



An  
Bord  
Pleanála

## Inspector's Report PL29S.246934

### Development

Partial demolition, alterations to an extension of existing 3 storey office block to provide 5 storey office block at 8-9 Grants Row, Dublin 2.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

2428/16.

### Applicant

Purple Properties Limited.

### Type of Application

Permission.

### Planning Authority Decision

Grant Permission with Conditions.

### Appellants

1. Philip Smith.
2. Eamonn Mulvaney.
3. Andrew Ryan & Nicola Meehan,

### Date of Site Inspection

14<sup>th</sup> and 17<sup>th</sup> October, 2016

### Inspector

Jane Dennehy.

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## **1.0 Description Site Location**

- 1.1. The appeal site which has a stated area of 0.0545 hectares is located on the east side of Grant's Road and mid-way, opposite and facing westwards Holles Row between Mount Street Lower to the south and Grand Canal Street Lower to the north and the ground level falls towards Grand Canal Street Lower to the north.
- 1.2. The existing three storey building on the site which was constructed during the 1960s has a stated area of 702 square metres finished in nap plaster and with parking on site to the front of the building between the footpath and public road and to the rear. It is understood that it has been unoccupied for circa fifteen years.
- 1.3. Nineteenth century terraced houses are located to the east along Gratton Street, and along Holles Row to the west, perpendicular to Grants Row and apartment development is located opposite the site on Grant's Row. An office block (four storeys) is to the south side of the appeal site. The area is generally characterised by a mix of office, residential (houses and apartments) interspersed by some retail or light industrial workshop type uses.

## **2.0 Proposed Development.**

- 2.1. The application lodged with the planning authority on 4<sup>th</sup> March, 2016 as amended in the further information on 17<sup>th</sup> June 2016 indicates proposals for a major internal and external refurbishment and a two storey extension to an existing three storey office block with an increase from 702 square metres to 1,293 square metres in total floor area.
- 2.2. A multiple item additional information request was issued on 29<sup>th</sup> April, 2016 to which a response was submitted to the planning authority on 17<sup>th</sup> June, 2016. It indicates amendments providing for a reduced size structure to address concerns about

design, form and finishes, overlooking, footpath width and including a revised daylight and shadow studies, design statement and written submission It comprises:

Partial demolition and provision for a contemporary high specification office building with a modern contextual elevation.

Construction of two set back floors increasing the parapet height from 16.66 to 23.62 metres.

Extensions at ground first and second floor levels into the rear yard

Thirteen cycle and two car spaces.

### **3.0 Planning Authority Decision.**

3.1. By order dated, 27<sup>th</sup> June 2016, the planning authority decided to grant permission subject to thirteen conditions which include the following requirements.

Condition No 3: No access to third and fourth floor other than for maintenance purposes.

Condition No 11: No additional development to be installed above the parapet without a prior grant of planning permission.

### **4.0 P A Reports.**

4.1. The final report of the planning officer indicates satisfaction that the proposed development incorporation the amendments and details in the further information submissions.

4.2. The internal reports of the Roads and Transportation Department and Drainage Division indicate no objection subject to conditions.

4.3. Third Party Observations indicate concerns about site coverage, intensity, scale and height, overlooking, overshadowing and obstruction of daylight access to residential properties and, construction stage impact.

## 5.0 Planning History.

5.1. According to the planning officer report, there is no record of any planning history for the appeal site. Reference is made to two applications for extensions incorporating additional floors and alterations to existing buildings in the vicinity for which permission was refused on grounds of excessive size, height and massing. (P. A. Reg. Ref Nos. 2966/09 and 2852/08 refer.)

## 6.0 Development Plans.

6.1. At the time of writing the extant development plan was Dublin City Development Plan, 2011-2017: The Dublin City Development Plan, 2016 – 2017 was adopted in September, 2016 and will be brought into effect on 23<sup>rd</sup> October, 2016. According to both development plans, the site location is within an area subject to the zoning objective “Z6: *To provide for the creation and protection of enterprise and to facilitate opportunities for employment creation.*”

6.2. Development Management Standards for both plans are set out in section 16.

6.3. There is a requirement for one car space for 400 square metre gross floor area according to table 16.1

6.4. For the Z6 zone the indicative site coverage is 60 percent and indicative plot ratio 2.0-3.0.

## 7.0 The Appeals.

7.1. Three third party appeals against the decision to grant permission have been received by the Board. The three parties are:

First Third Party	Philip Smith, 12 Holles Row, Dublin 2
Second Third Party	Eamonn Mulvaney, 13 Holles Row, Dublin 2
Third, Third Party	Andrew Ryan and Nicola Meehan, 12 Grattan St. Dublin 2

7.2. Third Party Appeals of Mr Smith and Mr Mulvaney.

These two appeals received from their appellants on their own behalf on 18<sup>th</sup> July, 2016 are similar and are outlined below:

Due to close proximity, demolition and construction stage impacts will seriously affect the amenities of the appellants' properties: Noise, dust and detritus to the rear gardens/yards and pollution from machinery.

