



An  
Bord  
Pleanála

**Board Direction**  
**BD-000327-18**  
**ABP-300590-18**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/05/2018.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

Having regard to the zoning objectives for the area and pattern of development in area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity and would be acceptable in terms of traffic safety, public health and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. 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 submitted to the Planning Authority on the 25th day of September 2017, and the 10<sup>th</sup> November 2017, and such plans and particulars submitted to An Bord Pleanála on the 6<sup>th</sup> February 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of

development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

- 2 The sections of garden within the Noise Control Buffer Zone associated with Houses no 13 + 21 shall be re classified as public open space and shall not form part of the private open spaces of the houses. The public open space shall include a pedestrian pathway linking the open space to the west with the open space adjoining the R474. Furthermore, Houses 13 + 21 shall be modified to address the new public open space in terms of providing passive surveillance.

Revised plans shall be submitted to and agreed in writing with the Planning Authority prior to commencement of works.

**Reason:** In the interest of permeability and residential amenity.

3. The internal noise levels, when measured at the windows of the proposed development, shall not exceed:
  - (a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and
  - (b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed dwellings are made available for occupation.

**Reason:** In the interest of residential amenity.

- 4 Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, or dark grey in colour only (including ridge tiles).

**Reason:** In the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface and storm water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Provision shall be made by the developer for electrical connections outside all the proposed houses and apartments, to facilitate electrical charging of vehicles.

**Reason:** In the interest of visual and residential amenity.

7. Site development and building works shall be carried only out between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 13.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** To safeguard the amenities of property in the vicinity.

8. The hedgerow identified for retention shall be protected during construction in accordance with the tree protection measures outlined in the submitted plans and particulars. All service pipes shall be so routed as to avoid the root spreads of the trees identified for retention.

**Reason:** To safeguard the use of the stone wall and hedgerow as potential bat roosting sites.

9. All boundary treatments shall be in accordance with those indicated in submitted documentation.

**Reason:** In the interests of residential and visual amenity, and to ensure the provision by the developer of durable boundary treatment.

10. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works for taking in charge by the local authority.

**Reason:** In the interest of amenity and of traffic and pedestrian safety, and to facilitate the eventual taking in charge of the development, following its completion, by the local authority.

11. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All lighting, as approved by the planning authority, shall be provided prior to the making available for occupation of any house.

**Reason:** In the interest of amenity and public safety.

12. The areas of public open space shown on the lodged plans shall be reserved for such use, and shall be maintained by the developer as such until taken in charge by the local authority. These areas shall be landscaped in accordance with the landscaping scheme in the plans and particulars submitted. The landscaping scheme shall be implemented before any of the dwellings are made available for occupation.

**Reason:** To ensure the satisfactory development of the public open space areas and their continued use for this purpose.

13. Proposals for an estate name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility, and to ensure the use of locally appropriate place names for new residential areas.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the

Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

#### 15. Bond Condition

16 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**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.

17 Prior to the commencement of development, the developer shall pay a contribution of €227,509 to Clare County Council in respect of public infrastructure and facilities benefitting development in the area of the Planning Authority, that is provided for or intended to be provided by or on behalf of the authority in accordance with the terms of the development contribution scheme made under section 48 of the

Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development. At the time of payment, the contribution shall be subject to any applicable adjustment in accordance with the relevant provisions of the Planning Authority's development contribution scheme in place at the time of payment. Any contributions owing post commencement of development will be subject to interest penalties.

**Reason:** It is considered appropriate that the development should contribute towards the cost of public infrastructure and facilities benefitting the development, as provided for in the Council's prevailing Development Contribution Scheme, made in accordance with Section 48 of the Planning and Development Act 2000 as amended, and that the level of contribution payable should be adjusted at a rate specified in that scheme”

18 Before development commences a Special Development Contribution shall be paid to Clare County Council as a special contribution towards the improvements of public lighting facilities which are necessary to facilitate the development of the site. The contribution payable will be based on the rate applicable at the time of payment and not the rate in existence when permission is granted. The amount of the development contribution is set out below and is subject to annual revision with reference to the Wholesale Price Index (Building and Construction) and in accordance with the terms of the Council's Development Contribution Scheme. The amount is currently €36,498.67.

**Reason:** In the interests of the proper planning and sustainable development of the area and in accordance with Section 48(2)(c) of the Planning and Development Act 2000 as amended.”

19 Before development commences a Special Development Contribution shall be paid to Clare County Council as a special contribution towards the improvements of the public footpaths to Cahercalla Road from Circular Road which are necessary to facilitate the development of the site. The contribution payable will be based on the rate applicable at the time of payment and not the rate in existence when permission is granted. The amount of the development contribution is set out below and is

subject to annual revision with reference to the Wholesale Price Index (Building and Construction) and in accordance with the terms of the Council's Development Contribution Scheme. The amount is currently €34,965.62.

**Reason:** In the interests of the proper planning and sustainable development of the area and in accordance with Section 48(2)(c) of the Planning and Development Act 2000 as amended”

20 Before development commences a Special Development Contribution shall be paid to Clare County Council as a special contribution towards the improvements of traffic calming measures on Circular Road which are necessary to facilitate the development of the site. The contribution payable will be based on the rate applicable at the time of payment and not the rate in existence when permission is granted. The amount of the development contribution is set out below and is subject to annual revision with reference to the Wholesale Price Index (Building and Construction) and in accordance with the terms of the Council's Development Contribution Scheme. The amount is currently €10,133.97.

**Reason:** In the interests of the proper planning and sustainable development of the area and in accordance with Section 48(2)(c) of the Planning and Development Act 2000 as amended.”

**Note:** The Board had regard to the inspectors recommendation that house no.s 13, 21 and 42 be omitted. The Board considered that subject to the conditions attached the proposed units would be acceptable in terms of the proper planning and sustainable development of the area.

**Note:** The Board concurred with the planning authority in respect of the levying of Special contributions as outlined above.

**Board Member**

**Date:** 17/05/2018

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Paul Hyde