

An
Coimisiún
Pleanála

Commission Order
PL-500892-CE-26

Planning and Development Act 2000, as amended

Planning Authority: Clare County Council

Planning Register Reference Number: 2460652

Appeal by Abbeyville Residents' Association and by Residents of Abbey Court against the decision made on the 6th day of February, 2026 by Clare County Council to grant subject to conditions a permission to Datcha Construction Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: 74 number residential units (three number detached houses, 36 number semi-detached houses, 23 number terrace houses, 12 number duplex units), ancillary surface car parking, vehicular and pedestrian access to the proposed development from the Tobartascáin Road, pedestrian access into both Abbeyville estate and Abbey Court estate to the south, connection to existing public water supply, foul water drainage services, including the provision of surface water attenuation and all associated site development works, including the raising of land, and landscape works, all at Tobartascáin Clonroad More, Ennis, County Clare. The proposed development was revised by further public notices received by the planning authority on the 4th day of December 2025

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 town boundary and adjacent to the built-up environment of Ennis Town, the provisions of the Clare County Development Plan 2023-2029, the design, function and location of the proposed pedestrian linkages and the improved permeability arising from their provision, the infill nature of the site and associated policy encouraging appropriate compact development, the height, scale, layout and form of the proposed development, the rear garden areas and depths, the proposed landscaping scheme, the proposed drainage scheme, the pre-connection agreement for connection to the Ennis North Wastewater Treatment Plant, and the nature and scale of the proposed development with no significant traffic congestion or traffic safety issues likely to result, it is considered that, subject to compliance with the conditions set out below, the proposed development would be generally acceptable, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, and would not result in significant adverse effects on European Sites, the ecology or biodiversity of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Commission noted that the length of the rear gardens in many cases would be below the 11 metres which is normally required as outlined in section A1.4.2 (Urban Residential Development) in the Clare County Development Plan but was satisfied that the area of rear garden space for all

units would comply with SPPR2 of the Compact Settlement Guidelines and agreed with the Inspector that they would constitute useable private open space with no overlooking issues for the future residents whilst taking account of the retention of landscape features and hedgerows.

Appropriate Assessment: Stage 1:

The Commission considered the documents submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites. The Commission agreed with the screening assessment and conclusion carried out in the Inspector's Report that Lower River Shannon Special Area of Conservation (Site Code 002165) and River Shannon and River Fergus Estuaries Special Protection Area (Site Code 004077) 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 Commission considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an Appropriate Assessment of the implications of the proposed development on Lower River Shannon Special Area of Conservation (Site Code 002165) and River Shannon and River Fergus Estuaries Special Protection Area (Site Code 004077), in view of the sites' conservation objectives. The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the conservation objectives of the sites using the best available scientific knowledge in the field.

In completing the assessment, the Commission considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European Sites.

In completing the Appropriate Assessment, the Commission 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, having regard to the sites' conservation objectives. In overall conclusion, the Commission was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites in view of their conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

Conditions

1. The proposed 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 received by the planning authority on the 20th day of November, 2025, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The mitigation measures contained in the Natura Impact Statement (NIS) submitted shall be implemented in full.

Reason: To protect the integrity of European Sites.

3. (a) The mitigation measures contained in the Ecological Impact Assessment and the Bat and Bird Survey submitted shall be implemented in full.

(b) Artificial lighting shall be designed in accordance with the 2023 BCT Lighting Guidance (GN08/23 Bats and Artificial Lighting at Night). A lighting plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (c) The developer shall retain, protect and enhance the existing hedgerows on the eastern and southern boundaries not shown for removal on the Hedgerow Retained drawing in the EclA report (sheet number 25 – Figure 4) per the green shading.

Reason: To protect local biodiversity and the environment.

4. The finished floor level of the proposed dwellings shall be no less than 4.0 metre Ordnance Datum, as specified in the Flood Risk Assessment received by the planning authority on the 19th day of December, 2024 and the mitigation measures outlined therein shall be implemented.

Reason: To ensure no flood risks result from the development.

5. A Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to 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 and shall contain all of the mitigation measures outlined in the Natura Impact Statement.

Reason: In the interest of residential amenities, public health and safety and environmental protection.

6. The proposed development shall be amended as follows:
- (a) A detailed design for the pumping station building and boundary treatments shall be submitted to the planning authority.
 - (b) All rear garden boundary walls along the eastern site boundary shall be two metres in height and all rear gardens in the scheme shall be accessible to each residential unit with which they are associated.

Revised drawings 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 visual and residential amenity.

7. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction, including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a drawing which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of permeability and proper planning and sustainable development.

8. Details of the external materials of the proposed houses and duplexes shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of visual and residential amenity.

9. 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 detail construction standards of the planning authority for such works and the design standards as outlined in the Design Manual for Urban Roads and Streets.

Reason: In the interest of pedestrian and traffic safety.

10. 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 relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

11. The landscaping scheme shown on drawing number 24254-02-100 (Landscape Masterplan), as received by the planning authority on the 20th day of November, 2025, 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.

Reason: In the interest of residential and visual amenity.

