



An
Bord
Pleanála

Inspector's Report

Development	Change of use from commercial to residential, 4 No. apartments, change of use of aparthotel from commercial to residential, 61 No. apartments, construct 9 No. houses, at a protected structure at Ardhu House, Ennis Road, Roses Avenue and North Circular Road Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	15/645
Applicant(s)	Eoin Ryan (Statutory Receiver to Budelli Construction) Ltd. (Applicant)
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Appellant(s)	<ol style="list-style-type: none">1. Willie Sexton2. Rachel Dickinson and Others
Observer(s)	<ol style="list-style-type: none">1. Residents of Highfield2. Catherine Holmes3. Jim & Nuala O'Riordain4. Michael & Phyllis O'Flanagan5. Peter Murphy6. William & Una Brinkman7. Donal & Eilish O'Shea8. Kay & PJ O'Callaghan9. Michael & Geraldine Duffy

Date of Site Inspection

22nd October 2016

Inspector

Mary Crowley

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site with a stated area of 1.7 ha is located in an inner suburb of Limerick City c.1.5km west of the city centre. It is bounded by the Ennis Road to the north, Roses Avenue to the east and by North Circular Road at the south-eastern corner. To the west of the site are the grounds of the Woodfield Hotel, while there is established residential development to the southwest off North Circular Road. There is currently vehicular access to the site from the Ennis Road and from Roses Avenue.
- 1.2 The site is currently occupied by the former Clarion Suites which includes the historic Ardhu House, a protected structure, and a modern 6-storey block, located centrally on the site. Surface car parking occupies the north-eastern quadrant of the site, while a bar / restaurant occupies the north-western quadrant, fronting the Ennis Road. The Ardhu Bar is located outside the boundaries of the appeal site. Lands generally fall to the south. According to the application the commercial business closed in 2010 and the site has been vacant and falling into disrepair since that time.
- 1.3 The remainder of the site is currently vacant and used for the storage of materials and occasional overflow parking. The site contains mature trees, particularly along the eastern and western boundaries. The southwestern corner of the site includes the original entrance gates to Ardhu House from North Circular Road. The southern and western parts of the site have been fenced off and similar fencing has been erected along parts of the boundary to Roses Avenue.

4A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photographs of the appeal site and environs available to view throughout the appeal file.

2.0 PROPOSED DEVELOPMENT

- 2.1 Permission was sought on the **17th August 2015** for the following:
- (1) the change of use of the existing Ardhu House from commercial to residential use to provide 4 no. apartments; the removal of single storey extensions to the rear and side of Ardhu House; the removal of a three storey extension to the front of Ardhu House and all ancillary refurbishment and restoration works to the existing building
 - (2) the change of use of an existing aparthotel building from commercial use to residential use to provide 61 no. apartments;
 - (3) the removal of a single storey glazed link between the aparthotel building and Ardhu House;
 - (4) vehicular access via existing entrances on Ennis Road and Roses Avenue;
 - (5) surface level car park;
 - (6) provision of internal roadways;

- (7) the construction of 9 no. detached two storey dwelling houses, driveways, entrances and access roadways;
- (8) connection to existing surface and foul sewers;
- (9) all ancillary site development and boundary treatment works

2.2 Further Ardhu House is a protected structure R.P.S. No. 281 and is on the N.I.A.H. 21511001. The proposed source water supply will be from existing public mains. The proposed wastewater management treatment will be through the existing public sewer.

2.3 The application was accompanied by the Deed of Appointment of Statutory Receiver and Manager NAMA, Engineering Report, Flood Risk Assessment, Design Statement, Area Schedule, Photographic study relating to Ardhu House, Architectural Heritage Impact Assessment, Tree Survey and Plan of Presentation and Impact Assessment, Landscape Plan and Planning Statement

2.4 The following **further information** was submitted on **29th January 2016**:

- Houses No 2 & 3 relocated so as to provide access via the Ennis Road entrance to the development and the internal road access
- Reposition of the entrance to House No 4 marginally north
- Amendments across 5 floors of the building in order to provide 6 no 3 bed units. The overall development now proposed 59 no apartments.
- Revised site layout. House No 8 & 9 are re-located to the south with the result that there is an increase in site space to the western side of Ardhu House that will serve Apartment No 1 & 2 on the ground floor of the main house
- House No 8 & 9 have a rear garden depth of 14 metres and 13.5 metres respectively and reoriented to address revised entrances. The displaced car parking spaces are re-sited to the north-western corner of the site.
- The proposed development entails re-positioning of the access road, in accordance with the scope for such re-positioning as set out in the 950-year lease agreement between Budelli Construction Ltd (in receivership) and William & Ann Marie Sexton (Ardhu Bar)
- Two locations for domestic waste management provided
- Report / Method Statement prepared by Healy & Partners setting out detailed specifications and methodologies for the external finishes of existing structures and those specified in the internal Conservation Report
- Bat Fauna Assessment
- Engineering Report
- Photographic Study relating to Ardhu House
- Preliminary Construction & Demolition Waste Management Plan
- Tree Survey and Plan of Presentation and Impact Assessment
- Assessment under the Sustainable Urban Housing Design Standards for New Apartments (2015)

- 2.6 **Revised public notices** were submitted on **12th of February 2016** setting out that significant further information had been furnished to the Planning Authority.
- 2.7 A **time extension for a period of three months** was granted on the **6th April 2015**.
- 2.8 The following **further Clarification information** was submitted on **16th May 2016**:
- Submitted that the consent of the owner of the Ardhu Bar & Restaurant to the blocking up of a portion of the right of way (access road / service road) is not required.
 - Revised plans omitting House No 8 and 9
 - Area Schedule
 - Landscape Plan
 - Engineering Report
 - Proposed drainage plans, Site layout plan and Landscape Plan
- 2.6 **Revised public notices** were submitted on **30th May 2016** setting out that significant further information had been furnished to the Planning Authority.

