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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: P20/190**

**Appeal** by Don Barrett and others of 32 Cluain Ros Leamhain, Tulla Road, Ennis, County Clare against the decision made on the 30<sup>th</sup> day of June, 2020 by Clare County Council to grant subject to conditions a permission to Datcha Construction Limited care of Arnold Leahy Architects 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 25 number residential units (one number detached house, two number four bedroom semi-detached houses, six number three bedroom semi-detached houses, six number two bedroom semi-detached houses, two number blocks comprising a ground floor two bedroom apartment with a first floor one bedroom apartment over a semi-detached house and one number block comprising a ground floor two bedroom apartment with a first floor one bedroom apartment over and two terrace houses, accessed via the Cluain Ros Leamhan development and all ancillary site development works. 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 at Roslevan, Tulla Road, Ennis, 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 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 existing development and 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 the 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.

## 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 23<sup>rd</sup> day of June, 2020 and the 24<sup>th</sup> day of June, 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. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, details of the following requirements:

- Surface treatment at the front of and between dwelling numbers 1 and 2.
- Design, layout and materials for the proposed pedestrian crossing point.
- Taper and transition details for roads and footpaths at the site boundaries.
- Omission of two communal parking spaces at the west of the site including footpath connectivity at dwelling numbers 20 and 21.
- Provision for cycle parking for first floor apartment units.
- Amendment to the south pedestrian route to the adjoining lands. The footpath shall join the turning head directly opposite the footpath south-east of the turning head. The boundary wall which shall be finished in natural stone to both sides, shall be reduced in height to a maximum of 1.2 metres and the opening shall be at a minimum of 1.8 metres in width.
- A boundary wall with a maximum height of 1.2 metres finished in natural stone on both sides with an opening with a minimum of 1.8 metres in width shall be erected at the location of the pedestrian link to the north.

- A condition survey of the existing historic walling and ditch along the western boundary along with details of proposed remedial works.
- Details of the proposed arrangements for a pedestrian opening in the western boundary wall.
- Details for bin storage arrangements for the proposed apartments and dwelling number 19.
- 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.
- First floor side elevation bathroom windows in the apartment blocks shall be in opaque glazing.
- Details of permeable paving and storm drainage for each dwelling.

**Reason:** In the interests of clarity, orderly development and the proper planning and sustainable development of the area.

3. (a) The development shall be landscaped in accordance with the landscaping plan and associated particulars received by the planning authority on the 16<sup>th</sup> day of March, 2020, unless otherwise amended by the conditions of this permission. The open space areas and landscaping plan shall be completed to the written satisfaction of the planning authority prior to the occupation of the dwellings.
- (b) All existing trees to be retained and hedgerows to be retained shall be adequately protected during the construction phase of the development.
- (c) The proposed 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 planning season with others of similar size and species, unless otherwise agreed in writing with the planning authority.
- (d) All landscaping shall not impede sightlines at access roads, junctions and communal visitor parking areas.

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

4. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place at 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 the statutory planning process.

5. 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.

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 interests 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 house.

**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.

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

12. Proposals for an estate/street name, house 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 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 interests of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

13. Ducting shall be provided for all 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 electrical vehicle 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.

14. 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.

15. Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

16. 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 traffic management measures.

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

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. 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.

19. 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.

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

**Dated this            day of            2020.**