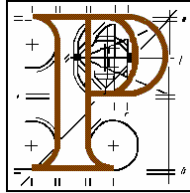


An Bord Pleanála



Inspector's Report

Development: Demolition of pump house, construction of 89 No Houses, crèche, and all associated site works at Site R3, Tuamgraney, Co Clare

Planning Application

Planning Authority: Clare CoCo

Planning Authority Reg. Ref.: 08/463

Applicant: P Moreau, J Moreau and P Brooks

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellant(s): 3rd party-Residents of Tuamgraney
1st party-P Moreau, J Moreau and P Brooks

Type of Appeal: 3rd Party against grant
1st party against conditions

Observers: No

Date of Site Inspection: 24 July 2009

Inspector: Michael Halligan

1.0 APPLICATION

1.1 Site Inspection

I inspected the site on 24/07/09 and took the attached photographs which depict the site and its environs.

1.2 Site Details

The site is located within the village of Tuamgraney. It is to the south east of the village centre where it is located between two minor roads. It is presently in agricultural use. The site's western boundary is formed by the development boundary of site PL03.222591 granted permission by the Board in 2007. The eastern boundary is formed partly by Croaghrum River and partly by a field boundary. Reddan Quay Road at the northern boundary is a cul de sac road leading to Reddan Pier. The road at the southern boundary is also a private cul de sac lane leading to Raheen Wood. The site is unused agricultural land and was apparently previously in use as a horticultural nursery. Reddan Quay Road has a number of low density residential dwellings along its northern side and also close to the junction with the main road.

1.3 Proposed Development

Permission was initially sought to demolish an existing pump house and to construct 89 residential dwellings. This was reduced by Further Information submission/planning condition to 72 dwellings. A crèche is also proposed. Seven house types/designs were proposed. Access is proposed from Reddan's Quay Road.

1.4 Planning History

None on site.

PL03.222391: Planning Authority permission confirmed on appeal for the construction of 27 dwellings on lands adjacent to the western boundary of the present site. Access is off Reddan's Quay Road for 21 of the houses and from Wood Road for 6 of the houses.

1.5 Planning Authority Decision

Permission was granted subject to 40 predominantly standard conditions. The following conditions are of particular note:

- 1** Compliance with FI dated 4-11-08
- 4.** Alterations to form, design and layout
- 5.** Contiguous elevations to be submitted showing revisions per above
- 11** no development to take place until the proposed waste water treatment plant to serve Tuamgraney and Scarriff has been commissioned
- 13** a water demand simulation study to be carried before development commences

- 30 FFLs to be above flood levels
- 38 Bond
- 39 Standard contribution
- 40 Special contribution

The **Planning Report** assesses the proposal under the following headings:

- **Policy** - the site is in an area designated as residentially zoned land R3 in the East Clare LAP 2005. This zoning recommends development of permanent dwelling houses at a medium to high density.
- **History** - none on site. Board permission as detailed above(para 1.5)
- **Services**- standard detailed requirements
- **Roads** - concern re condition and width of county road onto which the site exits. There are also no footpaths. Adequate visibility (70m) is not available at the proposed entrance.
- **Archaeologist** - Recorded Monument to west of site therefore standard monitoring condition recommended.
- **3rd party observations** – noted (not detailed here as form appeal grounds)
- **Density** – 22.5 dwellings/Ha acceptable under LAP
- **House types** – adequate mix provided
- **House design** – concerns reflected in planning condition

Further Information was requested in relation to:

Roads: *application considered premature pending upgrade of county access road and visibility at proposed entrance.* The response by M Punch and Partners was considered acceptable. This provided for widening of Reddan’s Road at the road frontage of the site and the provision of a footpath.

Design and layout: *considered to be overly elaborate. Particular concern re duplex units and lack of single storey units to better reflect the traditional design in the village.* Response omitted four of the five duplex designs. However only two of the house types have been altered and no single storey houses are provided. A number of house types need amendment with two pages of detailed revisions set out as in planning condition. These concerns can be addressed by condition.

Access to adjacent site 06/2232: response acceptable which states that an access is not considered appropriate at this point in time as there is no masterplan for the overall development of these lands.