3.0 OBJECTIONS / OBSERVATIONS / PUBLIC REPRESENTATION TO THE PLANNING AUTHORITY

- 3.1 There are several objections / observations recorded on the planning file from the following: Residents of Highfield; Catherine Holmes; Jim & Nuala O'Riordain; Michael & Phyllis O'Flanagan; William & Una Brinkman; Donal & Eilish O'Shea; Kay & PJ O'Callaghan; Michael & Geraldine Duffy; Richard & Unette Leonard; Kevin & Anna McHugh; John McNamara; Noreen Ryan; James and Susan Shannon; Gordon & Muire Graham; Michael & Emma Collins; Eoghan Clancy & Maria Lane; Breda O'Gorman; Anne O'Donnell; Peter Murphy; Anne Cahill; Rachel Dickenson & Others; Willie Sexton; Sharon & Michael Connolly; Andrew & Hilary Donovan; Kevin Meaney; Sean Burns; Ailish Kennedy and Hayes & Motherway Families.
- 3.2 The issues raised are similar to those raised in the appeal to the Board and relate to (as summarised) loss of residential amenity, lack of open space, potential loss of mature trees, loss of character, apartments too small for families, apartments overlook car parking, traffic hazard, inadequate car parking, no traffic management report submitted, no traffic survey carried out, underground car parking to be provided, exits for houses 4, 5, 6 and 7 should be reduced to one entrance, unacceptable density, visual impact, noise disturbance, overlooking, loss of privacy, compliance with regulations, transient population of the apartments does not add to local communities, flooding, insufficient school places in area, right of way interfered with, width of internal road is inadequate, reduced property values, phasing, no separate water metres proposed, original apartment block not in accordance with permission, density too high, refuse collection point not appropriate, trees need to be protected and supplemented, fire safety, cramped open space and condition

imposed by the Board in the previous permission should be used in the event permission is granted.

4.0 TECHNICAL REPORTS

- 4.1 The **HSE** in their first report recommend conditions to be attached to any grant of permission. In their second report and having considered the further information submission states they have no further comments.
- 4.2 There are two reports from **Irish Water** have no stated objection to the scheme subject to conditions outlined in their report.
- 4.3 The **Department of Arts Heritage and the Gaeltacht** in their first report states that several bat species have been recorded in the area and that suitable trees and buildings are on site and that bat roosts may be present on site and that a bat survey is required. The **Department of Arts Heritage and the Gaeltacht** in a further report requests further information pertaining to the protected structure, associated private open space and location of trees to be removed. The **Department of Arts Heritage and the Gaeltacht** having considered the further information submission recommended conditions to be attached in the event of a grant of permission pertaining to the fabric of the protected structure.
- 4.4 The **LCCC Travel and Transportation Department** request that Plot 1 and 2 both exit on to the internal road layout of the Ardhu House and Plot 5 entrance to move further north to achieve the 45 metre sight lines.
- 4.5 The **LCCC Environment, Waste Management Section** requested the submission of a waste management plan for the recovery / disposal of all wastes arising from the construction of the development.
- 4.6 The **LCCC Conservation Officer** requested the submission of an augmented photographic study of the house, method statements for demolition and dismantling masonry, detailed specifications and methodologies for the external finishes of existing structures and those specified in the report, curtilage to the protected structure and location of trees to be removed. The **Conservation Officer** in their second report and having considered the further information stated that issues of concern had been adequately addressed and set out several conditions to be attached to a grant of permission.
- 4.7 The **LCCC Environment Department** has no objection to the scheme subject to conditions relating to air pollution, dust, fumes and noise control and the protection of surface waters.
- 4.8 The **Assistant Chief Fire Officer** notes the content of the further information and

states that no change warranted to the previous fire report.

4.3 The **Local Authority Planner** in their first report requested the following **further information** as summarised:

- Houses No 2 & 3 to have entrances from the internal road
- House No 5 shall move their entrance further north and possibly share with No 4
- Provision of 3 bed apartments
- Provision of demarcated and landscaped curtilage to all open sides of Ardhu House
- Revised layout for House No 8 & 9
- Trees to be removed
- Rights of Way for Deliveries Access / Emergency Vehicle Access
- Waste Storage
- Bat Survey
- Waste Management Plan
- Augmented Photographic study of Ardhu House
- Method statements for demolition and dismantling masonry
- Detailed specifications and methodologies for the external finishes of existing structures and those specified in the internal Conservation Report

4.9 The **Local Authority Planner** in their second report requested the following **clarification of further information**:

- A letter from the owner of Ardhu Bar agreeing to the blocking up of part of the “right of way” and re-locating part of the right of way together with evidence from the applicant that they have powers to alter the right of way
- Omit houses No 8 and 9, relocate car parking to the area and provide green open space immediately south of the apartment block along the southern boundary

4.10 The **Local Authority Planner** in their final report and having considered the clarification of further information received recommended that permission be **granted** subject to 35 conditions. The notification of decision to grant planning permission issued by Limerick City & County Council reflects this recommendation.

5.0 PLANNING AUTHORITY DECISION

5.1 Limerick City and County Council issued notification of decision to **grant** planning permission subject to 35 generally standard conditions. Conditions of note are as follows:

- Condition No 3 – Access serving plot 7 shall be altered
- Condition No 11 – Protected Structure shall be protected during construction
- Condition No 12 - Phasing

- Condition No 14 – Repairs to Protected structure to be agreed
- Condition No 15 – Schedule of site by the LLL Conservation Officer
- Condition No 16 – Record of works undertaken

6.0 PLANNING HISTORY

6.1 There is evidence of 4 no previous planning appeal on this site. The two most recent appeals may be summarised as follows:

6.1 **PL30.235688 (Reg Ref 08/489)** – The decision of Limerick City Council to grant permission for the amendment to mixed-use development, within the curtilage of a protected structure, substitute 30 no. residential units and aparthotel (24 no. units) with 44 no. residential units at Clarion Hotel Suite / Ardhu House Site, Ennis Road, Roses Avenue, North Circular Road, Limerick was appealed by a third party. The Board granted permission subject to 24 Conditions that included the following:

Condition No 2 - The proposed development shall be carried out in accordance with the conditions attached to Reg Ref P04/01 (An Bord Pleanála appeal reference number PL 30.212383) on 31st January, 2006.

