

An
Bord
Pleanála

Board Order
ABP-317476-23

Planning and Development Acts 2000 to 2022

Planning Authority: Limerick City and County Council

Planning Register Reference Number: 22990

Appeal by Diarmaid and Sinead Fitzgerald care of Leahy Planning Limited of Mill Road House, Mill Road, Ennis, County Clare and by Dwellings Developments Limited care of Dwellings of 3 Magazine road, Athlone, County Westmeath against the decision made on the 8th day of June, 2023 by Limerick City and County Council to grant subject to conditions a permission to Dwellings Developments Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: (1) Construction of 99 number residential units comprising of (a) 81 number dwellings consisting of: four number three-storey five-bed detached dwellings, 12 number two-storey four-bed detached dwellings, 16 number two storey three-bed semi-detached dwellings, 24 number two-storey three-bed semi-detached dwellings, 10 number two storey four-bed detached units, five number two-storey four-bed detached dwellings and 10 number two-storey two-bed detached dwellings, and (b) 18 number duplex apartments provided in three number six unit blocks comprising three number one-bed ground floor apartments, four number two-bed ground floor apartments, two number two-bed ground floor apartments, three number three-bed two storey units, and six number three-bed two storey units; and (2)

construction of creche and community building, (3) construction of vehicular access/egress junction with the Rathkeale Road (N21 National route) and associated works including (a) modified road demarcation on the N21 road to facilitate right turning lane, (b) lowering in height of existing roadside wall in part, and (c) landscaping and all associated site development works, (4) provision of associated infrastructure including connection to separate foul and surface water drainage systems, provision of surface water attenuation, and connection to mains water supply, and (5) landscaping and all associated site development works at Rathkeale Road, Adare, County Limerick. The proposed development was revised by further public notices received by the planning authority on the 13th day of May, 2023, including the reduction of the proposed number of units from 99 units to 74 units (consisting of 68 number houses and six number duplex), omission of the creche/community building from the proposal and a revised site boundary to reflect these revisions.

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 residential land use zoning of the site and to the scale and nature of the proposed development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic and pedestrian safety, and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board agreed with the Inspector to amend conditions numbers 11, 13, 23 and 25 as appealed but agreed with the planning authority that condition number 10 should be attached. The Board was satisfied that the planning authority's request that the proposed development remains open plan in appearance is in the interest of urban design and visual amenity.

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 information submitted to the planning authority on the 12th day of May, 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions required 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 submitted Ecological Impact Assessment and Bat Survey shall be implemented in full in the carrying out and occupation of the permitted development.

Reason: To protect residential amenity and natural heritage.



3. No walls or fences 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.

4. Details of materials, colours and textures of all external finishes to 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 interest.

5. (a) A two-metre high privacy wall shall be constructed along the rear boundary between houses, and (at a minimum) a concrete post and concrete panel fencing shall be constructed at the side 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 metres high, plastered and capped with piers.

Reason: In the interest of privacy and residential amenity.

6. The internal road 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 DMURS (Design Manual for Urban Roads and Streets).

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

7. 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 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.

Reason: In the interest of sustainable transportation.

8. Prior to commencement of development details of cycle parking and associated storage for cycling equipment shall be agreed in writing with the planning authority.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

9. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: To prevent flooding and in the interests of sustainable drainage.

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

Reason: In the interest of public health.

11. 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 placenames for new residential areas.

12. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturday 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 amenity of property in the vicinity.

13. 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 off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

14. 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 Plan 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 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)

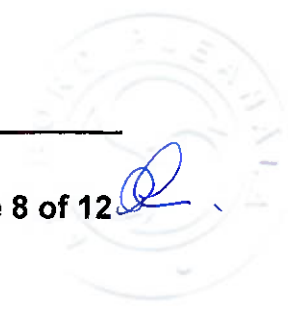
pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interests of sustainable waste management.

15. Prior to the commencement of any development on site, the developer shall submit the following for the written agreement of the planning authority –
- (i) The Stage 1 and Stage 2 Road Safety Audit shall be in compliance with the TII Publication 'Road Safety Audit GE-STY-01024'. The recommendations of the Stage 1 and Stage 2 Road Safety Audit shall be implemented in full.
 - (ii) A Stage 3 Road Safety Audit in compliance with the TII Publication 'Road Safety Audit GE-STY-01024' shall be submitted on upon the completion of construction and prior to the opening to traffic.

Reason: In the interests of traffic and pedestrian safety.

16. 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.

- 17. The development shall be carried out and completed in accordance with the "taking-in-charge" standards of the planning authority. The development shall be maintained by the developer until such time as it is taken in charge by the planning authority.

Reason: In the interest of ensuring that the development is carried out to appropriate standards.

- 18. (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.

19. 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. All existing over ground cables shall be re-located underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

20. 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. Such lighting shall be provided prior to the making available by the developer for occupation of any house.

Reason: In the interests of amenity and public safety.

21. 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.

22. Prior to the 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 provisions 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 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 of An Bord Pleanála for determination.

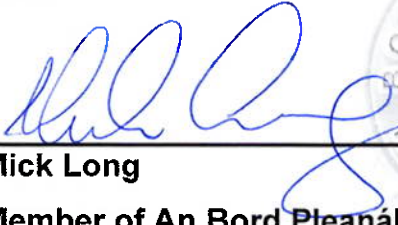
Reason: To comply with requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

23. 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.

24. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the development in the area of the planning authority that is provided or intended to be provided 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 the 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 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 to be applied to the permission.



Mick Long
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this 25th day of February 2025.