



Planning and Development Acts 2000 to 2019

Planning Authority: Clare County Council

Planning Register Reference Number: P18/594

Appeal by Drone Vision Limited care of Michael Barker and Company of Riverpoint, Lower Mallow Street, Limerick against the decision made on the 5th day of June, 2019 by Clare County Council to refuse a permission for the proposed development.

Proposed Development: Construction of 90 houses, two garages, connection to public services, roads, footpaths, car parking, open spaces, feature tower and ancillary site development works at Limerick Road, Sixmilebridge, County Clare. The proposed development was revised by further public notices received by the planning authority on the 21st day of February, 2019 and on the 9th day of May, 2019.

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 nature and scale of the proposed development, to the existing pattern of development in the vicinity of the site and to the residential zoning of the site, and to the relevant provisions of the Clare County Development Plan 2017-2023, 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 of property in the vicinity, would not adversely affect the character of the area, would represent an appropriate form and density of development at this location close to the town centre of Sixmilebridge, and would be acceptable in terms of flood risk, and of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the location of the subject site close to the edge of the town centre of Sixmilebridge, and on lands specifically zoned for residential development, and considered that the form and density of development in this instance, as amended by the conditions of this Order, would represent an appropriate form and mix of residential development which would be in character with the existing settlement. Furthermore, the Board considered that the predominantly urban form of layout was appropriate

in its context and would provide an acceptable sense of place that would not seriously injure the residential amenities of future occupants and of neighbouring development. The Board was also satisfied that, subject to compliance with conditions set out below, the development would not be contrary to the overall principles set out in the Design Manual for Urban Roads and Streets. In relation to flood risk, the Board did not consider that a Stage 3 Flood Risk Assessment was necessary and agreed with the applicants that the development was acceptable in this regard, and accordingly did not accept the Inspector's recommendation that further information should be sought in relation to this issue.

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 8th day of February, 2019, and on the 26th day of April, 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. The proposed development shall be amended as follows:-
- (a) Houses numbers 28 and 29 shall be omitted, and shall be replaced by a single detached house, of house type A1, which shall be located generally at the location of proposed house number 29. The bulk of the area released by the omission of house number 28 shall be incorporated into the rear gardens of houses numbers 44, 45, 46 and 47, which shall be increased in length to a line equivalent to the rear building lines of the extended sections of houses numbers 24 to 27.
 - (b) Houses number 78 – 81 shall be replaced by a terrace of three bungalows, similar in overall design as those of houses numbers 71 – 73.
 - (c) All of the car parking spaces around the four sides of the central square open space, and the eight number visitor car parking spaces projecting into the large eastern open space area, shall be omitted and the areas thus released shall be included in these open space areas.
 - (d) All rear gardens of houses shall be bounded by concrete post and concrete panel fences, 1.8 metres high, or by brick or concrete block walls, which shall be a minimum of 1.8 metres high, except where bounding public open spaces, roads or pedestrian routes to adjoining lands, when walls shall be provided, 2 metres in height and capped, and of concrete block, rendered on the public side. The proposed boundary treatment, using concrete post and timber panel fences, or any other form

of timber fencing, shall not be used for any rear garden boundaries.

- (e) All windows serving landings, bathrooms and w.c.'s shall be permanently fitted with frosted glass.
- (f) All of the houses shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To prevent overlooking of the rear gardens of houses numbers 24 to 27, to reduce the excessive amount of car parking and enhance the open spaces concerned, to protect residential amenity, to increase the proportion of smaller units, to ensure the provision of durable boundary treatment in the interest of the residential amenity of future occupiers of the development, and to facilitate future electric vehicle charging points in the interest of ensuring sustainable transportation connectivity.

3. 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 colours shall be blue black or slate grey only, including ridge tiles. The external finishes of the proposed feature tower shall be in accordance with Option 1, as shown on drawing number 81/56-03-22, rev. A, as submitted on the 26th day of April, 2019.

Reason: In the interest of visual amenity.

4. 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.

5. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

6.
 - (a) The development, including all roads, footpaths, verges, public lighting, open spaces, foul sewers, surface water drains and attenuation provisions, and all other services, as permitted under this Order, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and Streets (DMURS), in particular corner radii and maximum carriageway widths.
 - (b) The areas of open space shown on submitted drawings shall be reserved for such use and shall be levelled, contoured, soiled, seeded and landscaped in accordance with the detailed requirements of the planning authority. The central open space (as modified by condition 2(c) of this Order) and associated tower shall be laid out and landscaped prior to the making available by the developer for occupation of houses numbers 21 – 23, 24 – 27 and 30 – 33. The large open space area to the east of the site (as modified by condition 2(c) of this Order) shall

be laid out and landscaped prior to the making available by the developer for occupation of house numbers 44 - 50 and 52 – 57.

- (c) All of the areas of public open space, as shown on the submitted drawings, shall be maintained by the developer until such time as the development is taken in charge by the local authority. When the estate is taken in charge, the open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

Revised drawings showing compliance 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 proper development, pedestrian safety, the timely provision of open spaces and in order to comply with national policy in relation to the maintenance and management of residential estates.

7. The site shall be landscaped in accordance with the landscaping drawings submitted with the application received by the planning authority on the 20th day of July, 2019, other than as amended by other conditions of this permission.

The developer shall retain the services of a suitably qualified Landscape Architect throughout the duration of the site development works. The developer's Landscape Architect shall certify to the planning authority in writing his/her opinion on compliance of the completed landscape works with the approved landscape scheme (as

modified by this permission) within six months of substantial completion of the development hereby permitted.

Reason: In the interests of visual and residential amenity

8. Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate 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 placenames for new residential areas.

9. 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. This shall include for the provision of lighting at the locations of proposed pedestrian/cycle links to lands to the north and south of the subject site.

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 interests of visual and residential amenity.

11. 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 the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (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.

12. 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.

13. 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 access and egress to the site during construction, noise management measures and off-site disposal of construction/demolition waste.

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

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 housing in accordance with the requirements of section 96(4) and 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 for the area.

15. 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.

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 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.

17. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of the provision of a controlled, signalised pelican crossing with push button facility and associated drop kerbing and tactile paving along the R62, which will benefit the proposed development and allow adequate provision for pedestrian access from the development to the town centre. The amount of the contribution 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 for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be 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.

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.

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

Dated this day of 2019