seriously injurious to the residential amenity of the neighbouring property.
- The change to the building line on the front and rear are not visibility noticeable to a passerby. The variation to the ridge height is not an unusual feature in similar terraced houses in Clonmel. The terrace of housing on the opposite side of the street from this particular development has a variation in ridge height. The difference in height creates a visual difference and should be welcomed.
- The development represents a minor departure from the approved plans. The house will provide a high standard of accommodation for future occupants. It will also increase the supply of housing within Clonmel which is an objective of the Council to facilitate.
- The change to the building line front and rear are not visually noticeable to a passerby. The change in the ridge height is common amongst terraced houses in Clonmel.

6.2. Planning Authority Response

There were no new issues raised on appeal by the planning authority.

6.3. Observations

Andy and Mary Griffen, 6 Connolly Park has made the following observations on appeal.

- The structure as it stands, has an adverse and injurious impact on their privacy. The rear wall of the new building is a mere 127cm from the boundary wall of their property.
- The upper storey at the rear is over a meter closer from the boundary wall of the property, overlooking and overshadowing their patio area, rendering it useless as a recreational area.
- The original dwellings were built in the late 50s and follow the contours of the local terrain. The front and rear wall alignment was maintained in each row of houses despite any difference in ridge height.
- The difference in ridge height in the new structure is substantial and as a consequence neither the front or rear walls align with the adjoining properties, resulting in a larger structure. The greater height has an injurious impact on the light into the rear of their dwelling.
- If the developer had complied with the instructions of the planning authority the current situation could have been averted. They had no objection to the proposed development granted under reference 22/268.
- The development as constructed will have an adverse impact on the value of their property

7.0 **Assessment**

7.1. I have inspected the site and considered the appeal file. I will examine the appeal under the following headings|:

- Planning History
- Design changes from permitted development granted under 22/268
- Impact of the development on neighbouring properties
- Impact of the development on the streetscape.

7.2 **Planning History**

7.2.1 A substantially similar development to the current proposal, was granted planning permission by Tipperary Co. Co. under planning reference 22/268. Furthermore, I

examined the planning history file, there were no third party objections, or concerns from the planning authority regarding the original permitted development.

7.3 Design changes from permitted development granted under 22/268

7.3.1 The subject site is zoned for Residential use in the Clonmel Local Area Plan 2024. Furthermore, compact residential development on urban lands is encouraged under the LAP. The applicant did not construct the development in accordance with permitted plans granted under planning reference 22/268. Both the permitted and current developments are an end of terrace, three-bedroom semi-detached dwelling units. The differences are outlined in the fourth column as follows:

	Permitted under 22/268	Currently under Appeal	Difference
Site Area	0.037Ha	0.037Ha	0
Gross Floor Area	113sq.m.	113sq.m.	0
Ridge Height	8.29m	9.1m	0.9m
Front Building line form front boundary wall	6.48m	7.0m	0.52m
Rear Building Open space areas	72.3sq.m	72.3sq.m	0
Separation distance from communal boundary to the north of the dwelling	2m	1.77m	0.23m
Depth of Development from ground floor front building line to rear building line	8.669m	9.2m	0.54m

Upon examination of the development as constructed from the front elevation and along the streetscape, I would consider the increase in ridge height to be acceptable. This is an end of terrace and an end of street location, the difference between the permitted and as constructed ridge height is 0.9m, and it is not considered to be overbearing in the context of the overall building or streetscape. The constructed dwelling does not detract from the overall streetscape and creates a more book-end finish to the existing short terrace of three dwellings. The development is an extension to the northern elevation of No. 15 Connolly Park, and there is no building immediately adjoining the constructed dwelling to the north. It adjoins a garden/ parking/ access area associated with No. 6 Connolly Park (observers' property) which lies perpendicular to No. 15. The building envelope of No. 6 Connolly Park backs onto the rear garden area of No. 15 Connolly Park.

7.3.2 The front building line of the constructed development has been brought forward, however, this is not a significant departure from the permitted development. I would consider this to be a minor alteration. The revised building line does not impact on the streetscape qualities of the area or render the development significantly different to the permitted development on the site granted under reference 22/268. The massing, length and scale of the development as constructed is similar to the permitted development under 22/268.

7.3.3. On balance, I do not agree with the second reason for refusal. The structure is not out of keeping with the visual character of the area. The existing building envelope to the south, are not protected structures, and hold limited architectural merit. Therefore, the receiving environment is acceptable to a more modern building form and layout, as opposed to the existing terrace structures that were constructed, according to the appeal documentations, during the 1950s. It is not unusual within urban settings, to introduce a departure from the prevailing architecture styles, dimensions and specifications on infill, corner or brownfield sites.

7.3.4 The submitted drawings of the rear garden area and rear building line appear to indicate a separation distance of 2.1m, yet as per Photo Plate 10 and from my site inspection, the separation distance would appear to be circa 1.2m, or similar to what was permitted under the original permission reference 22/296. There is a party wall

jutting out at the meeting of No. 6 and No. 15 Connolly Park to the rear. I would consider a 1m separation distances is acceptable in this urban setting. I will consider the impacts to No. 6 in the next section. In terms of the alleged overbearing impact of the revised design, in my opinion, it is no different from what was originally permitted under 22/296. However, revised drawings regarding separation distance between the party wall and the rear/ side building line need to be submitted within 3months of any decision to ensure clarity on the file.