12. (a) The screen walls at the site vehicular entrance leading to the houses shall be constructed in brick to match the brick used in the dwellings or concrete block or similar durable materials and, if in concrete block, shall be suitably capped and rendered on both sides in a finish that matches the external finish of the dwellings.
- (b) All rear gardens shall be bounded with two-metre-high concrete block walls, suitably capped and rendered on both sides, or by a two-metre-high timber panel fence with concrete posts, except for the rear boundaries of the eastern line of dwellings which shall be bounded by walls and not timber fences.
- (c) No walls, fences or other boundary treatment shall be constructed around the front gardens of the proposed dwellings, and front gardens shall be kept as 'open plan'.

Reason: To ensure that the proposed development remains open plan in nature/appearance, in the interest of visual amenity and in the interest of residential amenity.

13. (a) The precise details of the raised table at the entrance onto Tobarteascáin Road shall be agreed with the planning authority prior to commencement of development.
- (b) Precise details of the final road levels shall be agreed in writing with the planning authority prior to commencement of the development.

- (c) In addition to the EV spaces proposed, 11 additional spaces shall be provided with functional 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.

- 14. 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.

- 15. (a) Prior to commencement of development the developer shall enter into connection agreements with Uisce Éireann to provide for service connections to the public water supply and/or wastewater collection network.
- (b) No unit within the development shall be occupied until such time as the required connection to the Ennis North Wastewater Treatment Plant is completed by Uisce Éireann or an approved contractor.

- (c) Details of the final management agreement for the wastewater pumping station and rising main shall be submitted to the planning authority prior to the occupation of any unit within the development. In the instance where the pumping station is not to be managed by Uisce Éireann, then a management company appointed by the developer shall be established for the management of this infrastructure, whereby each property owner shall be a shareholder.
- (d) The developer shall be responsible for the management of the pumping station and associated infrastructure until such time as the management agreement outlined in (c) above has been entered into.

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

16. The proposed permeable paving for the driveways shall not be removed or replaced without the benefit of planning permission and a condition to this effect shall be included in the sales agreements of the dwellings allocated in-curtilage parking within the development.

Reason: In the interest of sustainable drainage.

17. (a) Drainage arrangements, including for the attenuation and 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 to the planning authority for written agreement final detailed designs for the Sustainable Urban Drainage System to be installed, and this shall include the measures outlined in the drainage documentation received by the planning authority on the 20th day of November, 2025.

- (b) In addition, detailed design of a land drain, which shall be provided along the length of the eastern boundary with the rear gardens of unit numbers 16 to 40, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The land drain shall be connected to the local surface water drainage network within the development.

Reason: In the interest of public health and surface water management.

18. (a) The internal roads, footpaths, lighting and open space shall be fully in situ to the satisfaction of the planning authority prior to the occupation of the dwellings.
- (b) Road surfacing materials shall comply with TT Standard CC-SPW-00900.
- (c) No surface water from the access road serving the development shall be permitted to run off onto the public road.
- (d) No surface water from private driveways within the development shall be permitted to run off onto the internal access roads.
- (e) All footpaths shall be concrete bayed, slabbed or tiled. They shall be dished at all road junctions and at all entrances and shall be level with the carriageway at such points.
- (f) All tactile paving shall be constructed as per the current TII detail, CC-SCD-05136 (Uncontrolled Pedestrian Crossings) & CC-SCD-05537 (Controlled Pedestrian Crossings) and shall be located at each pedestrian crossing point. The areas of permeable paving shall not be replaced without the benefit of planning permission, notwithstanding any exempted development provisions.

- (g) Signs and road markings used shall be to Department of Transport Local Government Traffic Signs Manual standard.
- (h) Landscaping and planting, including future growth, shall not interfere with any sighting distances required at junctions.
- (i) The spacing of road gullies shall be in accordance with Transport Infrastructure Ireland publication DN-DNG-03067 Spacing of Road Gullies.

Reason: To facilitate access and in the interest of traffic safety and the orderly development of the area.

19. (a) All areas not intended to be taken in charge by the planning 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 the development in the interest of residential amenity.

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20. 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 or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

21. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of traffic safety and convenience.

22. (a) The developer shall engage a suitably qualified Archaeologist to monitor (licensed under the National Monuments Acts) all access works, site clearance works, topsoil stripping and other groundworks associated with the development. The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. No ground disturbance shall take place in the absence of the Archaeologist without his/her express consent.

- (b) Should archaeological remains be identified during the course of archaeological monitoring, all works shall be suspended in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service of the Department of Housing, Local Government and Heritage, regarding appropriate mitigation (preservation in situ/excavation).
- (c) The developer shall facilitate the Archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service of the Department of Housing, Local Government and Heritage, shall be complied with by the developer.
- (d) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service of the Department of Housing, Local Government and Heritage shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

23. 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 Coimisiún 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.

24. (a) 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 relevant 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.
- (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

specified house or duplex unit 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.

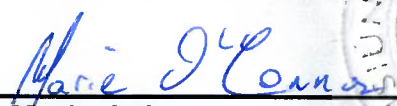
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

25. 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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

26. 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 Coimisiún 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.



Marie O'Connor

Planning Commissioner of An Coimisiún

Pleanála duly authorised to authenticate
the seal of the Commission.

Dated this 03rd day of July 2026