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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: P18/581**

**Appeal** by Rathbrae Land Limited care of McNamara Solicitors of 41 Pearse Street, Nenagh, County Tipperary against the decision made on the 29<sup>th</sup> day of March, 2019 by Clare County Council to grant subject to conditions a permission to ODM Properties Limited care of HRA Planning of 3 Hartstonge Street, Limerick in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of two number detached dwellings and all associated site development works at Knockyclovaun, Ard na Deirge, Killaloe, 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 residential zoning objective pertaining to the site as set out in the Clare County Development Plan 2017-2023, to the planning history on the immediately adjoining lands, to the prevailing character and to the form of established and permitted development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would form an acceptable development on the site, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and 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 on the 5<sup>th</sup> day of March, 2019 and on the 28<sup>th</sup> day of March, 2019, 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. No development of the proposed dwellinghouses shall commence until the upgrading works at the Ballina Wastewater Treatment Plant to facilitate the development are completed, and the developer has obtained a Connection Agreement from Irish Water to connect into the upgraded Wastewater Treatment Plant.

**Reason:** In the interest of public health and to ensure there are no adverse effects on the integrity of the Lower River Shannon Special Area of Conservation (Site Code: 002165).

3. Prior to the making available for occupation of any house, the internal roads, footpaths, lighting and open space shall be provided pursuant to planning register reference number P15/723 to the satisfaction of the planning authority.

**Reason:** To ensure timely and satisfactory provision of such site development works.

4. The dwellinghouses shall be constructed and completed using the same palette of materials, colours and textures as the existing adjoining dwellings within the housing scheme, unless otherwise agreed in writing with the planning authority prior to commencement of development.

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

5. The development shall be carried out in accordance with the mitigation measures outlined in the site assessment and Management Plan for the Eradication of Non-Native Invasive species received by the planning authority on the 5<sup>th</sup> day of March, 2019.

**Reason:** To prevent the spread of invasive species in the interests of residential and visual amenity.

6. 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.

7. All service cables associated with the proposed development (such as electrical, telecommunications and television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

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

8. 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 hours of working, noise management measures and off-site disposal of construction waste.

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

9. Proposals for a house numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

10. 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.

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

11. 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.

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

**Dated this            day of            2019.**