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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Limerick City and County Council**

**Planning Register Reference Number: 19/970**

**Appeal** by Alvis Smits and Others care of 21A Knockhill, Ennis Road, Limerick and by Fachtna and Attracta O'Driscoll of Dromatha, Knock, Ennis Road, Limerick against the decision made on the 30<sup>th</sup> day of April, 2020 by Limerick City and County Council to grant subject to conditions a permission to Osprey Construction Limited care of Arnold Leahy Architects Limited 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 95 number residential units, (two number detached houses, 18 number semi-detached houses, 11 number terrace houses, 24 number duplex units and one number six-storey apartment block over basement, comprised of 40 number apartments, a Creche and basement parking) attenuation pond, landscaping, boundary treatments, including connection to existing services and vehicle parking all accessed via a new entrance onto the Ennis Road and all ancillary site development works on lands at Knockhill, Ennis Road, Limerick as amended by the revised public notices received by the planning authority on the 19<sup>th</sup> day of February 2020 which included the following: an amended

layout to the scheme including a revised red line boundary. The amended scheme is for permission for a residential development comprising 92 number residential units (two number detached houses, 22 number semi-detached houses, 12 number terrace houses, 12 number duplex units and one number six-storey apartment block over basement, comprised of 44 number apartments with basement parking) retention pond, landscaping, boundary treatments relocation of existing bus shelter, including connection to existing services and vehicle parking all accessed via a new entrance onto the Ennis Road and all ancillary site development works.

## **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 site's location on lands zoned for residential use, the policies and objectives of the current Limerick City Development Plan, the National Planning Framework which identifies the importance of compact growth, the topography of the site, the nature, scale and layout of the proposed development, and the pattern of existing development in the area, it

is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Stage 1 Appropriate Assessment Screening**

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any other European sites, in view of the site's Conservation Objectives other than the Sites; Lower River Shannon Special Area of Conservation (Site Code: 002165), and The River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), which are the European sites for which there is a likelihood of significant effects.

## **Stage 2 Appropriate Assessment**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Sites; Lower River Shannon Special Area of Conservation (Site Code: 002165), and The River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for nearby European Sites in view of the site's Conservation Objectives Sites; Lower River Shannon Special Area of Conservation (Site Code: 002165), and The River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077). The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the

- (i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) mitigation measures which are included as part of the current proposal,
- (iii) Conservation Objectives for these European Sites.

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, having regard to the site's Conservation Objectives.

In the overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the site's conservation objectives.

## 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 19<sup>th</sup> day of February 2020 and the 6<sup>th</sup> day of April, 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. The proposed development shall be amended as follows:
  - (a) The seven number car parking spaces to the south of the "Village Green" open space shall be omitted and that area shall be landscaped and amalgamated into the "Village Green" area.
  - (b) The apartment block shall be amended as follows;
    - (i) The ground floor Switch Room shall be relocated, and the area of the Entrance Lobby shall be enlarged to include that of the Switch Room.

- (ii) The Bin Storage area, shall be relocated to the basement level and shall occupy the space allocated to parking space numbers 35 to 38 inclusive, and the area at ground floor shall be reassigned for use as residential amenity.
- (iii) The facade at the Entrance Lobby and the Residential Amenity area on either side of the stairwell, shall be redesigned to incorporate floor to ceiling glazing.
- (iv) The vertical brick nibs and horizontal projected parapet detail on the north and south facing facades, shall be omitted. These facades shall be finished in brick at first to fifth floors and shall be similar in detail to the side elevations.
- (v) The plaster finish proposed for the ground floor elevation shall be omitted and reconstituted stone/natural stone finish shall be used.

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 interests of visual and residential amenity.

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.

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

4. The development shall be carried out on a phased basis. A phasing programme for the development, including a minimum of three phases, shall be submitted to and agreed with the planning authority prior to commencement of development. Each phase shall be completed including all services and public open space within three months of work commencing on a subsequent phase.

**Reason:** To provide for the orderly development of the site.

5. 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.

6. No additional development shall take place above roof parapet level, including 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 residential amenities of property in the vicinity and the visual amenities of the area.

7. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development/installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

**Reason:** In the interest of public safety and visual amenity.

8. Proposals for an estate/street name, house/apartment 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 house/apartment 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 place names for new residential areas.

9. (a) The setting out of the traffic island to prevent right hand turns onto the R445 shall be carried out in consultation with the Operations Section of Limerick City and County Council.
- (b) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government.



Details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

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

10. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, to facilitate the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority before making available by the developer for occupation of the residential units in the proposed development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

11. No walls, fences or other boundary treatment including hedges/trees shall be constructed or erected around the front gardens of the proposed dwellings. The front gardens of the estate shall be kept as open plan. Class 5 of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended) and any statutory provision replacing or amending them shall not apply.

**Reason:** To ensure that the proposed scheme remains open plan in nature/appearance, in the interest of urban design and visual amenity.

12. (a) A two-metre high privacy wall shall be constructed along the rear, side and dividing boundary between houses. The wall shall be solid block, capped and rendered. Where there is a difference in ground levels between this site and adjoining properties, the level shall be taken as their average level.
- (b) Screen walls abutting open space or estate roads shall be two-metre high, plastered and capped with piers. Prior to commencement of development full details shall be submitted for the written agreement of the planning authority.
- (c) All boundary and landscaping details shall be carried out as per the plans and particulars submitted to the planning authority on the 19<sup>th</sup> day of February 2020. No boundary treatments shall take place in areas outside of applicant's ownership.
- (d) Fence Type C shall incorporate pockets of indigenous hedging and trees at various intervals. Prior to commencement of development full details shall be submitted for the written agreement of the planning authority.

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

13. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

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 enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

16. (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 for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the 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.
- (c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

17. (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.

18. 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.

19. The mitigation measures set out in the Natura Impact Statement received by the planning authority on the 19<sup>th</sup> day of February 2020 shall be complied with in full.

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

20. The mitigation measures set out in the Flood Risk Assessment submitted with the application shall be complied with in full.

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

21. 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) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
  - (b) Location of areas for construction site offices and staff facilities;
  - (c) Details of site security fencing and hoardings;
  - (d) Details of on-site car parking facilities for site workers during the course of construction;
  - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
  - (f) Measures to obviate queuing of construction traffic on the adjoining road network;
  - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

- (h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (l) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

22. Site development and building works shall be carried out only between the hours of 0800 to 2000 Mondays to Fridays, 0800 to 1600 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.

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. 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.



25. 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.

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

**Dated this            day of            2020**