Landscaping: detailed landscaping and public lighting scheme submitted in response considered acceptable.

Archaeological Impact Statement: County Council archaeologist considered response acceptable.

Trees: tree survey by Horticulturist submitted in response acceptable

Crèche location: problem as located close to road. Revised location and design considered acceptable

Private open space: serious concerns remain as 16 numbered units do not have adequate private open space to the rear of the dwellings with locations to side of dwellings and other rear gardens being below the 11m standard. This can be addressed by condition.

Additional internal reports were received in relation to:

Water Services – no development should commence until the proposed wwtp to serve Tuamgraney and Scarriff is commissioned and a water demand simulation study is carried out.

Archaeologist – although no features were found in the survey a standard monitoring condition should be attached. A 19th C limekiln outside of the northeast boundary should be protected by screening along the site's north-eastern boundary.

Roads – a traffic management scheme for the construction phase should be submitted.

It is concluded that the development is acceptable subject to conditions.

2.0 GROUNDS OF APPEAL

2.1 Appeal

The 3rd party appeal grounds may be summarised as:

- Parts of Reddan's Quay Road cannot be widened to the Council standard of 8.5m (5.5m carriageway and two 1.5m footpaths)
- Poor visibility at the junction of Reddan's Quay Road with the R463 cannot be remedied
- The combined traffic from 110 residences (present and adjacent permitted development) will result in a traffic hazard
- Density at 10dw/acre is excessive
- The Council has recently upgraded the sewage system but the treatment plant is not yet built and the Council see the contributions as a way of paying for this
- Other permitted houses in the village have not been sold and this substantial development with 100 houses in a cul de sac is not sustainable

The 1st party appeal is against conditions no 4 and 40 and the grounds may be summarised as:

Condition No 4 requiring omission of units

- Condition No 4a – units 1, 2, and 3 provide a courtyard cluster and should not be omitted. The scheme provides a continuous streetscape with a natural stone boundary wall to Reddan's Quay Road
- Condition No 4d – Units 9 and 10 should not be combined as a rear garden of 11m can be provided for both. No major overlooking occurs.
- Condition No 4f – replacement of 2 apartments in unit 16 with one dwelling house is not justified and reduces mix of houses types
- Condition No 4h - replacement of 2 apartments in unit 20 with one dwelling house is not justified and reduces mix of houses types
- Condition No 4k and 4l – reduction from 12 units to 8 units is not justified as the submitted layout corresponds to previous permission 062232 by extending street edge
- Condition No 4p - replacement of unit 74 by open space is not justified as no further open space is required.

The omission of 14 units reduces the density below its zoning allocation.

Condition No 40 Special Development contribution

- Condition requires payment of €359,204 as a special contribution towards the provision of foul sewer, storm water and public water infrastructure
- No justification is provided as to how this figure is calculated
- The population equivalent of the permitted development is 310PE which equates to 16.8% of the capacity (1850PE) of the new foul waste water treatment plant. The applicant accepts that he should contribute towards this but only in proportion to the scale of his development.
- Regarding storm water the applicant as part of the permitted development is installing a completely independent gravity sewer network and is not dependent of council infrastructure
- Regarding water supply applicant accepts that he should contribute towards this but only in proportion to the scale of his development.
- The applicant is proposing to improve the public roads in the area at his own expense and these costs should be offset against the above charges.

2.2 Observations

None

2.3 Response

Applicants' Response to 3rd Party appeal may be summarised as:

- Reddan's Quay Road will be widened for the length of the site
- The Road Safety Audit carried out made recommendations which were incorporated into the drawings submitted to and accepted by the County Council. These include traffic calming measures at the west end of Reddan's Quay Road and works along the R463 subject to the County Council
- The proposed density with 74 dwellings permitted on a site of 3.94 Ha is in line with the LAP which recommends 35-50 dw/Ha in towns and village centres

3rd Party Response to 1st Party appeal may be summarised as:

- The form and layout is totally at variance with that of the village
- Adjacent permission included a wall to separate it from the present site whereas the present plans provide for a combined development of 99 units
- Significant sections of Reddan's Quay Road between the site and the main road cannot be widened
- Tuamgraney cannot absorb this density of development and the houses will probably lie vacant
- A sudden influx of residents at this scale will overwhelm the village fabric

