



Planning and Development Acts 2000 to 2022

Planning Authority: Limerick City and County Council

Planning Register Reference Number: 21/1800

Appeal by Michael O'Callaghan and Others care of Keeper View, Clonconane, Pass Road, Limerick and by Others against the decision made on the 11th day of January, 2023 by Limerick City and County Council to grant subject to conditions a permission to Riverpoint Construction Limited care of Fewer Harrington and Partners of Studio 14, The Atrium, Maritana Gate, Canada Street, Waterford in accordance with plans and particulars lodged with the said Council:

Proposed Development: Housing development of 99 dwelling units comprising of the following: 12 number type A - four bedroom, two-storey semi-detached; 16 number type B – four bedroom, two-storey semi-detached; 34 number type C – three bedroom, two-storey semi-detached; two number type D – three bedroom, two-storey semi-detached; 10 number type E - three bedroom, two-storey end-of-terrace; 13 number type F – two bedroom, two-storey mid-terrace; 12 number apartments in a three-storey apartment block comprising of two number two bedroom and two number one bedroom apartments on ground floor, two number two bedroom and two number one bedroom apartments on first floor and two number two bedroom and two

number one bedroom apartments on second floor. Installation of all necessary and associated site works to include vehicular and pedestrian connections to public roundabout (currently under construction) on Pass Road, installation of foul and surface water drains connecting to public mains on Old Cratloe Road, roadways, footpaths, green spaces, landscaping and boundary treatments, public lighting, bin storage areas, all in the townland of Clonconane, between Old Cratloe Road (L3102) and Pass (Meelick) Road, 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

Having regard to

- (a) the Limerick City and County Development Plan 2022-2028, and the location of the site in an area zoned for 'New Residential' development,
- (b) the National Planning Framework including National Policy Objectives 1a, 1b, 2a, 3b, 4, 5, 8, 11 and 35,
- (c) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024,

- (d) the Urban Development and Building Heights Guidelines for Planning Authorities 2018 and in particular Specific Planning Policy Requirement SPPR 4,
- (e) the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (Department of Housing, Local Government and Heritage. 2023),
- (f) the Childcare Facilities Guidelines for Planning Authorities, June 2001,
- (g) the general pattern of development in the area and the nature and scale of the proposed development, and
- (h) Article 103 and Schedules 5 and 7 of the Planning and Development Regulations 2001, as amended,

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 area, would be acceptable in terms of traffic and public safety and would not be prejudicial to public health. 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, as amended by the further plans and particulars submitted to the planning authority on the 9th day of November, 2022 and the revised plans submitted to the Board on the 12th day of January, 2024, 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 set out in the Natura Impact Statement and associated documentation received with the planning application and by way of the submitted Further Information shall be implemented in full, including the provision of a berm along the western boundary of the landholding, except as may otherwise be required in order to comply with the conditions attached to this permission.

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

3. The proposed development shall be amended as follows:
- (a) A boundary treatment providing adequate defensible space of at least one metre from the area of communal amenity space shall be provided to apartment number 2.
 - (b) 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.
 - (c) Screen walls abutting open space or estate roads shall be two metres high, plastered and capped with piers.

Revised drawings and details 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 interest of residential amenity.

4. No more than 75 residential units within the Masterplan lands as identified in Drawing No PP-13 submitted to the planning authority on the 9th day of November 2022 shall be made available for occupation, until such time as the Creche permitted under planning register reference number 22/790 has been completed and is in operation, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of orderly development.

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,
- (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, and
- (d) adhere to the list of active interventions detailed in the Archaeological Management Plan submitted to the planning authority on the 9th day of November 2022.

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 development, 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. 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 road works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS). Drawings 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 interest of amenity and of traffic and pedestrian safety.

8. (a) All of the 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 electric vehicle 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.

9. 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/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 legibility.

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water and implementation of Sustainable Urban Drainage measures, shall comply with the detailed requirements of the planning authority for such works and services.

Reason: In the interest of public health.

11. Prior to commencement of development the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

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. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The developer shall provide ducting to facilitate the provision of broadband infrastructure within the proposed development.

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 before any of the residential or commercial units are made available for occupation.

Reason: In the interests of amenity and public safety.

15. The site shall be landscaped in accordance with drawings PP-01(1), PP-15 and the particulars submitted on the 9th day of November 2022.

These drawings and particulars shall be amended to make provision for condition number 2 of this Order and submitted for the written agreement of the planning authority prior to the commencement of any development on site. The agreed landscaping scheme 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 or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

16. The construction of the development shall be managed in accordance with a Construction 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 details of intended construction practice for the development with measures to reflect mitigation measures detailed in the submitted Natura Impact Statement for the application, in addition to the following:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of access points to the site for any construction related activity;

- (c) Location of areas for construction site offices and staff facilities;
- (d) Details of site security fencing and hoardings;
- (e) Details of on-site car parking facilities for site workers during the course of construction;
- (f) 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;
- (g) Measures to obviate queuing of construction traffic on the adjoining road network;
- (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
- (i) 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;
- (j) Details of appropriate mitigation and monitoring measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soils and other materials;

- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- (n) 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.

17. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

18. 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.

19. 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, 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.

20. 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.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion 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

22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *8th* day of *April*, 2024.