

Planning and Development Acts 2000 to 2022

Planning Authority: Limerick City and County Council

Planning Register Reference Number: 22/959

Appeal by Denis Riordan of Ard na Lee, Clonconane, Redgate, Limerick and by Others against the decision made on the 28th day of June, 2023 by Limerick City and County Council to grant subject to conditions a permission to Riverpoint Construction Limited care of Fewer Harrington and Partners of Studio 14, The Atrium, Maritana Gate, Canada Street, Waterford in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of 98 residential units comprising of the following: 44 number two-storey, four bed, semi-detached units, 44 number two-storey, three bed semi-detached units, six number single storey, two bed, end-of-terrace units and four number single storey two bed, mid terrace units. Installation of all necessary and associated site works to include vehicular and pedestrian connections to public roundabout (currently under construction), on Pass (Meelick) Road, roadways, footpaths, green spaces, landscaping and boundary treatments, together with all associated drainage connection works and all ancillary site works in the townland of Clonconane, between Old Cratloe Road (L3102) and Pass (Meelick) Road, Limerick. The proposed development was revised by further public notices received by the planning authority on the 8th day of May, 2023.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the provisions of the Limerick Development Plan 2022 – 2028 and the zoning of the site for residential purposes which allows for housing of the nature proposed, to the location of the site within a serviced, urban area within walking distance of public transport, and to the nature, form, scale, density and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, will not give rise to the risk of pollution to any watercourse, create a traffic hazard or otherwise impact on the natural heritage of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Environment Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- the nature, scale, location, and extent of the proposed development;
- the Environmental Impact Assessment Report and associated documentation submitted with the application;

- the submissions received during the course of the application; and
- the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

Reasoned conclusion for Environment Impact Assessment

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. The main significant effects, both positive and negative, are:

- significant direct positive impacts for population and material assets, due to the substantive increase in housing stock during the operational phase of this development;

- significant direct positive impacts for population and material assets, due to the provision of additional and upgraded infrastructure in the area for use during the operational phase of this development;
- direct negative effects arising for human health, air quality, traffic, noise and vibration during the construction phase, which would be mitigated by a suite of appropriate construction phase management measures, including dust management, the control of construction hours, implementation of a construction traffic management plan, noise minimisation measures and monitoring, resulting in no residual impacts on human health, air quality, traffic, noise and vibration;
- direct negative effects arising for water and aquatic habitat during the construction phase, which would be mitigated by a suite of appropriate construction phase surface water management measures, including sediment and pollution control measures, resulting in no residual impacts on water and biodiversity;
- significant direct negative effects arising for land, soils and geology during the construction phase, which would be mitigated by on site investigations to address potential for dewatering, resulting in no residual impacts on land, soils and geology;
- direct negative effects arising for land, soils and geology during the construction phase, which would be mitigated by a suite of appropriate construction phase management measures, including method statements to handle and control any unknown contaminated materials, resulting in no residual impacts on land, soils and geology;
- direct negative effects arising for undiscovered archaeological remains during the construction phase, which would be mitigated by monitoring and recording by a suitably qualified archaeologist under an appropriate

licence, resulting in no residual impacts for archaeological, architectural and cultural heritage.

- direct negative effects arising for the visual amenities and landscape of the area during the construction phase, which would not be significant and would be of temporary duration and direct effects arising for landscape during the operation of the proposed development, which would have slight to moderate and positive effects for the appearance of the area, resulting in no residual impacts for landscape and visual amenities.

Arising from the Board's assessment of the project, including mitigation measures set out in the Environmental Impact Assessment Report and the application, the Board concluded that the environmental impacts identified would not be significant and would not justify refusing permission for the proposed development.

The Board is, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment. The Board is satisfied that the reasoned conclusion is up to date at the time of making the decision and that the information contained in the Environmental Impact Assessment Report complies with the provisions of Article 3, 5 and Annex (IV) of EU Directive 2014/52/EU.

Appropriate Assessment Stage 1

The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and Fergus Estuaries Special Protection Area (Site Code: 004077) are the only European Sites in respect of which the proposed development has the potential to have

a significant effect in view of the Conservation Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an appropriate assessment of the implications of the proposed development on the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) in view of the sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects,
- (iii) mitigation measures which are included as part of the current proposal, and
- (iv) no reasonable scientific doubt as to the absence of adverse effects on the integrity of the Lower River Shannon Special Area of Conservation (Site Code: 002165) and River Shannon and Fergus Estuaries Special Protection Area (Site Code: 004077).

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's Report in respect of

the potential effects of the proposed development on the aforementioned European Sites.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

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 received by the planning authority on the 8th day of May 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

3. The mitigation measures contained in the submitted Environmental Impact Assessment Report (EIAR), shall be implemented.

Reason: To protect the environment.

4. The following shall be submitted for the written agreement of the planning authority prior to commencement of development:
 - (a) Full details as to how the Biodiversity Area will be managed, including details on access and site security.
 - (b) Full details shall be provided on the provision of the berm on the western side of the site.

Reason: In the interest of protection of Biodiversity.

5. No more than 75 residential units within the Masterplan lands as identified on Drawing No. MP-01, received by the planning authority on the 5th day of December, 2022 shall be made available for occupation, until such time as the creche permitted under planning register reference number 22/790 has been completed and is in operation, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of orderly development.

6. The following shall be submitted for the written agreement of the planning authority prior to commencement of development:
 - (a) Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Render shall not be used as an external finish on the front elevations.
 - (b) A two-metre-high privacy wall shall be constructed along the rear/side and dividing boundary between houses. The wall shall consist of solid blocks, be capped and rendered. Where there is a

difference in ground levels between the subject site and adjoining lands, the level shall be taken as the average level.

- (c) Screen walls abutting open space and estate roads shall be two-metres high, capped and plastered with appropriate provision of pillars.

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

- 7. Each dwelling shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.

Reason: In the interest of proper planning and sustainable development.

- 8. (a) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. A minimum of three (3) phases shall be provided.
- (b) Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be as agreed in writing with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

9. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:
- (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
 - (b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;
 - (c) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works,
 - (d) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

10. All communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

12. 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.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

13. The developer shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

14. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: To ensure a satisfactory completion and maintenance of the development in the interest of residential amenity, and in the interest of protecting the environment.

15. Site development and building works shall be carried out only between the hours of 0700 to 1900, Mondays to Fridays inclusive, between 0800 to 1400 hours 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: In order to safeguard the residential amenities of property in the vicinity.

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

17. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

18. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

19. 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.

Reason: In the interest of environmental protection, residential amenities, public health and safety and environmental protection.

20. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the Planning Authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

21. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

22. Proposals for the development 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 signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

23. 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 housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) 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 96(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 of the area.

24. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the

planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

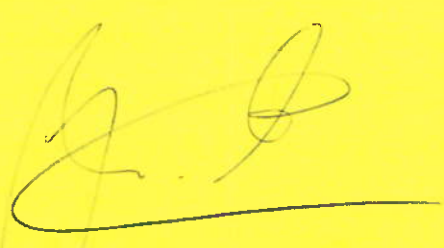
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

- 25. 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 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.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

26. 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.



Joe Boland

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 21st day of November 2024.