There is no response from the Planning Authority

3.0 PLANNING POLICY

3.1 County Development Plan 2005-2011

Ch 6 Housing Policy

para 2.4 In having regard to the Residential Density Guidelines the planning Authority will look for average densities in settlement centres of 35-50 housing units per hectare in so far as it supports the sustainable development of the settlement. The settlement statements within Local Area Plans will identify appropriate mean housing densities as high (35-50 units per acre), medium (20-25 units per hectare) or low (below 15 units per hectare).

3.2 East Clare LAP 2005

Ch 6 Housing

POLICY H1: HOUSING DEVELOPMENT

Proposals for housing development on zoned lands should respect the existing character of the surrounding area.

The County Development Plan adopts densities for housing of 20-25 per ha in settlements rising to 35-50 per ha in town and village centres. In line with the policy of the County Development Plan, consideration will be given to allowing higher than prevailing densities on serviced land in the towns and villages within the Plan area, provided that the development does not detract from the existing architectural character of the settlement

Scarriff/Tuamgraney Settlement

The following provisions of the LAP relating to the Scarriff/Tuamgraney Settlement Plan are particularly relevant:

Tuamgraney is physically linked to Scarriff along the R352 by the bridge across the Graney River in the presence of Finsa, a forestry products business offering employment in the wider area. The village has a limited range of services and residents would generally visit Scarriff for many retail and commercial needs.

Scarriff is listed as a 'large town' and Tuamgraney as a 'small village' in the hierarchy of the Clare Settlement Strategy. The settlements are recognised as 'linked settlements' and earmarked for controlled settlement growth. The strategy seeks to identify and facilitate limited development to conserve and enhance existing character and special qualities and to anticipate the delivery of adequate infrastructure for the immediate and future needs of the settlement.

The present site has the designation R3:

R3 (5.1ha) - Land on Road to Reddan's Quay

The site offers the opportunity for a range of permanent dwelling house types at medium to high densities. Access to the site for residential development will require

improvements to the minor road and its junction with the regional road in the centre of the village.

Development of the site would require inter alia the following:

- A masterplan to provide for the comprehensive development of the whole site.
- Road widening on Reddan's Quay road and junction improvements with the R463.
- The provision of pedestrian access through the site to the minor roads bounding the site and the village centre linked to an open space and play area overlooked by housing.
- Residential density, design and layout to comply with Policies H8; H9; ENV4; ENV5; ENV6 as set out in Part A of the Plan.

4.0 ASSESSMENT

4.1 Issues

The issues in this appeal concern those matters of road safety, density and services raised by the 3rd party appellants and also the provisions of conditions no 4 and 40 appealed by the applicant. I will however first of all address the issue of the principle of development.

4.2 Principle of development

The site is part of a larger plot of land zoned residential in the East Clare LAP 2005. It has the specific designation R3 which states that "the site offers the opportunity for a range of permanent dwelling house types at medium to high densities". The Board recently upheld permission for residential development on the adjacent site (also part of the R3 zone) for reasons inter alia of the zoning of the site. I conclude therefore that the principle of residential development on the subject lands is acceptable in principle.

4.3 Density of Development

The development as permitted by the Planning Authority for 74 dwellings on a site of 3.94 Ha equates to a density of just under 19 dwellings per Ha. The original proposal for 89 dwellings resulted in a density of 22.6 dwellings per Ha. Both of these densities are just below/within the range of 20-25 dw/Ha provided for in the LAP for settlements and below the range of 35-50 dw/Ha recommended in towns and village centres. This density is also identical to that permitted by the Board on the adjoining site (27 houses on a site of 1.24Ha). The proposed density is therefore acceptable in principle as being in accordance with the provisions of the County Development Plan and the LAP for the area.

