

An  
Bord  
Pleanála

**Board Order**  
**ABP-320696-24**

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**Planning and Development Acts 2000 to 2022**

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

**Planning Register Reference Number: 24/60610**

**Appeal** by Tom Ryan of Ballynoe, Mungret, County Limerick against the decision made on the 13<sup>th</sup> day of August, 2024 by Limerick City and County Council to grant subject to conditions a permission to Michael Joyce Builder Limited care of Shane Joyce of Lurriga, Patrickswell, Limerick in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** The modification of a scheme permitted under planning reference number 21/873. The modification results in a net increase of four units on the wider site and consists of: the inclusion of houses 6-9 which are two blocks of semi-detached houses to the north western boundary of the site to reflect site relevant revisions to the latest Local Area Plan, minor landscaping revisions, site ancillaries, all associated development and site works at Barnakyle, Patrickswell, County 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 the location of the site within the development boundary of the Patrickswell Local Area Plan 2024-2030, to the 'New Residential – Phase 1' zoning of the site the objective for which is to 'provide for new residential development in tandem with the provision of social and physical infrastructure', and to the planning policies, objectives and development standards of the Limerick County Development Plan 2022-2028 and Patrickswell Local Area Plan 2024-2030, the nature, scale and design of the proposed development relative to the planning history of the site and to the existing pattern of development in the wider area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of adjoining properties, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment – Stage 1**

The Board considered the Natura Impact Statement submitted with the application, and all the other relevant submissions on file, and carried out an appropriate assessment in relation to the potential effects of the proposed development on the River Shannon and River Fergus Estuaries Special Protection Area (Site code: 004077) and the Lower River Shannon Special Area of Conservation (Site code: 002165). The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the River Shannon and River Fergus Estuaries Special Protection Area (Site code: 004077) and the Lower River Shannon Special Area of Conservation (Site code: 002165) are the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

## **Appropriate Assessment – Stage 2**

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an appropriate assessment of the implications of the proposed development on the River Shannon and River Fergus Estuaries Special Protection Area (Site code: 004077) and the Lower River Shannon Special Area of Conservation (Site code: 002165) 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 scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- (i) the site specific Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, including historical and current plans and projects provided for under the Patrickswell Local Area Plan 2024-2030, and
- (iii) 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 potential effects of the proposed development on the aforementioned European Sites.

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

## 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.

2. Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission, planning register reference 21/873, unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. The external finishes to the dwellings shall be consistent with the finishes of the dwellings granted permission under planning register reference 21/873.

**Reason:** In the interest of visual amenities.

4. The mitigation measures outlined in the Natura Impact Statement (NIS) submitted with this application shall be carried out in full.

**Reason:** In the interest of protecting the environment and clarity.

5. A 1.5 metre wide vegetated buffer between the stream and the development site shall be maintained for the duration of the construction works.

**Reason:** In the interest of protecting the environment, public health, and clarity.

6. Prior to the commencement of development the applicant shall submit to, and agree in writing with, the planning authority a comprehensive scheme for landscaping of the proposed development. The scheme shall include, inter alia, proposals for the riverside area that shall provide for maintenance access to the river and also provide for appropriate riverside fencing.

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 interests of the visual and residential amenities of the development, to allow for maintenance access to the river and to provide for appropriate barriers/fencing in the interest of public safety.

7. The glazing to the first floor gable window in unit number nine (hereby permitted) shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

**Reason:** In the interest of residential amenity.

8. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interest of environmental protection.

9. Prior to the commencement of development the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

10. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the 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 interest of sustainable drainage.

11. 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:** To safeguard the amenity of property in the vicinity.

12. 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 on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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.



13. (a) Prior to the commencement of 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), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential 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.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.


**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.

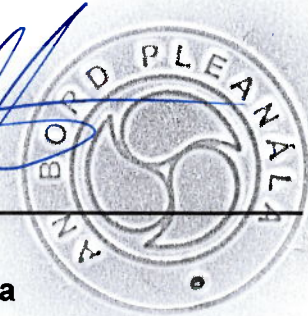
14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, 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.

15. 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.

  
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**Tom Rabbette**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board**



Dated this 11<sup>th</sup> day of April 2025