Condition No 9 - A single combined entrance from Roses Avenue to houses numbers 3 and 4 shall be provided, with a maximum width of 6.5 metres, which shall be located to avoid impacts on existing trees on the site.

6.3 **Reg Ref 15/7019** - It is further noted that permission was granted in 2015 for an extension to the duration of planning permission PL30.235688 (Reg Ref 08/489) until 17th May 2020.

6.4 **PL30.212383 (Reg Ref 04/01 ABP)** – The decision of Limerick City Council to refuse planning permission for a mixed use development including Aparthotel Units, Apartments and Commercial (Business Meeting Rooms, Bar and Restaurant) elements was appealed by the first party. The Board granted permission subject to 18 Conditions.

7.0 POLICY CONTEXT

7.1 The operative plan for the area is the **Limerick City Development Plan 2010 – 2016**. The site is zoned **ZO.2 (A) Residential** where the objective is to *provide for residential development and associated uses*. Policies relevant to this appeal are set out as follows:

Policy H.4 - *It is the policy of Limerick City Council to have regard to the policies and objectives of the following Strategies and Plans:*

- *Sustainable Residential Development in Urban Areas (DEHLG 2008)*
- *Urban Design Manual – A Best Practice Guide (DEHLG 2008)*
- *Quality Housing for Sustainable Communities (DEHLG 2007)*

Policy H.5 - *It is the policy of Limerick City Council to promote increased density where appropriate to do so, having regard to the existing or proposed public transport provision and proximity to the City Centre.*

Policy H.6 - *It is the policy of Limerick City Council to ensure a balance between the reasonable protection of existing residential amenities, the established character of the area, and the need to provide for sustainable residential development.*

7.2 **Chapter 14** of the Development Plan sets out a number of key policies and objectives for a number of suburban areas within the city, including the Ennis road Area. The Plan specifies that the Planning Authority will be guided by a series of specific objectives in relation to the Ennis Road Area; two of the more relevant objectives in the context of the proposed development are:

- *To seek the development of the existing under-utilised lands in the area*
- *To promote a high standard of urban design with a clear sense of place and architectural quality that respects the existing character*

7.3 **Chapter 10**, Part III conservation of the Built Heritage sets out the following policies:

Policy BHA 11 - *It is policy of Limerick City Council to positively encourage and facilitate the careful refurbishment of the structures of Architectural Heritage merit and Protected Structures for sustainable and economically viable uses.*

Policy BHA 13 Facilitating Development of a Protected Structure and Curtilage - *It is the policy of the Planning Authority to facilitate developments to protected structures that do not materially affect the architectural character employing conservation best practise standards for any purposes compatible with the character of the building and to make available financial assistance, where possible.*

Policy BHA.14 Demolition of Protected Structures - *It is the policy of Limerick City Council that proposals for demolition of a Protected Structure shall not be permitted except in exceptional circumstances and where it can*

be showed that a greater public interest will be served which outweighs the loss to the architectural heritage.

8.0 GROUNDS OF APPEAL

8.1 There are two third party appeals from (1) Willie Sexton, “Kamadoru”, North Circular Road, Limerick and the (2) Residents of the North Circular Road and surrounding area, Limerick. The issues raised in each appeal may be summarised as follows:

8.2 **Willie Sexton, “Kamadoru”, North Circular Road, Limerick.** The submission was accompanied by a site location map and a copy of the lease map indicating right of access routes.

- **Management Company** - Willie Sexton is a Director of Powton Ardhu Limited, who own the leasehold interest in the Ardhu Bar. When the appellant entered into the 950-year lease on the 22nd December, 2008 the entire complex was to be run by a Management Company. To date the management of the complex has not worked.
- **Security** - The current proposal indicates a large car park located in an unsupervised area to the rear of Ardhu House, the adjoining Woodfield House premises and houses in Highfield and the Elms housing estates. Concern is raised that this area is likely to be the subject of anti-social behaviour which could affect the security of the appellant’s premises and represents poor planning of the area.
- **Fire Safety** - The Fire Safety Certificate for the Ardhu Bar was granted on the basis of fire brigade access to the south of the Ardhu Bar over a road along the western boundary of the site which is the subject of this planning application. The route now proposed is via the large car parking area to the rear of Ardhu House which could become blocked by anti-social behaviour or become blocked by parked cars if the car park becomes full.
- **Access** – The access road from Roses Avenue to the main public access to the premises has been eliminated with no reasonably adequate alternative provided that this will have a detrimental effect on business and that only recently “NO THROUGH ROAD” signs have been erected in the car park. The current proposal will make the Ennis Road access into a cul-de-sac which will result in congestion in the area with traffic chaos and possibly a traffic hazard on the Ennis Road.
- **Service Access Deliveries** – The appellant uses the route from Roses Avenue to the rear of his premises for regular deliveries by large trucks, as such vehicles cannot use the main public entrance due to the height

restriction. Noted that a Toddler's play area is proposed adjacent to this delivery route. Concern that this could lead to a very dangerous situation. Further the proposed sight distance at the entrance to the site at Roses Avenue appears deficient.

- **Site Layout** - The orientation of the houses on Plots 1, 2 and 3 of the proposed development face the main public entrance/exit of the appellant's premises. This will inevitably cause problems for the business as customers could inadvertently cause a nuisance to the residents. Both uses so close together are considered incompatible and represent poor planning.
- **Open Space** - As there is very little usable open space proposed and the density of the development is very high concern is raised that the Ardhu Bar car park could become a play area of children in the proposed development.

8.3 **Residents of the North Circular Road and surrounding Area.** The submission was accompanied by a series of map indicating site location, rights of way together with photos of the site and environs.