A related aspect of the density issue is the impact of the development on the character of the village. The LAP provides for a strategy of "controlled settlement growth... to identify and facilitate limited development to conserve and enhance existing character and special qualities". The site is located on a cul de sac to the rear of the main street on lands which are secluded and visually separate from the village centre. I do not consider therefore that the development can be objected to on grounds of incompatibility with the existing village streetscape. The site is also outside of the

defined ACA. The appellants also contend that the scale of development proposed combined with that permitted on the adjoining site to the west will overwhelm the village. Whereas that might have some substance if the adjacent permission and the present proposal were to be constructed and fully occupied over a very short time span this was never likely to be the case and is most unlikely to be the case especially in the current economic climate. There will not be a “sudden influx” as feared by the appellants and it is almost certain that these dwellings if permitted would be constructed in a phased manner to take account of market conditions. I do not consider therefore that this objection can be upheld.

4.4 Road Safety

This concern of the appellants relates firstly to the restricted width of the access road and secondly to the restricted visibility available at the junction of the access road with Regional Road 483. These concerns were also canvassed and addressed by the Board in the earlier appeal on the adjoining site to the west. The Board granted permission in that case.

Regarding the restricted width of Reddan’s Quay Road the permission granted by the Board on the adjoining lands to the west provided for a 5.5m carriageway with a single footpath 1.5m wide along the site frontage. The current proposal provides for an identical arrangement. Together with the traffic calming measures proposed by the applicants (Road Safety Audit) I consider that the proposal is in this regard acceptable on road safety grounds.

In relation to the issue of visibility at the junction of the access road with the Regional road it can be seen from the site inspection photographs that Reddan’s Quay Road is very wide at this junction with no restrictions on traffic entering from the main road. There is also good visibility for traffic exiting. I accept that a car parked to the left on exiting and the tree to the left impede visibility to some extent. However this is an existing public road junction in the middle of the village and in such circumstances kerbside parking can often impede optimal visibility. I do not consider in the present situation that this is fatal to the proposal in particular as visibility on the nearside is good. The Planning Authority could signalize the junction if such was considered in the future to be necessary.

I would not therefore uphold this ground of appeal.

4.5 Services

This issue is raised by the 3rd party appellants who contend that at best the proposal is premature and by the 1st party who contends that the special contribution is excessive.

4.5.1 3rd Party Appeal

It is acknowledged by the 3rd party appellants that the sewage system has been upgraded. They object that the treatment plant is not yet built and that the Planning Authority is authorizing developments to gather contributions to pay for this plant. I cannot uphold this objection as the current proposal will be adjudicated on by the Board on its intrinsic planning merits and will not be influenced by any revenue gathering issues. I consider that the condition imposed by the Board in its permission

on adjoining lands providing that no house be occupied until connection to public sewage services is available is an appropriate response to this concern.

4.5.2 1st Party Appeal against Contribution Condition

The applicants contend that the special contribution quantum required in condition no 40 has not been justified and that it is excessive having regard to the scale of development proposed/permitted. The Planning Authority has not responded to this assertion. The report of the Services engineer on the application suggests a figure of €359,204 “to be consistent with levies recently imposed on similar developments in Tuamgraney”. The Board in its adjoining permission in Oct 2007 for 27 dwelling houses imposed a special contribution of €108,972. Applying a pro rata assessment for 72 dwellings as permitted by the Planning Authority on the present site this would result in a sum of €290,592 updated by the ‘wholesale price index building and construction capital goods’ over a period of approx 24months. Applying the Board’s earlier assessment pro rata to the 89 dwellings applied for gives a total of €359,204 as in the Planning Authority condition. I would therefore recommend that this be amended to €290,592 if the Board upholds the 72 dwelling total permitted by the Planning Authority. This will be addressed below in considering the detailed appeal by the applicants against condition no 4. It should be noted that the wholesale price index has decreased in the past year. No allowance has been made for the proposed crèche.

4.6 1st Party appeal against Condition no 4

In this appeal the applicant challenges the detailed omissions/variations of units required by the Planning Authority under condition no 4. A general objection is made that this brings the density below that provided for on the site in the County Development Plan. I would dismiss this objection as density is subject to design, layout and other planning considerations and is not a standard which can be used to over rule these broader planning considerations.

I will address the detailed objections below.