7.4 Impact of the development on Neighbouring Properties

- 7.4.1 The zoning objective relating to the subject site is residential, and to protect existing residential amenities. The planning authority refused the proposal because it would seriously injure the residential amenities of property in the vicinity by reason of overbearing and overlooking. The original design at first floor level to the rear of the dwelling, granted under reference number 22/296, included first floor windows arranged to reduce direct overlooking onto the rear yard area of No. 6 Connolly Park. The as-constructed dwelling ignored the original concerns of the planning authority and repositioned the window at first floor level to directly overlook the rear yards area of No. 6 Connolly Park. This is unacceptable. The rear of No. 6 Connolly Park includes a garden shed and a patio area. The window should be repositioned to the original permitted location. A condition can be attached to that affect.
- 7.4.2 In terms of overbearing, it is only from the first-floor rear windows of No. 6 Connolly Park the new dwelling will be observed from within the house, and the patio area to the rear. The private garden area and extensive curtilage associated with No. 6 is to the front and side of the dwelling, as per the OC map accompanying the planning application. There are no opposing windows between the properties, therefore the loss of privacy perceived from the first-floor window can be addressed by repositioned more to the south.
- 7.4.2 Upon examination of the context of the layout and the orientation of No. 6 Connolly Park perpendicular to the subject dwelling for retention, No. 6 Connolly Park is immediately north of the subject site, therefore, there is no loss of light associated with No. 6 because the rear of the dwelling is south facing.

- 7.4.3 The new building line is 1metre from the northern site boundary. This is acceptable within the context of an urban area and in the context of what was permitted under the original permission for the dwelling.

8.0 AA Screening

- 8.1. Having regard to the proposed development of a semi- detached single dwelling with connection to public sewer and public water within the boundary of Clonmel town. Surface water will be directed to public sewer/drain.
- 8.2. The nearest European Site is the Lower River Suir SAC (Site Code 002137) which is located c. 160m south of the site. It is considered that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant impact individually or in combination with other plans or projects on a European site by virtue of its scale and location within a serviced urban site.

9.0 Recommendation

I recommend planning permission be granted having regard to the following reasons and considerations.

10.0 Reasons and Considerations

Having regard the planning history of the site with particular reference to the permission granted under planning reference 22/296 for a substantially similar development on the subject site, to the pattern of development in the area, to the zoning as 'Residential 1 - Existing Residential' in the Clonmel Local Area Plan 2024, the separation distance to the existing properties, the location of the corner site in an existing residential area, the scale, form and design of the development for retention, it is considered that the development would not seriously affect the residential amenity of the area, and be in keeping with the streetscape qualities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be retained, carried out and completed in accordance with the terms and conditions of the original planning permission granted for the development under planning reference 22/296 except as may be otherwise required by the plans and particulars lodged with the application and conditions below. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority and the development shall be retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. Within three months of this decision the developer shall submit and agree in writing with the planning authority the following:
 - (a) A revised western elevation repositioning the first floor windows in line with the permitted fenestration granted under planning reference 22/296;
 - (b) A revised site layout indicating the western and northern site boundary specification, layout and separation distances from the rear and side boundary line of the subject dwelling to be retained.

Reason: In the interests of clarity and to ensure that the overall development is carried out in accordance with the permitted development.

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.

Caryn Coogan
Planning Inspector
30th of May 2025

Form 1 - EIA Pre-Screening

Case Reference	321505-24
Proposed Development Summary	Retention of 2 storey demi-detached dwellinghouse
Development Address	15 Connolly Park, Clonmel
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/>
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	Class 10 (b)(i) Construction of more than 500 dwellings
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
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?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed	

<p>type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>State the Class and state the relevant threshold</p>
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Class 10 (b)(i) Construction of more than 500 dwellings.</p> <p>The proposal consists of 1No. dwelling on 0.037ha</p>

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3) <i>[</i>

Inspector: _____ **Date:** _____

Form 2 - EIA Preliminary Examination

Case Reference	APB 321505-24
Proposed Development Summary	Construction of a two storey semi-detached dwelling
Development Address	15 Connolly Park, Clonmel.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (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).	<p>The proposal consists of 1No. semi-detached dwelling within the built up urban area of Clonmel.</p> <p>Surface water will be discharged to the public sewer. Wastewater will discharge to the public sewer.</p>
Location of development (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).	<p>The subject site is not located in any designated site. The nearest site is the Lower River Suir which is 160m south of the site.</p> <p>My appropriate assessment screening concludes that the proposed development would not likely have a significant effect on any European site.</p> <p>The site is not located in a flood risk area.</p>
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and	<p>The measures 0.037ha. The size of the development is not exceptional in the context of the existing environment. There are existing dwellings adjoining the development. There is no real likelihood of significant cumulative effects.</p>

complexity, duration, cumulative effects and opportunities for mitigation).	
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)