- **Non Compliance with Permission** - Board is asked to view the complete planning file for this development site as concern raised that the Hotel / Apartment block nor The Ardhu Bar were not built according to plans submitted.
- **Parking** - The Ardhu Bar was granted only 28 parking places but concern raised that trying to take a right of way that would give access to the residents parking area. Suggested that an area for parking could be given to the bar and a wall separating it from the residential area and that the bars only access would be from the Ennis Road. This would free up usable open space for the Residents.
- **Traffic Safety** - The car parking issue is very serious and the amount of traffic entering and exiting Roses Avenue passing what is deemed as open space is unacceptable and dangerous, it is not usable open space as there is no other kick-about area on the site. There is no traffic management in place
- **Usable Open Space** - The open space is not usable open space and its proximity to roads and traffic is a concern.
- **Private Open Space** - Of all balcony areas less than **7 of the 61** meet the required development plan and do not overlook green areas. The apart/hotel building was built for hotel accommodation, if change of planning is sought for permanent residential use then it must be changed to meet proper planning standards as if it were a new build.

- **Ardhu House** - The applicant states their intention to facilitate four rather large apartments within the Ardhu House and yet only provides eight car parking spaces with no consideration for visitor parking.
- **Conclusion** - The 4 detached houses at Lower Roses Avenue should be reduced to 3 and use one entrance as in a previous application. All established remaining trees should be saved on this site. Requested that if any planning is granted on this site that An Bord Pleanála conditions should be upheld; that the underground car park should be completed before any other developments; that the well-established evergreen trees should be planted as **Phase 2** and the detached houses should be built as **Phase 3**.

9.0 RESPONSE OF THE PLANNING AUTHORITY

9.1 Limerick City and Council in their submission state that *the planning authority considered all issues set out in the application and the issues raised in the attached appeal, the reuse of an existing vacant aparthotel and bar and the redevelopment for private residential development is acceptable given the zoning. The redevelopment and reuse of the existing protected stature accords with the requirement of the City Development Plan and having regard to the prominent location of the site and the proximity to the City Centre, the Planning Authority considers the proposed development acceptable.*

10.0 OBSERVATIONS TO AN BORD PLEANÁLA

- 10.1 There are nine observations recorded on the appeal file from Residents of Highfield, Catherine Holmes, Jim & Nuala O’Riordain, Michael & Phyllis O’Flanagan, Peter Murphy, William & Una Brinkman, Donal & Eilish O’Shea, Kay & PJ O’Callaghan and Michael & Geraldine Duffy.
- 10.2 Many of the issues are similar to those raised previously and may be summarised follows: Ardhu Bar not built in according to plans submitted, right of access for fire brigade, impact of access road on adjacent residential properties, impact on Ardhu business, inadequate car parking provision, underground car parking to be provided, impact on residential amenities, on-street parking, do not support the change of use from commercial to residential, loss of trees, increased traffic congestion, traffic management system required on roses Avenue, density too high, inadequate open space, no satellite dishes or television aerials externally, illegally erected “no through road” signs, right of way acquired by usage, inadequate water pressure in the area, overlooking adjoining residential areas, over development, phasing required, no traffic management plan in place, preserve all trees facing Roses Avenue and inadequate parking to serve Ardhu Sports Bar.

11.0 FIRST PARTY RESPONSE TO THE APPEAL

- 11.1 The First Party response to the two third party appeals have been prepared and submitted by Town & Country Resources Limited, Planning and Development Consultants on behalf of the application Eoin Ryan, Statutory Receiver to Budelli Construction Limited. The submission may be summarised as follows:
- 11.2 **Management Company** - Condition No. 31 attached to the Notification of Decision to Grant Permission specifies that a management scheme shall be established to provide for management and maintenance of public open spaces, bin storage, roads and other communal areas, and the Applicant is entirely satisfied to address the requirements of this condition, in the event that planning permission is granted by An Bord Pleanála.
- 11.3 **Security** - The layout of the car park now proposed is in compliance with the requirements of the Planning Authority, as specified in Item 2 of the Request for Clarification of Further Information issued on the planning application. The proposed surface car park is overlooked by proposed apartments, thus providing for day-time and night-time passive supervision of the car parking area.
- 11.4 **Fire Safety** - The Board is referred to the enclosed submission prepared by Mr. John O'Shaughnessy, Fire Engineering Consultancy Limited which deals comprehensively with the concerns raised by the Appellant in relation to fire brigade access to the Ardhu Bar and Restaurant premises.
- 11.5 **Access** - The Board is referred to the correspondence dated 9th May, 2016 from McKenna Durcan Solicitors to the Planning Authority (enclosed at Appendix 2.3), enclosing copy of the Lease dated 22nd December, 2008 made between Budelli Construction Limited (in Receivership) and William and Anne-Marie Sexton in respect of The Ardhu Bar premises. The access arrangements to the Ardhu Bar and Restaurant premises as permitted in the 2010 planning application remain valid for a further 5-year period, and are the same as those now permitted in terms of impact on the access arrangements to the Ardhu Bar and Restaurant premises. Thus, the Board is requested to reject the Appellant's assertions on this point as being without any foundation or merit. In relation to the Appellant's comments regarding the '*No Through Road*' signs erected at the premises, the Applicant advises that these signs were erected at the request of an insurance inspector following an inspection of the site in August 2015, on the basis that the property is privately owned. The Board is referred to the report prepared by Punch Consulting Engineers, enclosed herewith at Appendix 1.3, which dismisses the Appellant's assertions regarding congestion and traffic chaos arising as a result of the planned development.
- 11.6 **Service Access/Deliveries** - The route for delivery purposes to the Appellant's premises as provided for in the proposed scheme is along the internal access road

which is aligned along the southern boundary of the site, and across the surface car park. The Board is referred to the enclosed report prepared by Dave Ryan Landscape Architect (Appendix 1.1), which addresses the concerns raised by the Appellant regarding proximity of the toddler play area to the internal access road. The assertion that *the proposed sight distance at the entrance to the site at Roses Avenue appears deficient* is without foundation and is addressed in a letter prepared by Punch Consulting Engineers enclosed with this response (Appendix 1.2).

