



Planning and Development Acts 2000 to 2020

Planning Authority: Clare County Council

Planning Register Reference Number: P19/196

Appeal by Don Barrett on behalf of Cluain Ros Leahain Residents Association of 32 Cluain Ros Leahain, Tulla Road, Ennis, County Clare against the decision made on the 26th day of February, 2020 by Clare County Council to grant subject to conditions a permission to Datcha Construction Limited care of Arnold Leahy Architects Limited care of 1 Crescent Villas, O'Connell Avenue, Limerick in accordance with plans and particulars lodged with the said Council:

Proposed Development: A residential development comprising 68 number residential units (one number detached house, 18 number semi-detached houses, 41 number terrace houses, one number apartment block (two-storey apartment block comprised of eight number two bedroom apartments), accessed via the Cluain Ros Leahain development and all ancillary site development works on lands at Roslevan, Tulla Road, Ennis, County Clare. Ancillary site development works include a new connection to the public water main, foul and surface water drainage, access roads, footpaths, vehicle parking, landscaping, boundary treatments and site development works above and below ground, all at Roslevan, Tulla Road, Ennis, County Clare. Further public notices were received by the planning authority on the 30th day of

January, 2020. Further revised public notices were received by An Bord Pleanála on the 21st day of October, 2020 as follows: development comprising 71 number residential units (eight number semi-detached houses, 43 number terrace houses, duplex of four number units (two number two bed apartments at ground floor level and apartments two number one bed apartments at first floor level), 16 number apartments (two-storey apartment blocks comprised of eight number two bedroom apartments in each block), accessed via the Cluain Ros Leamhan development and all site development works include a new connection to the public water main, foul and surface water drainage, access roads, footpaths, vehicle parking, landscaping, boundary treatments and site development works above and below ground.

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 policies and objectives of the Clare County Development Plan 2017-2023, as varied,
- the Residential R3 zoning objective for the site,
- the provisions of the Sustainable Urban Housing - Design Standards for New Apartments – Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March, 2018, and by the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of the Environment, Heritage and Local Government in May, 2009,
- the layout, design and density of the proposed development including provision for connectivity with adjoining lands zoned for development, and,
- the pattern and established character of surrounding development.

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities or architectural character of the area or the residential amenities of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and convenience, would not be prejudicial to public health and, 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 did not agree that the proposed development would endanger public safety by reason of a traffic hazard but considered that the proposed access and junction arrangements to serve the proposed development, including the turning movements onto and off the Tulla Road were consistent with the Clare County Development Plan 2017-2023 and were satisfactory in terms of pedestrian and traffic safety.

The Board also did not agree that the proposed development was piecemeal, substandard in layout or in quality and quantity of public open space provision. It is considered that the street hierarchy, central focus and sense of place to be acceptable and considered the layout of the proposed scheme to be consistent with the provisions of the Design Manual for Urban Roads and Streets, and 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 22nd day of January, 2020, on the 19th day of February, 2020, on the 20th day of February, 2020 and on the 25th day of February, 2020, and by the further plans and particulars received by An Bord Pleanála on the 3rd day of September, 2020, 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. Houses Numbers 1 and 2 on the Site Layout Plan received by An Bord Pleanála on the 3rd day of September, 2020 shall be omitted and the area shall be levelled and landscaped as public open space in place of same.

Prior to commencement of development, revised drawings and particulars showing this amendment shall be submitted to, and agreed in writing with, the planning authority for written agreement.

Reason: In the interest of residential amenity.

3. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority full details of the following requirements:
- (a) Footpaths shall be provided to the north and south of the access road to the lands to the east of the site to the satisfaction of the planning authority.
 - (b) The proposed footpath located between house numbers 19 and 20 on the 'Site Layout Plan' received by An Bord Pleanála on the 3rd day of September, 2020 shall integrate with the proposed footpath on the adjoining site to the south.
 - (c) Universal access shall be available from the dwellings to the adjacent parking areas and adequate residual width shall be available on public footpaths when the parking spaces are occupied.
 - (d) Raised tables shall be provided to the satisfaction of the planning authority at junctions in accordance with the 'Signage Layout' drawing received by the planning authority on the 22nd day of January, 2020. There shall be no controlled pedestrian crossing on the site.
 - (e) Rear garden boundary treatment which shall comprise block walls, 1.8 metres in height, capped, and rendered, on both sides, or concrete post and panel fences to a similar height.
 - (f) A condition survey of the existing historic walling and ditch along the western boundary along with full details of proposed remedial works

Revised drawings and documentation demonstrating these amendments shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of residential amenity and traffic safety.

4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

5. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place above roof level, including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to permit the planning authority to assess any such development through statutory planning process.

6. 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.

7. 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.

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

Reason: In the interest of public health.

9. 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 and shall comply with all relevant aspects of the Design Manual for Urban Roads and Streets.

Reason: In the interest of amenity and of traffic and pedestrian safety.

10. 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.

11. 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. 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.

12. Proposals for an estate/street name, 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 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.

13. (a) The development shall be landscaped in accordance with the landscaping layout plan and associated particulars received by the planning authority on the 22nd day of January, 2020, except as otherwise amended by the conditions associated with this permission. Any alterations to the proposed landscaping plan shall be submitted to, and agreed in writing with, the planning authority and the works shall subsequently be carried out in accordance with the agreement.
- (b) The boundary treatments within the development shall be in accordance with the 'Site Boundaries and Wall Type' drawing received by the planning authority on the 22nd day of January, 2020.
- (c) The proposed dwellings and apartments shall not be occupied unless and until all of the open space areas are completed in accordance with the landscaping plan received by the planning authority on the 22nd day of January, 2020. This requirement also relates to the area of ground to the immediate west of the access point to the site which shall be top-soiled and seeded.
- (d) 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 sooner, shall be replaced within the next planting season

Reason: In the interests of residential and visual amenity.

14. A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle (EV) charging stations/points. Ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the making available by the developer for occupation of any of the residential units in the proposed development.

Reason: In the interest of sustainable transport.

15. 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.

16. 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.

17. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

18. 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 noise management measures and off-site disposal of construction/demolition waste.

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

19. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

20. 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.

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

21. 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.

22. 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.

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

Dated this day of 2020