Construction traffic impacts on amenities, safety and convenience, including emergency services access.

Loss of daylight and sunlight access.

Impact on historic fabric and features in the area.

Devaluation of property.

7.3. Third Party Appeal: Ms Meehan and Mr. Ryan.

The appeal received on 21st July, 2016 from Mark Price on behalf of the appellants is outlined below.

The location is a transitional area adjacent to a residential conservation area:

A 17.4 m high wall adjoins the southern boundary and is one metre from the western boundary of 12 Grattan Street which is overhearing, and adversely affects privacy light and amenity.

The proposed development will overshadow adjoin property. A revised “before” image but no revised “after” image was included in the daylight analysis in the further information submission. There will be a ninety percent reduction in sunlight access to the rear garden and diminution of light to the balcony and internal accommodation.

Balconies on the eastern elevation at first second third and fourth levels overlook a bedroom and play area from 8.8 metres. The applicant did not address this issue in the further information submission but did propose removal of balcony access on the north east elevation.

Site coverage at sixty-seven percent exceeds standards for A6 zones which provides for 60 percent in the development plan. Ground floor gross floor area is 365 square metre and site area is 545 square metres.

The proposed development materially contravenes various development plan, policies and objectives specifically, Residential Conservations areas and Conservation areas (Section 7.2.5.3 15.10.2, 17.10-8 (and appendix 10) Higher buildings criterial 17.6.3, and 17.9.1 residential quality.

Overall height: Permission was refused for reasons relating to height and massing for the proposed development under P. A. Reg. Ref. 2966/09) for 1 Grants Row for a twenty-five metres high office building. This is contrary to the statement that permission had been granted for this development in the application submission.

The reasons for refusal for that application apply to the current proposal.

While the proposed development is opposed in principle, concerns of the appellant party, without prejudice, could be addressed by modifications to the design of the proposed development by omission of:

an area (3,550 mm x 4,000 mm) at Ground floor level. (Drawing 7425-100):

an area 5,000 mm x 8,00 mm at third floor level, (Drawing 7425-101)  
and an area 5,000 mm x 8,00 mm at third floor level. (Drawing 7425 –102)

## 8.0 Applicant's Response

8.1. A submission was received from John Spain Associates on 16<sup>th</sup> August, 2016 attached to which are section and elevation drawings and a detailed and comprehensive of the planning background, context, application and appeals. The response to the three appeals can be outlined as follows:

Construction stage impacts cause nuisance to adjoining properties but this can be controlled by appropriate conditions. Condition 7 (ii) attached to the decision to grant permission which provides for submission of a construction management plan by compliance provides for an appropriate mechanism and the condition is acceptable to the applicant. The construction management plan is “live” during construction stage and at design stage there will be engagement with local residents. Condition no 9 provides for a mechanism for control of noise impact in accordance with standards in BS 5228.

Construction traffic can be managed through a construction traffic plan in consultation with the planning authority It has previously been demonstrated that construction traffic can be managed effectively by construction traffic route designation and avoidance of residential neighbourhoods in other projects in the city centre such as the project at 13-17 Dawson Street. The Roads Division did not indicate any concern about the proposed development.

The effect of a particular development on an adjoining property is not a planning issue. And it has been demonstrated that the streetscape and visual environment will be enhanced and that there will be no adverse impact on residential amenity.

The design and scale which upgrades the building, regenerates the street and is sensitive to the residential development has been approached in an iterative fashion. The building bridges the scale between two to storeys to the north six to seven

storeys to the south and is a considerate approach. The extension appears as stepped extensions supplemented by appropriate setbacks and privacy screening. (Images are included.)

There is no increase to the current overlooking of the rear gardens of the Holles Road properties from the third floor windows of the existing structure. At Gratton Street there will be an eleven metre common boundary wall, no overlooking as the south east elevation has no windows and the fourth and fifth floors have setbacks. South elevation windows will be opaque glazed up to 1.8 metres. Views of the roof of the Gratton Street only are possible the fourth and fifth floors.

Impact on light conditions sunlight, skylight and shadow conditions at nineteen properties including the appellants' properties was assessed using BRE standards in the daylight analysis which was updated in the further information submission. The potential impact on the Holles Row properties is negligible and 'minor adverse' for the property at Gratton Street. VSC reduction of one percent and ASPH reduction of two percent) The ADF then taken indicated good daylight levels before and after development at properties along Gratton Street. Departures from BRE standards are very slight. Appropriate form and transition of scale is therefore achieved in this regard.

The amendments to the design and form sought in the appeal of Ms Meehan and Mr Ryan are not justified: The 7.5 metre-high section is over 2.5 metres of the length of the two storey extension which is setback and does not influence daylight, or amenity at the dwelling. Overlooking to the north east is ameliorated by setback of the balcony, a 1.8 m high screen and opaque glazing. An updated site section drawing (7425-116 Rev B) and 7425 120 Rev B show accurately surveyed ground levels at No 12 Gratton Street and measures of the proposed development.

