

## **Planning and Development Acts 2000 to 2021**

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

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 9<sup>th</sup> day of February 2022 by The Clonmacken Partnership care of MKO of Tuam Road, Galway.

#### **Proposed Development comprises of the following:**

1. 165 number residential units, on a site approximately 4.55 hectares in size, comprising:
  - (a) 43 number houses (42 number three-bed units and one number two-bed bungalow),
  - (b) 42 number duplex units (21 number two-bed ground floor units, 13 number three-bed upper floor units, eight number one-bed upper floor units),
  - (c) 80 number apartment units (17 number one-bed units, 61 number two-bed units and two number three-bed units).
2. Development of a creche facility (438 square metres).
3. Provision of shared communal and private open space, car and bicycle parking, site landscaping, site services, vehicular and pedestrian access to Condell Road via the residential development under construction adjacent to the development site.

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4. All associated and ancillary site and engineering works all located to the west of Condell Road (R527), in the townland of Clonmacken, Limerick.

## **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.**

## **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) The policies and objectives as set out in the Limerick City Development Plan 2010-2016, as extended;
- (b) The provisions of Architectural Heritage Protection, Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht October 2011;
- (c) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (d) The provisions of Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage September 2021;
- (e) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended;
- (f) The provisions of the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

- (g) 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 December 2020;
- (h) The provisions of the Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009;
- (i) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018;
- (j) The nature, scale and design of the proposed development;
- (k) The availability in the area of a wide range of social, community and transport infrastructure;
- (l) The pattern of existing and permitted development in the area;
- (m) The planning history within the area;
- (n) The submissions and observations received;
- (o) The Chief Executive's Report and associated appendices of Limerick City and County Council;
- (p) The report of the Planning Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would respect the existing character of the area, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of pedestrian and traffic safety and would not give rise to or exacerbate flooding outside of the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment Screening**

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board had regard to the nature, scale and location of the proposed development on serviced lands, the documentation including submissions on file, and the Inspector's screening assessment.

The Board accepted and adopted the screening assessment carried out by the Inspector and the conclusion 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 sites' Conservation Objectives.

In relation to Lower River Shannon Special Area of Conservation (Site Code: 002165) and River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) it could not be concluded that there would not be the likelihood of significant effects in view of the Conservation Objectives of such sites and a Stage 2 Appropriate Assessment was required to be undertaken.

## **Appropriate Assessment**

The Board completed an Appropriate Assessment in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development on serviced lands, the Natura impact statement submitted with the application, and the Inspector's report and submissions on file. In completing the Appropriate Assessment, the Board adopted the report of the Inspector and concluded that, subject to the implementation of the proposed mitigation measures contained in the Natura impact statement, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the relevant European Sites: Lower River Shannon Special Area of Conservation (Site Code: 002165) and River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), or any other European Site, in view of the sites' Conservation Objectives.

## Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to: -

- (a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned 'To provide for residential development and associated uses' in the Limerick City Development Plan 2010-2016, as extended, and the results of the Strategic Environmental Assessment of the plan,
- (c) the existing use on the site and pattern of development in the surrounding area,
- (d) the planning history relating to the site,
- (e) the availability of mains water and wastewater services to serve the proposed development,
- (f) the location of the development outside of any sensitive location specified in Article 299(C)(1)(v) of the Planning and Development Regulations 2001, as amended,
- (g) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- (h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and

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- (i) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction and Environmental Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

### **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would respect the existing character of the area, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and 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.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

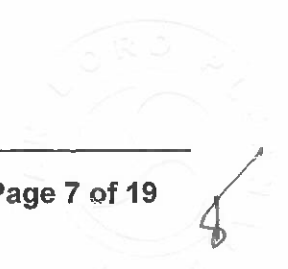
**Reason:** In the interest of clarity.

2. The mitigation measures and monitoring commitments identified in the Ecological Impact Assessment, Arboricultural Report, Bat Report, Construction and Environmental Management Plan and other plans and particulars submitted with the application, shall be carried out in full except as may otherwise be required in order to comply with other conditions.

Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments and details of a time schedule for implementation of the mitigation measures and associated monitoring, to the planning authority for written agreement.

**Reason:** In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. The mitigation measures and monitoring measures outlined in the Natura impact statement submitted with the application, shall be carried out in full except as may otherwise be required in order to comply with other conditions attached to this permission.



Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments and details of a time schedule for implementation of the mitigation measures and associated monitoring, to the planning authority for written agreement.

**Reason:** In order to avoid adverse effects on the Lower River Shannon Special Area of Conservation (Site Code: 002165) and River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077).

4. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:
  - (a) The omission of the following car parking spaces: 6 number spaces on the opposite side of roadway from Unit Numbers 23 to 27; 5 number spaces on opposite side of roadway from Unit Numbers 58 to 60 (to north of play area); 12 number spaces to the opposite side of road to Unit Numbers 28 to 52 inclusive; 9 number spaces to the east of Apartment Block 3 and 16 number spaces to south of crèche building within island median. These areas shall be suitably landscaped and incorporated into the public and communal open space provision. This will result in the loss of 48 number car parking spaces. The omission of the two proposed accessible spaces to the east of Apartment Block 3 shall be relocated elsewhere within the site.
  - (b) Details of the exact number of resident bicycle parking spaces proposed. Bicycle parking spaces for the proposed apartments and duplex units and crèche facility shall be secure and adequately covered.
  - (c) A submission of a parking management plan which shall provide for the permanent retention of the designated parking spaces and shall indicate how these spaces shall be assigned and how car parking shall be continually managed.