- 11.7 **Site Layout** - The proposed house on Plot 1 is sited to face the Ennis Road, and not the premises of the Ardhu Bar and Restaurant as suggested by the Appellant. The proposed development and layout of the new housing proposed, all located along the eastern section of the site, has been carefully prepared in consultation with the Planning Authority and considered to ensure the protection of the existing character of development adjoining the site.
- 11.8 **Previous Planning Permissions** - A brief synopsis of the planning history of the subject lands is set out in the Planning Report (section 3.0) included with the planning application. Whilst it appears that some elements of the schemes permitted in previous planning permissions were undertaken, namely development of the aparthotel building pursuant to Reg. Ref. 03/206; and development of the Ardhu Bar and Restaurant pursuant to Reg. Ref. 04/01, clearly these permissions have not been implemented in full. Whilst the developments permitted in the 2008 planning application have not been implemented either, it is the case also that the duration of the 2010 planning permission has been extended for a further 5-year period and it is therefore open to the Applicant to implement. However, it is not the Applicant's intention to implement the 2008 planning permission at this time. The current scheme is unencumbered by the conditions attached to previous planning permissions for development at the site, which relate to materially different development proposals and different planning permissions.
- 11.9 **Car Parking** - Based on the Development Plan car parking standards, 117 car parking spaces are required and it is proposed to provide a total of 117 car parking spaces at surface level as part of the overall proposed development.
- 11.10 **Open Space** - The proposed development provides 11% public open space in all, with an additional area of communal amenity space provided also. The open space areas within the development comply with the guidance set out in the 'Apartment Guidelines'.
- 11.11 **Conversion of the Aparthotel Building into Apartments** - The Board is requested to note that a full assessment of all proposed apartments in the context of the requirements of the '*Sustainable Urban Housing: Design Standards for New Apartments*' Guidelines has been undertaken. The status of the proposed

apartments by reference to the standards set out in the new guidance can be summarised as follows:

- All apartments are compliant in terms of overall floor area. 58 of the 59 apartments proposed exceed the minimum floor area standards by at least 10%.
- 56 of the 59 apartments are compliant in terms of aggregate bedroom space and kitchen/living/dining space.
- All 59 apartments have in-unit storage space; 49 apartments also have a dedicated storage unit at basement level.
- Floor-to-ceiling heights to the proposed apartments in Ardhu House exceed the minimum standards. Floor-to-ceiling heights to all apartments in the aparthotel building are 2.4 metres high.
- 93% of the proposed apartments are dual or multi-aspect.
- All apartments include an area of outdoor private open space.

Whilst there are a number of circumstances where proposed apartments do not comply absolutely with some of the minimum standards set out in the new guidelines, the Board is requested to have regard to the provisions of paragraphs 5.6 to 5.11 therein in its consideration of this point.

11.12 **Trees** - The Board is referred to the report prepared by Dave Ryan Landscape Architects, which sets out the landscape strategy in relation to screening trees in the vicinity of the Appellant's residence.

11.13 **NOTE** the submission was accompanied by the following additional information:

- Landscape Response to the appeal prepared by Dave Ryan Landscape Architect
- Report from John O'Shaughnessy, Fire Engineering Consultancy Ltd
- Engineering Report pertaining to Access and service access and deliveries

12.0 ASSESSMENT

12.1 Concern raised throughout the appeal in relation to non-compliance with the terms and conditions of previous grants of planning permission on the site are noted. According to the applicant some elements of the schemes permitted in previous planning permissions were undertaken, namely development of the aparthotel building pursuant to Reg. Ref. 03/206; and development of the Ardhu Bar and Restaurant pursuant to Reg. Ref. 04/01, but that these permissions have not been implemented in full. It is my view that this is not a matter for An Bord Pleanála. Any development which requires permission and does not have that permission is unauthorised development, as is a development which is proceeding in breach of conditions laid down in the planning permission. Further the carrying out of unauthorised development is an offence. The planning system is operated on the ground by local planning authorities who are responsible for operating Ireland's planning enforcement regime. Accordingly it is my view that concerns raised should be dealt with at local authority level.

12.2 While I note in the appellants submission the scheme be amended in a accordance with a previous application including the provision of an underground car park and that if any planning is granted that the previous An Bord Pleanála conditions should be upheld I would point out for the purpose of clarity that the current development before the Board represents a separate and distinct application which is considered “de novo”. That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application. Further I am satisfied that my site inspection of the appeal site and environs is adequate for the carrying out of my assessment of this appeal.

12.3 Having regard to the information presented by the parties to the appeal and in the course of the planning application and my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- Principle / Policy Considerations
- Protected Structure
- Residential Amenity
- Traffic Impact
- Right of Way
- Other Issues

13.0 PRINCIPLE / POLICY CONSIDERATIONS

13.1 This assessment is based on the plans and particulars, lodged with the application on 17th August 2015, as amended by the further plans and particulars submitted on the 29th January 2016 by way of further information submitted on the 16th May 2016 by way of clarification.

13.2 The site is currently occupied by the historic Ardhu House, a protected structure; and a modern 7-storey aparthotel block located centrally on the site, all comprising the former commercial operation, collectively known as the Clarion Suites / Hotel. It is stated that the commercial business closed in 2010, and the site has been vacant and falling into disrepair since that time. For the purposes of clarity it should be noted that the development, as amended by way of further information and

clarification of further information by the Planning Authority, consists of the following principal elements:

- Change of use of Ardhu House (a protected structure) from commercial use to residential use to provide 4 no. apartments, and all ancillary development works, including refurbishment and restoration of the building, and the removal of extensions to the rear, side and front of the house.
- Change of use of the aparthotel building from commercial use to residential use, to provide 59 no. apartments and all ancillary development works.
- Construction of 7 no. detached houses.
- Surface car parking spaces, cycle parking spaces; vehicular access via existing entrances on Ennis Road, Roses Avenue and North Circular Road, and new entrances on Roses Avenue.