Condition no 4a-omit units 1, 2, 3 and replace with open space

I support this requirement which has the objective to maintain the rural aspect along Reddan’s Quay Road which is an important amenity route to the quay.

Condition no 4d-replace units 9, 10 with one dwelling

I support this requirement which has the objective to provide for a minimum rear garden length of 11m. Furthermore I consider that this is even more of an imperative in a rural village environment such as Tuamgraney than in an urban area where I would also support its general application.

Condition no 4f-replace dwelling no 16 (duplex) with one dwelling

I support this requirement as I do not consider that a 3 storey duplex is an appropriate form of development in this village environment.

Condition no 4h-replace unit no 20 (duplex) with one dwelling

I support this requirement as I do not consider that a 3 storey duplex is an appropriate form of development in this village environment. I also support the detailed provisions of the condition.

Condition no 4k -replace proposed 12 units no 43-54 with 8 dwellings

I support this requirement which has the objective to provide for a minimum rear garden length of 11m. A number of these units have maximum rear garden depths of 10m and only 8.5m when measured from the protruding rear dining room. This is not acceptable in a rural village environment where better standards of private amenity open space should be expected and provided. It should also be noted that the building line of units 53 and 54 extends far beyond that of the adjacent units in the adjoining development.

Condition no 4l-omit proposed units 45 and 46 and incorporate into public open space.

Condition no 4k already provides for alterations to the design of this area of the development. This provision in condition no 4l should be left more flexible stating a requirement to provide for an additional area of public open space to be determined by the Planning Authority as part the redesign required above.

Condition no 4p-omit proposed unit 74 and incorporate into public open space.

I support the omission of a duplex design for the reasons stated above and agree with the Planning Authority that the area be incorporated into the adjacent public open space as the site is not suitable for a replacement house with a rear garden.

I support the other variations provided for in condition no 4 and not appealed.

4.7 Conclusion

In conclusion I consider that the decision by the Planning Authority to grant permission should be upheld having regard to the residential zoning of the site, the proposals to upgrade the access road and the other submissions made in the application and appeal. I have also had regard to the permission granted for residential development on the adjacent lands. I would not therefore uphold the 3rd party appeal against the decision of the Planning Authority. I also would uphold the provisions of condition no 4 appealed by the applicant as being reasonable to protect the amenities of the area and that of future residents of the proposed development. I recommend that Condition no 40 be amended as above. Otherwise the generality of the conditions imposed by the Planning Authority should be upheld.

5.0 RECOMMENDATION

I recommend that permission be granted for the proposed development.

Reasons and Considerations

Having regard to the residential zoning of 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1 The development shall be carried out 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 4th day of November, 2008 except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2 No house shall be occupied until connections to the public sewage scheme are made available, as confirmed in writing by the planning authority.

Reason: In the interest of public health.

3 Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

4 The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interest of amenities and public safety.

5 Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of amenity and public safety.

6 All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

7 Prior to commencement of development, proposals for an estate name, house numbering scheme and associated signage shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development.

8 Prior to commencement of construction of the houses, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

9 The site shall be landscaped in accordance with a scheme of landscaping, details of which shall be submitted to the planning authority for agreement before development commences. The scheme shall include a timescale for its implementation.

Reason: In the interest of visual amenity.

10 Prior to commencement of development, details in relation to all site boundary treatments shall be submitted to the planning authority for written agreement.

Reason: In the interest of visual and residential amenity.

11 Prior to commencement of development, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, off-site disposal of construction waste and a scheme for dust /and dirt control.

Reason: In the interest of amenities and public safety.

12 The proposed dwellings in this estate shall only be used as places of permanent residence and shall not be used as holiday homes.

Reason: in the interests of residential amenities.

