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**Planning and Development Acts 2000 to 2017**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: P17/238**

**Appeal** by Carnakilla Residents' Association care of Planning Consultancy Services of Suite 3, Third Floor, Ross House, Victoria Place, Eyre Square, Galway and by Shane O'Leary of 2 Castlewood Park, Ennis, County Clare against the decision made on the 11<sup>th</sup> day of October, 2017 by Clare County Council to grant subject to conditions a permission to Datcha Construction Limited care of Michael Keating of Apartment number 5, Abbeyfield Centre, Francis Street, Ennis, County Clare in accordance with plans and particulars lodged with the said Council:

**Proposed Development:**

Construction of 29 number dwelling houses and to carry out associated site works to be accessed through the existing Glen Cora Development (planning register reference number 03/2561). Two previous planning permissions issued in relation to the lands to which this application relates (P06/3021 and P06/3030); as amended by the revised public notice received by the planning authority on the 12<sup>th</sup> day of July, 2017; all at Newmarket-on-Fergus, County Clare.

## **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.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

Having regard to the zoning objective for the site and the planning history of the site, the pattern of development in the area, and the density and layout proposed, it is considered that, subject to compliance with the conditions set out below, the proposed development would provide residential accommodation in accordance with the county settlement hierarchy on lands identified for such use in the Clare County Development Plan 2017-2023, would not seriously injure the residential amenities of the area, would be acceptable in terms of traffic safety and convenience and would accordingly 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 30th day of June 2017, the 12<sup>th</sup> day of July and the 14th day of September, 2017, 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 proposed estate road layout shall be in accordance with the site layout plan submitted to the planning authority on the 3<sup>rd</sup> day of April, 2017, modified as necessary to be in compliance with DMURS. Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of traffic safety and to protect the amenities of the area.

3. (1) Access to the site during the construction period shall be from the L7160 local road via the L3154 and the R470 roads in accordance with the details as received by the planning authority on the 30<sup>th</sup> day of June, 2017 and the 14<sup>th</sup> day of September, 2017. Construction traffic shall use the L7160 road south of the proposed construction access only.
- (2) Prior to the commencement of development, the applicant shall submit a traffic management plan for the construction phase, for the agreement of the planning authority. This shall include details of the road network to be used by construction traffic and arrangements for the protection of any roadside boundaries, drains or culverts. Any remedial or improvement works required to roads, drains and culverts shall be at the developer's expense and shall not impact on existing land or road drainage. Details of the timing and routing of construction traffic to and from the construction site and associated directional and safety signage, to include proposals to facilitate the delivery of abnormal loads, shall also be included.
- (3) Upon completion of the development, the temporary construction access road shall be removed and the roadside boundary shall be reinstated.

**Reason:** In the interest of traffic safety and to protect the amenities of the area.

4. The following shall apply with regard to the proposed boundary treatment:-
- (a) the hedgerow and trees along the boundaries to the north, east and south of units 86-92 shall be retained and reinforced with a stock proof fence,
  - (b) the mature trees along the eastern boundary of the site shall be retained where feasible. The use of precast post and panel fencing along the boundary is not permitted. The retaining wall and associated boundary wall shall be faced on the eastern side in natural local stone,
  - (c) all other site perimeter boundaries other than those referred to at (a) and (b) shall be provided with 2 metres high blockwork walls, which shall be capped,
  - (d) no walls, fences or other boundary treatment shall be constructed around the front gardens of the proposed dwellings and front gardens shall be kept as open plan,
  - (e) any boundary walls which address public areas within the development shall be faced with natural stone.
  - (f) rear boundary treatments between individual dwelling units shall be concrete block walls not exceeding 2 metres in height.

Prior to the commencement of development, full details of the proposed boundary treatment, including details of the proposed retaining wall, shall be submitted to the planning authority for written agreement. This shall include proposals for the protection of the existing mature trees along the eastern boundary of the site where feasible, and their incorporation into the scheme.

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

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
  - (a) details of when and where access to the existing Glen Cora estate will be required and how such access will be managed,
  - (b) location of the site and materials compound(s) including area (s) identified for the storage of construction refuse,
  - (c) location of areas for construction site offices and staff facilities;
  - (d) details of site security fencing and hoardings,
  - (e) details of on-site car parking facilities for site workers during the course of construction,

- (f) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (g) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (h) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- (i) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains; and the disposal of washings from vehicles, plant or equipment off-site.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

6. 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 granted. 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.

7. The finished floor levels of dwellings shall be in accordance with the details submitted to the planning authority on the 14<sup>th</sup> day of September, 2017.

**Reason:** In the interest of visual amenity and orderly development.

8. 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.

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

9. Public lighting shall be provided in accordance with the scheme submitted to the planning authority on the 30<sup>th</sup> day of June, 2017 prior to commencement of development. LED lighting shall be provided. Such lighting shall be provided prior to the making available for occupation of any house.

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



10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

11. Any departures from the proposed numbering system or the use of the existing estate name shall be subject to the prior written agreement of the planning authority.

**Reason:** In the interest of urban legibility.

12. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

- (i) The species, variety, number, size and locations of all proposed trees and shrubs.
- (ii) Details of screen planting.
- (iii) Details of roadside/street planting.

- (iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.
  
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
  
- (c) A timescale for implementation. The areas of open space shown on the plans shall be reserved for such and shall be soiled, seeded and landscaped before any of the dwellings are made available for occupation.
  
- (d) Proposals for the protection of existing trees.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

13. Site development and building works shall be carried out only between the hours of 0800 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.

14. 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

15. 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 the 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.

16. The developer shall pay the sum of €10,000 (ten thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of the provision of traffic calming measures within the existing Glen Cora Housing estate. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

17. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion, and maintenance until taken in charge by the local authority, or in the event of the development not being taken in charge, until notice in writing has been issued by the planning authority stating that the development has been completed to a satisfactory standard, of roads,

sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The security to be lodged shall be as follows -

- (a) an approved insurance company bond in the sum of €155,000 (one hundred and fifty-five thousand euro), or
- (b) a cash sum of € 155,000 (one hundred and fifty-five thousand euro) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or
- (c) such other security as may be accepted in writing by the planning authority.

**Reason:** To ensure the satisfactory completion of the development.

18. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the satisfactory reinstatement of the local road network which may be damaged by the construction traffic to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the local road network. The security to be lodged shall be as follows -

- (a) an approved insurance company bond in the sum of €25,000 (twenty-five thousand euro), or
- (b) a cash sum of €25,000 (twenty-five thousand euro), to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or
- (c) such other security as may be accepted in writing by the planning authority.

**Reason:** To ensure the satisfactory reinstatement of the local road network which may be damaged by the construction traffic to the site.

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

**Dated this            day of            2018.**