13.3 The operative plan for the area is the Limerick City Development Plan 2010 – 2016. Under the provision of this plan the site is zoned ZO.2 (A) Residential where the objective is to *provide for residential development and associated uses* and where residential development is acceptable in principle.

13.3 Further the history pertaining to the site is well documented and as is evidenced that there have been numerous planning applications for development at the subject site, particularly since 2003. Whilst it appears that the developments permitted in the 2008 planning application have not been implemented, it is the case that the duration of this 2010 planning permission has been extended for a further 5-year period and it is therefore open to the developer to implement the development approved under Reg. Ref. 08/489 PL30.235688 at any time within the life of that planning permission. However, the applicant states that it is not their intention to implement the 2008 planning permission at this time, *thus this planning application seeks permission for a new approach to development of the overall site in a manner this is sustainable in terms of the principles of proper planning and development, and commercial viable.* It is also my view that the current scheme appears to be unencumbered by the conditions attached to previous planning permissions for development at the site.

13.4 With regard to the concerns raised regarding density I would set out the following. This is a zoned residential site whereby the change of use from commercial to residential represents not only a clear densification of use on the site in residential terms it also represents an efficient and sustainable reuse of an existing structure on serviced suburban land. Accordingly, there is no objection to the density of the development proposed (as amended) at this location.

13.5 Having regard to the extant planning permission pertaining to the site and the established residential use therein together with the zoning objective for the site I am satisfied that the principle of residential development is acceptable in terms of compatibility with the character of development in the area, the proposed use and wider zoning objectives subject to the acceptance or otherwise of site specifics /

other policies within the development plan and government guidance. The demolition of part of Ardhu House (Protected Structure) and the impact of the scheme on this protected structure is discussed below in Section 14.0.

14.1 PROTECTED STRUCTURE

14.1 Ardhu House is listed in the Limerick City Development Plan 2010 – 2016 Record of Protected Structures R.P.S. No. 281 (listed as the Limerick Ryan Hotel) and is on the N.I.A.H. 21511001. The house is described as a detached three bay two storey former house built c 1845. As stated previously the development comprises a change of use of this protected structure from commercial use to residential use to provide 4 no. apartments, and all ancillary development works, including refurbishment and restoration of the building, and the removal of late 20th century three storey infilled extensions to the rear, side and front of the house. An Architectural Heritage Impact Assessment and Photographic Study has been prepared by Healy & Partners Conservation and submitted with the planning application. This was supplemented by a further report submitted in response to the request for further information.

14.2 Archive sources give a date of 1865 to the building, while the design has been attributed to William Fogarty. Ardhu Houses began life as a Victorian Italianate Villa free standing on its own grounds. The house occupied the northern section and was accessed from a n entrance on the North circular road with a gate lodge which has now been demolished. By the mid to late 20th Century the house had been converted into hotel use with a large seven storey bedroom block built to the south west of the site. In parallel access was re-routed via an access point on the Ennis Road. The south and west section was given over to residential development also. Part of the original yard complex of Ardhu House (nearest to Ennis Road) evolved into a restaurant and pub complex. The applicant submits that Ardhu House represents the last strand of mid-19th century smaller country house/villa that has survived into the 21st Century. Having changed into a hotel in the mid to late 20th century it now finds itself empty and deteriorating though lack of use and maintenance. According to the Architectural Heritage Impact Assessment despite losses of historic fabric internally and change of layout, much of the original intention still remains and that renewed residential use is appropriate

14.3 The Planning and Development Act 2000 (as amended) Article 57(10)(b) states:

“A planning authority, or the Board on appeal, shall not grant permission for the demolition of a protected structure or proposed protected structure, save in exceptional circumstances.”

14.4 Further, Policy BHA.14 Demolition of Protected Structures of the current Development Plan states that *it is the policy of Limerick City Council that proposals*

for demolition of a Protected Structure shall not be permitted except in exceptional circumstances and where it can be showed that a greater public interest will be served which outweighs the loss to the architectural heritage.

- 14.5 As stated previously and as evidenced from the information available and as observed on day of site inspection the buildings or components of buildings to be demolished are late 20th century structures of no architectural significance which in my view have little to recommend their conservations status. It was also observed that the principle structure of Ardhu House, is a legible building demonstrating a robust and adaptable building form; a strength of buildings of this age and character. Further the occupation of the property by a viable use such as residential units is in my view the best way to ensure the continued well-being and maintenance of the building fabric.
- 14.6 I am satisfied that the proposed development represents a viable, sustainable and alternative use which from a conservation point of view allows for the restoration of Ardhu House to a high standard and its return to its original and historically legible format and the reversal of the piecemeal changes that occurred over recent decades. While caution should be used when considering proposals to demolish parts of protected structures as these parts may be of importance to the cumulative historic interest of a building I am satisfied in this case that the elements to be demolished which are not original to the structure do not contribute to the special interest of the whole and that the demolition will allow for the proper conservation of the whole structure. I consider that the proposal would constitute an exceptional circumstance justifying demolition of parts of Ardhu House in this case.
- 14.7 I have considered the reports and submissions on file from the Department of Arts Heritage and the Gaeltacht and the LCCC Conservation Officer. Overall I am satisfied that “exceptional circumstances” have been demonstrated in this case and that on balance the restoration and re-use of Ardhu House is in the greater public interest. It is recommended that should the Board be minded to grant permission that a condition be attached requiring that a suitably qualified and experienced conservation consultant oversee the works in consultation with the LCCC Conservation Officer and in agreement with the planning authority.

15.0 RESIDENTIAL AMENITY

- 15.1 Overall I am satisfied that the proposed development (as amended) provides a suitable mix of housing. With regards to the provision of private and public open space within the scheme I am satisfied that the proposed development (as amended) makes adequate provision for private amenity space to serve both the proposed apartment block and Ardhu House. The location and orientation of houses 1 to 7 is in my view in keeping with the character and scale of the area. A concrete wall exists between the Elms Estate and the development site approx. 1.8m in

height. Further I do not consider the established Ardhu Bar to be a “bad neighbour” in this residential suburban setting particularly having regard to its location, layout and orientation. While I note the concerns raised I am also satisfied in the circumstances that the scheme (as amended) strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings in terms of overlooking and overshadowing. I do not consider this to be grounds for refusal in this case.