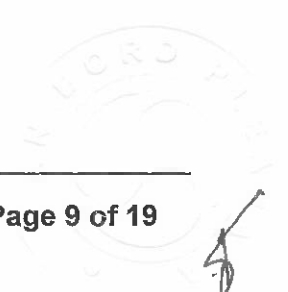


- (d) Additional Sustainable Urban Drainage System measures including details of proposed green roofs.
- (e) A revised surface water layout plan which shows full extent of Sustainable Urban Drainage Systems measures proposed.
- (f) Tree protection measures to ensure roots of trees are not damaged by construction of post and panel fence to north of site.

**Reason:** In the interests of proper planning and sustainable development and to safeguard the amenities of the occupants.

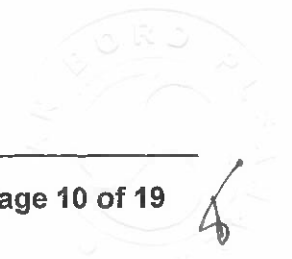
5. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. Plans and particulars 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 pedestrian, cyclist and traffic, safety and to protect residential amenity.



6. Prior to commencement of any permitted development, the developer shall engage the services of a qualified arborist as an arboricultural consultant, for the entire period of construction activity. The developer shall inform the planning authority in writing of the appointment and name of the consultant, prior to commencement of development. The consultant shall visit the site at a minimum on a monthly basis, to ensure the implementation of all of the recommendations in the tree reports and plans. To ensure the protection of trees to be retained within the site, the developer shall implement all the recommendations pertaining to tree retention, tree protection and tree works, as detailed in the in the submitted Arboricultural Assessment Report and accompanying documents. All tree felling, surgery and remedial works shall be completed upon completion of the works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations. The clearance of any vegetation including trees and shrub shall be carried out outside the bird breeding season (1 March to 31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000. The arborist shall carry out a post construction tree survey and assessment on the condition of the retained trees. A completion certificate is to be signed off by the arborist when all permitted development works are completed and in line with the recommendations of the tree report. The certificate shall be submitted to the planning authority upon completion of the works.

**Reason:** To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development



7. Prior to the commencement of any clearance or development works on site the developer shall provide for the following to the planning authority for its written agreement:
- (a) The developer shall submit a bat conservation plan for the site to include results of new bat activity and roost surveys of the site and measures to avoid injury to bats during tree felling or demolition works on site. If a bat roost is identified in a building or tree to be removed on site, a licence from the National Parks and Wildlife Services to derogate from the Habitats Directive to destroy the bat roost should accompany this plan.
  - (b) Details of proposed bat boxes and bat friendly lighting. A bat specialist shall sign off on final lighting design for proposed development.
  - (c) Any clearance of trees or shrubs from the development site shall only be carried out in the period September to February inclusive, namely outside of the main bird breeding season.

**Reason:** To avoid injury or death of bird or bat species and to protect the local ecology of the area.

8. Prior to the commencement of development, the following shall be carried out and a report submitted to the planning authority for written agreement:
- (i) An Archaeological Impact Assessment shall be complied; the applicant shall engage the services of a suitably qualified Archaeological to carry out an archaeological assessment of the development site No sub-surface work shall be undertaken in the absence of the Archaeologist without his or her express consent.
  - (ii) The Archaeologist shall carry out any relevant documentary research and inspect the site. Geophysical Survey may be required, and Test trenches may be excavated at locations chosen by the Archaeologist (licensed under the National Monuments Act 1930-1994), having consulted the site drawings.

- (iii) Having completed the work, the Archaeologist shall submit a written report to the planning authority. Where archaeological material and features are shown to be present, preservation in situ, preservation by record (excavation) or monitoring may be required.
- (iv) No site preparation or construction work shall be carried out until after the archaeologist report has been submitted and permission to proceed has been received in writing from the planning authority.

**Reason:** In the interests of the preservation of archaeological heritage and the proper planning and sustainable development of the area.

- 9. 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.

- 10. (a) The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points and the provision for the operation and maintenance of the charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) Electric charging facilities shall be provided for bicycle parking and proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** in the interest of sustainable transportation.

11. 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 interests of public health and surface water management.

12. 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.

13. The pedestrian path connecting the site to lands to the north of the site shall be completed to the satisfaction of the planning authority and shall be available for public use, prior to the first occupation of any of the proposed residential units.

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

14. 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.

15. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to and agreed in writing with the planning authority, unless otherwise agreed with the planning authority, prior to commencement of development. In addition, details of a maintenance strategy for materials within the proposal shall also be submitted for the written agreement of the planning authority, prior to the commencement of any works on site. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

16. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

17. 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.

18. The management and maintenance of the proposed development following its completion save for areas that are to be taken in charge shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

19. 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 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.

20. The landscaping scheme as submitted to An Bord Pleanála shall be carried out within the first planting season following substantial completion of external construction works.

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 shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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 by letter his or her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development hereby permitted.

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



21. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and or by-products.

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

22. 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.

**Reason:** In the interest of sustainable waste management.

23. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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.

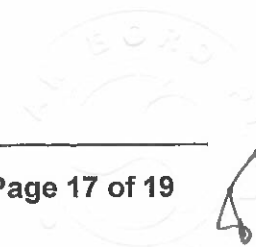


24. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority such agreement must specify the number and location of each house or duplex unit, pursuant to section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units 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.

25. 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.



26. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 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 of the development.

27. 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 26<sup>th</sup> day of May, 2022