13 The form, layout and design of the proposed development shall be amended as follows:

- a. Unit nos 1, 2 and 3 shall be omitted and this section of the site shall be landscaped and incorporated into use as part of the public open space of the development
- b. The position of unit 4 shall be altered on the layout to ensure that this unit has a rear garden of not less than 11m in length and providing not less than 65m² of private open space
- c. Proposed dwelling houses 12 and 13 shall be omitted from the scheme and shall be replaced with one dwelling house with a rear garden not less than 11m in length and of a design that ensures that overlooking of adjacent properties does not occur
- d. Unit types 9 and 10 as proposed shall be omitted and the site of these used to accommodate one dwelling house with a rear garden of not less than 11m
- e. The layout and sizes of the sites of dwellings 14 and 15 shall be redesigned to provide for rear gardens that are not less than 11m in length and do not provide less than 65m² of private open space.
- f. Dwelling no.16 shall be omitted from the scheme and replaced with a single dwelling house, of a design to be agreed in writing with the Planning Authority and with a rear garden not less than 11m in length and providing not less than 65m² of private open space
- g. The site area and layout and design of dwellings numbers 17-19 shall be redesigned to provide for rear gardens that are not less than 11m in length and do not provide less than 65m² of private open space per dwelling house

- h. House no 20 shall be omitted from the scheme and replaced with a unit of house type D and with a rear garden that is not less than 11m in length and does not provide less than 65m² of private open space per dwelling house. The design of the house type D shall be altered for this site to include windows on the first floor of the southern elevation to provide for overlooking of the area of the public open space to the south.
- i. The proposed dwellings on site no. 25 and 28 shall be omitted from the scheme and dwellings units no. 26 and 27 shall be relocated in a western direction to provide for 11m rear back gardens
- j. Units No. 33-36 shall be omitted and replaced by 2 no. detached dwellings and revised site layout to accommodate this. Dwellings no. 37 and 38 shall be relocated in a western direction to provide for rear gardens of not less than 11m.
- k. The design of Dwelling Type E as proposed is not permitted as part of this grant of permission. 8 dwelling houses only are permitted on the section of the site where it was originally proposed to construct dwelling types E (site numbers 43-54). Prior to the Commencement of any development on this site the applicant shall submit a revised layout and designs for dwelling houses for this section of the site (numbers 43-54), the revised design and layout for this section of the site as proposed shall provide for windows that provide for overlooking of the laneway that runs to the south of the site.
- l. The revised site layout per condition no 13k above shall provide for an additional area to the adjacent public open space area of this development
- m. The design of the proposed dwellings for sites 75 and 77 shall be altered to provide for windows at first floor level on the western elevations that provide for informal overlooking of the adjacent roadway to the west
- n. The layout of dwellings no.66-68 shall be altered to provide for dwellings that have rear gardens that are not less than 11m in length and do not provide less than 65m² of private open space to the rear of the dwelling per dwelling house
- o. The layout of dwellings no 55-64 shall be altered so that all of the dwellings have rear gardens that are not less than 11m in length and do not provide less than 65m² of private open space to the rear of the dwelling per dwelling house
- p. The proposed unit no 74 shall be omitted from the scheme and shall be replaced by public open space
- q. The design of unit no.73 shall be revised to provide for windows on the southern elevation the overlook the area of public open space
- r. The orientation and design of the proposed dwelling on site no 84 shall be altered to provide for a dwelling that faces in an eastern direction and has a rear garden not less than 11m in length and does not provide less than 65m² of private open space to the rear of the dwelling per dwelling house. The design shall be altered to provide for windows on the southern elevation to provide for informal overlooking of the area of public open space.

Prior to the commencement of any development on this site, full details, drawings and specifications of the above alterations and amendments to the design and layout including full contiguous elevations of and sections through the proposed development as amended and finished floor levels of proposed dwellings shall be submitted for the written approval and agreement of the Planning Authority

Reason: In the interest of visual amenities and the provision of adequate levels of residential amenities for the future residents of this development.

14 The developer shall facilitate the planning authority in the archaeological appraisal of the site and in preserving and recording or otherwise protecting archaeological materials or features which may exist within the site. In this regard, the developer shall:-

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

Prior to commencement of development, a report containing the results of the assessment shall be submitted to the planning authority. Arising from this assessment, the developer shall agree with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to the Board for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.

15 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 the Board for determination.

Reason: To ensure the satisfactory completion of the development.

16 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.

- 17** 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.

- 18** The developer shall pay the sum of € 290,592 (two hundred and ninety thousand, five hundred and ninety two euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of surface water, sewerage and water facilities. This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Michael Halligan
Planning Inspector