15.2 The applicant undertook a tree survey, an arboricultural impact assessment and a plan of preservation for the trees contained within the grounds of the site that may be impacted on as a result of the proposed development and associated works. The report identified numerous significant trees contained within the site and stated that many have a high aesthetic value due to their prominent location. In turn the applicant prepared a preservation plan. I have considered the detailed proposals submitted and while some trees will be removed as part of the development I agree with the applicant that *overall the arboreal impact on this site is low and all the large significant trees of high amenity are to be retained and preserved*. I do not consider this to be grounds for refusal in this case.

15.3 The car parks will be overlooked from the apartments and it is proposed that they will also be lit. The separation walls and lockable gate between the Ardhu House Bar and the proposed apartment building car park is a security enhancement advantageous in my view to both uses and users. It is stated that the wall between these two car parks will be 1.8m high and will have a gate so that the operators of the Ardhu House Bar can secure the premises. I do not consider this to be grounds for refusal in this case

16.0 TRAFFIC IMPACT

16.1 Concern is raised in the appeal regarding the impact from traffic generated together with the provision of adequate car parking.

16.2 Having regard to the Map 6 – Parking Zones of the Development Plan the appeal site is located within Parking Zone 3 where the minimum requirement is 2 car parking spaces per house together with 25% for visitor car parking and 1:25 car parking space per apartment with 25% for visitor car parking. Table 16.1 General Parking Standards refers. Based on the development proposed and the car parking standards, it is proposed to provide a total of 117 car parking spaces at surface level as part of the overall proposed development. I am satisfied that the proposed level of car parking provision is in line with the statutory requirements. Furthermore, I am satisfied that the proposed car parking is in compliance with the guidance set out in the ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines for Planning Authorities (the ‘Apartment Guidelines’) published in December 2015 by the Department of the Environment, Community and Local Government (DoECLG).

The guidelines specify that as a benchmark guideline for apartments, *'one car parking space per unit should generally be required'*. The scheme exceeds this standard, which is appropriate having regard to the suburban context of the subject lands. While I also note the concerns raised that underground car parking should be proposed on site this did not form part of the application and overall I am satisfied that there is adequate provision for car parking at surface level without impacting negatively on the amenities of surrounding properties or on traffic safety.

- 16.3 The appellant refers to a route currently used between Roses Avenue and the rear of his premises across the development lands *'for regular deliveries by large trucks'*. The route for delivery as provided for in the proposed scheme is along the internal access road which is aligned along the southern boundary of the site, and across the surface car park. The alignment of the access road towards the Car Park has a series of turns, which encourage drivers to slow down, this is in affect a traffic calming strategy. Further deliveries by large trucks to the public house appear to be infrequent. I do not consider this to be grounds for refusal in this case.
- 16.4 It is submitted that the Toddlers Play area will require constant supervision and that together with good visibility and slowed traffic should create a safe environment for all. The alignment of the access road towards the Car Park has a series of turns, which encourage drivers to slow down, this is in affect a traffic calming strategy. Notwithstanding this there is car parking, a footpath, a green area and hedging separating the toddler play area from the internal road. The layout of the internal road and proximity of car parking to the internal road also act as a further traffic calming measure. I do not consider this to be grounds for refusal in this case.
- 16.5 I agree with the applicant that the proposed layout creates a safer road environment for both pedestrians and vehicles as it eliminates vehicles using the development as a "rat run" between the Ennis Road and Roses Avenue. The applicant submits that vehicles can continue to access the public house car park, turn around and exit the development by the entrance / exit off the Ennis road and that the proposed layout of the entrance / exit to the existing public house car park on the Ennis Road is standard practice for a car park or development layout. It is further submitted that given the nature of a public house, vehicles accessing the facility will not impact on the AM or PM peak traffic or cause congestion on the surrounding road network. Based on the information available with the appeal file I am satisfied that the potential for queuing on the Ennis Road due to vehicles turning into the development and causing a traffic hazard does not merit a refusal in this instance.
- 16.6 I note that Condition No 3 of the notification of decision to grant permission issued by Limerick city and County Council required that the access serving plot 7 be altered, with the width of the splay reduced to serve the entrance only and the entrance gates be recessed 4.5 metres behind the line of the roadside boundary. I support

this condition and recommend that should the board be minded to grant permission that a similar condition be attached.

- 16.7 Given the location of the appeal site, the previously permitted use on site together with the nature and scale of the scheme proposed I am satisfied that the vehicular movements generated by the proposed development would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. Accordingly, I am satisfied that the proposed development will not result in the creation of a traffic hazard.

17.0 RIGHT OF WAY

- 17.1 Significant and detailed concern is raised throughout the appeal regarding right of access across the site to the Ardhu Bar premises as set out in the lease agreement and the erection of “no through road” signs. In essence the applicant submits that the consent of the owner of the Ardhu Bar & Restaurant to the blocking up of a portion of the right of way (access road / service road) is not required. Further the applicant points out that the previous development at this site permitted under Planning Register Reference 08/489; ABP Reference PL30.235688 also discontinued the Lease Agreement route across the site between Roses Avenue and the front of the Ardhu Bar premises.
- 17.2 Having considered the information available on file I am not satisfied that the appellant and observers in this case have demonstrated that the applicant does not have sufficient interest to carry out the works pertaining to proposed development. Further the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development. Should planning permission be granted and should the appellants or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34 (13) of the Planning and Development Act 2000 is relevant.

18.0 OTHER ISSUES

- 18.1 **Appropriate Assessment Screening** – No Stage 1 or Stage 2 AA report was submitted with the scheme. or Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site (Lower Shannon SAC (002165) and the River Shannon and River Fergus Estuaries SPA (004077)), no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a

significant effect individually or in combination with other plans or projects on a European site.

