

An  
Bord  
Pleanála

Board Order  
ABP-309278-21

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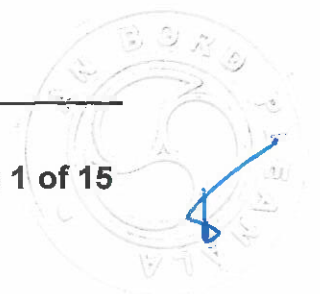
**Planning and Development Acts 2000 to 2021**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: P19/939**

**Appeal** by Dun Ri Management Company care of Andrew Hersey of 3 Atlantic View, West End, Kilkee, County Clare against the decision made on the 21<sup>st</sup> day of December, 2020 by Clare County Council to grant subject to conditions a permission to Bunratty Acquisitions 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:** Development comprising 48 number residential units, (14 number detached houses, 28 number semi detached houses, six number terraced houses), ancillary surface car parking, vehicular, pedestrian access to the proposed development via a new junction off Bunratty West Holiday Village connecting to the L3126, connection to existing public water supply, foul water drainage services including the provision of surface water attenuation and all associated site development and landscape works on lands at Bunratty West, Bunratty, County Clare as amended by the revised public notice received by the planning authority on the 30<sup>th</sup> day of October, 2020.



## **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:

- (a) the location of the application site in an area largely zoned R1 and for Residential development within the Bunratty Settlement Boundary as set out in the Clare County Council Development Plan 2017-2023,
- (b) the designation of Bunratty within the Limerick - Shannon Metropolitan Area as detailed in the Regional Spatial & Economic Strategy for the Southern Region,
- (c) the general pattern and density of development in the area and the nature and scale of the proposed development, and
- (d) the report of the Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum of development, housing mix and appropriate density for the area, would not seriously injure the residential or visual amenity of the area, would not detract

from the character and setting of the village, would be acceptable in terms of design and quantum of development, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment Screening**

The Board considered the Appropriate Assessment Screening Report, the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European sites.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the 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 European sites for which there is a possibility of significant effects and, therefore, a Stage 2 Appropriate Assessment is required,

## **Appropriate Assessment**

The Board considered the Natura Impact Statement submitted and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) in view of the sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of

the proposed development in relation to the sites' conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered the following:-

- (i) site specific conservation objectives for these European Sites,
- (ii) current conservation status, threats and pressures of the qualifying interest,
- (iii) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (iv) the view of the Department of Arts, Heritage and the Gaeltacht, and
- (v) mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of the aforementioned European Sites, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the sites' Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

This conclusion is based on a complete assessment of all aspects of the proposed project including:-

- (a) the location of the European sites,
- (b) a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures,
- (c) detailed assessment of in combination effects with other plans and projects, and

- (d) no reasonable scientific doubt as to the absence of adverse effects on the integrity of the Lower River Shannon Special Area of Conservation (Site Code: 002165) and River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077).

## 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 to the planning authority on the 8<sup>th</sup> day of October, 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. All mitigation measures outlined in the Natura Impact Statement and Construction Environmental Management Plan submitted to the planning authority on the 8<sup>th</sup> day of October, 2020, shall be implemented in full and shall be supervised by a suitably qualified ecologist and bonded engineer.

**Reason:** In the interest of environmental protection, public health and orderly development.

3. Details of the materials, colours and textures of all the external finishes to the proposed development, including revised and enhanced proposals to the east facing gable elevations of units 26, 27 and 41, 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 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.

5. (a) 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 (DMURS).
- (b) All recommended measures in the Road Safety Audit report submitted to the planning authority on the 8<sup>th</sup> day of October 2020 shall be implemented to the satisfaction of the planning authority.

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

6. (a) All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle and bicycle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) No car parking spaces shall be sold, rented or otherwise sub-let or leased.

**Reason:** In the interest of sustainable transportation

7. Proposals for naming and numbering of the proposed 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 interest of urban legibility.



8. 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.

9. 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.

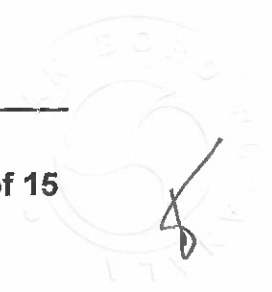
10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) location of the site and materials compound(s) including areas 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) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (i) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (j) 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,
- (k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

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



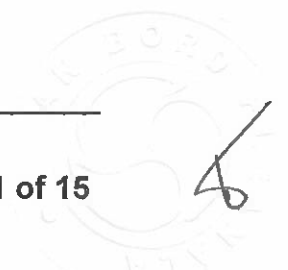
11. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities within each house 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.

12. Site development and building works shall be carried out only between the hours of 0700 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 amenities of property in the vicinity.

13. (a) 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.



- (b) Prior to commencement of development, details shall be submitted to, and agreed in writing with, the planning authority demonstrating the re-routing of the 110kv powerline on the site has been agreed with ESB Networks. These details shall include a timeframe of such works.

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

14. 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. The agreed lighting system shall be fully implemented and operational prior to the making available for occupation of the residential or commercial units.

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

15. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas and the site shall be landscaped in accordance with the Landscape Layout Plan (L-201a) submitted to the planning authority on the 8<sup>th</sup> day of October, 2020. This work shall be completed before any of the units 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.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

17. 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 for the area.

18. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house unit), pursuant to Section 47 of the Planning and Development Act, 2000, as amended, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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 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.

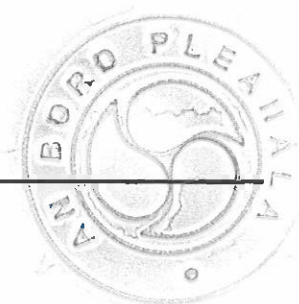
**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Terry Ó Niadh

Member of An Bord Pleanála

duly authorised to authenticate  
the seal of the Board.



Dated this 24<sup>th</sup> day of January 2022.