- 18.2 Flooding** – The application was accompanied by a Flood Risk Assessment. This report concluded that *the Shannon CRAMS flood maps indicate that the proposed development falls outside Flood Zone A or B, the entire proposed site is in a designated Flood Zone C.* The report continues that *this is further validated by the lack of historical flooding on site and that residential buildings are deemed appropriate for Flood Zone C.* Having regard to the information available on file I am satisfied that the potential impacts of the proposed development in terms of flooding have been established and that the type of development proposed is appropriate for this flood zone. I do not consider that the proposed development would exacerbate the risk of flooding in the area.
- 18.3 Part V** - The application was made in August 2015, prior to the Urban Regeneration and Housing Act 2015 coming into effect in September 2015 and therefore the more detailed agreement with the Housing Authority required under this Act was not required at the time of application. I am satisfied in this instance that the approach of the planning authority in attaching a suitably worded condition seeking agreement prior to the development is acceptable and recommend that a similar approach be taken should the Board be minded to grant permission.
- 18.4 Bat Fauna** – All Irish bats are listed in Annex IV of the Habitats directive and the lesser horseshoe bat is further listed under Annex II. I have considered the Bat Fauna Assessment submitted by way of further information and note from the conclusions that *being a built up area, both the onsite and immediate off site habitats are poor for bats and the absence of bat sign within the buildings indicates that the structures are of little importance to these animals.* The report further states that mitigation measures in relation to bats are not required or recommended for the proposed development as there is no evidence of current, regular or long term bat presence found on site. I agree with the conclusion of the report that the proposed redevelopment of the disused buildings will have no negative impacts on bats.
- 18.5 Management Company** – While there have been numerous planning applications for development at this site, particularly since 2003, only a limited portion of the extensive range of developments permitted have been built, comprising primarily the aparthotel block (formerly Clarion Suites) and the Ardhú Bar and Restaurant. It is evident that the substantive additional residential elements of successive permitted schemes have not been implemented and therefore as acknowledged by the applicant the management arrangements as set out and as conditioned in those planning applications, have not materialised. Condition No. 31 attached to the Notification of Decision to Grant Permission issued by Limerick City and Council specifies that a management scheme shall be established to provide for management and maintenance of public open spaces, bin storage, roads and other

communal areas. The Applicant states that they are entirely satisfied to address the requirements of this condition, in the event that planning permission is granted by An Bord Pleanála. It is recommended that should permission be granted that similar condition is attached.

18.6 Development Contributions - Limerick City and County Council has adopted a Development Contribution scheme under **Section 48** of the Planning and Development Act 2000 (as amended) in September 2013. Section 1.5 sets out the categories of development which will be exempted from the requirement to pay a development contribution under the scheme. The proposed development does not fall under the exemptions listed in the scheme. However, it is noted that under *Table 2 Proposed contribution rates for commercial development per m²* development consisting of the change of use of premises will be charged at the differential rate between the existing use and proposed use and that works to a protected structure shall receive an additional discount of 50%. Accordingly, it is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

19.0 CONCLUSION AND RECOMMENDATION

19.1 Having considered the contents of the application and the provisions of the current Limerick City and County Development Plan 2010 - 2015, the status of Ardhu House as a protected structure together with the grounds of appeal, planning history, site context, policies and objectives for the area and my site inspection and assessment of the planning issues, I do not consider that to permit this development would materially contravene the provision of the Limerick City and County Development Plan 2010 – 2015. Accordingly, I recommend that permission for the proposed development be **GRANTED** for the reasons and considerations set out hereunder

20.0 REASONS AND CONSIDERATIONS

20.1 Having regard to the nature of development proposed, the planning history relating to the site, the pattern of development in the area and the provisions of the current development plan for the area, including the residential zoning objective for the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience and would not significantly impact on the character of Ardhu House, a protected structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

21.0 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 on the 17th August 2015, as amended by the further plans and particulars submitted on the 29th January 2016 and 16th May 2016, 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. The access serving plot 7 shall be altered, with the width of the splay reduced to serve the entrance only, the entrance gates shall be recessed 4.5 metres behind the line of the roadside boundary. The gates shall be linked to the boundary treatment. Revised details shall be submitted for the written agreement of the Planning authority.

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

3. (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

(b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

(c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.

Reason: To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric

4. A schedule of site visits by the Conservation Officer of Limerick City and County Council shall be agreed in writing with the Planning Authority prior to commencement of work on site. The Schedule shall provide for visits to in advance of ground works commencing; when dismantling works commence; thereafter on a regular basis to match significant states of the conservation elements of the project and handover of the project.

Reason: In the interest of architectural heritage

5. Prior to commencement of any development on foot of this grant of permission, the phasing of the permitted development, including in relation to demolitions and conservation works, shall be agreed in writing with the planning authority.

Reason: To regulate and control the development

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. Water supply and 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 interest of public health.

8. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and access road to the service area shall be in accordance with the detailed standards of the planning authority for such works. Bicycle parking shall be provided in accordance with the detailed requirements of the planning authority.

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

9. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces. Details in this regard 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 house.

Reason: In the interest of amenity and public 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. All rear gardens shall be bounded with 1.8 metre high concrete block walls, suitably capped and rendered, on both sides, or by 1.8 metre high timber fences with concrete posts. Prior to commencement of development, details in this regard shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

12. 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 estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

Reason: In the interest of urban legibility.

13. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas, open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with

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

Reason: To provide for the future maintenance of this [private] development in the interest of residential amenity and orderly development.

14.(a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

15. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 residential amenities of property in the vicinity.

16. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the

methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Limerick/Clare/Kerry Region.

Reason: In the interest of sustainable waste management.

17. 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 social and affordable housing in accordance with the requirements of section 96 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 (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

19. 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. The

contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Mary Crowley,
Senior Planning Inspector
25th October 2016

Report Ends MC