The proposed development would raise the existing common rear boundary by 0.4 metres (from 11 metres) with additional floors being setback to prevent overlooking., loss of light or overbearing impact.

The argument in the appeal of Ms Meehan and Ryan as to 90 per cent loss of sunlight in the rear garden is flawed in that that it was based on shadow casting imagery which is not appropriate. A revised study based on numeric assessment methodology outlined in s 3.3.17 of the *BRE: Site Layout Planning and for Daylight and Sunlight: A Guide for Good Practice 2011*” according to which amenity areas only should be assessed. It indicates 73 percent of the back garden receiving more than 2 hrs sunlight over the spring equinox compared to 66 percent after development. The impact is negligible as more than half the back garden as at least two hours’ sunlight in the after scenario and the impact on sunlight is negligible. The development is broadly inline the BRE standards regarding light conditions at all of the property at No 12 Gratton Street.

Balconies on the north west elevation were not omitted as the planning authority did not request omission in the additional information request and there is no justification for their omission.

It is acknowledged that the 67 per cent plot ratio is slightly above the indicative development plan standard of maximum of 60 per cent but the development satisfies relevant criteria for higher site coverage. Such as proximity to transport, urban renewal and regeneration, streetscape profile and delivery if higher intensity employment and owing to the setbacks property to the north not be affected. The location is in a designated are that allows for height up to twenty metres so the is no conflict with section 17.6 of the development plan.

## **9.0 Planning Authority Response.**

In a letter dated 20<sup>th</sup> July, 2016 it is confirmed that the planning authority has no comments on the appeals. There is a similar statement in a dated 31<sup>st</sup> August, 2016 in response to a letter from The board dated, 24<sup>th</sup> August, 2016.

## **10.0 Further submission of Third Party Appellants. Ms Meehan and Mr. Ryan**

- 10.1. A submission was received on 13<sup>th</sup> September, 2016 according to which the original objection relating to transition between the scale of the appellant property and properties subject to the zoning objective, residential conservation area and the proposed development is confirmed. The existing 11-metre-high wall is acknowledged but the setback of the fourth and fifth floors are 873 mm and 969 mm at the raised height at the rear of the property, from 11 to 17.5 metres is the source of the objection. This setback is too minor and fails to ameliorate daylight loss and loss of visual amenity.
- 10.2. There is clearly an overlooking issue opposite bedroom window at 11A Gratton Street and at 12 Gratton Street with regard to the balconies where separation distances are 11.8 and 8.8 metres. And where the balconies at third and fourth levels have direct line of sight to the rear of the property including internal accommodation.
- 10.3. The proposed development would extend the rear of the building by ten metres affecting the visual amenity at the south west of the appellant property seriously and creating overlooking and adverse impact on access to sunlight. (Drawing 7425 102 refers.)
- 10.4. It is not agreed that the scheme is carefully designed, redevelopment is welcome and refurbishment within the existing form and height and plot ratio would be welcome for the local area and for the local economy as an environmentally stable solution, within Development plan site coverage parameters and consistent with the residential conservation area context.

#### **11.0 Further Submission: Third Party Appellant - Mr. Smith**

In a submission dated, 12<sup>th</sup> September, 2016 it is confirmed that the appellant supports the appeal of Ms Meehan and Mr. Ryan.

#### **12.0 Further Submission Third Party - Appellant Mr. Mulvaney**

In a submission dated, 12<sup>th</sup> September, 2016 it is confirmed that the appellant supports the appeal of Ms Meehan and Mr. Ryan.

## 13.0 ASSESSMENT

13.1. Having regard to the three third party appeals, the issues central to the determination of a decision are that of:

Construction and demolition stage impacts.

Construction Traffic Impacts.

Footprint, site coverage and intensity of development.

Scale, Form, Height and Mass.

Overlooking and overshadowing of 12 Gratton Street and properties to the north east.

Overlooking and overshadowing of Holles Row and Grant's Row properties.

Appropriate Assessment.

These issues are considered below:

13.2. Construction and demolition stage impacts.

The properties of the appellant parties are at the eastern end of Holles Row at the junction with Grant's Row. Their concerns about noise, dust and air pollution and general disruption with consequent impact on the amenities of their properties are considered reasonable. Similarly, amenities of properties to the east side on Gratton Street including that of one of the appellant parties should be addressed. As acknowledged in the submission made on the behalf of the applicant, some inconvenience and adverse impact for a limited period is inevitable and there is particular concern in the case of a partial demolition and refurbishment project. Construction projects within established areas can be usually efficiently carried with adjoining land uses remaining relatively undisturbed. It is reasonable for a demolition and construction management plan, providing for best practice subject to compliance with a condition to be relied on in ensuring minimisation of adverse impact. Inclusion of a standard condition should be sufficient should permission be

granted. Furthermore, there is an option for inclusion of additional specific requirements within the plan should it be deemed necessary.

### 13.3. Construction Traffic Impacts.

A clear construction traffic management plan to include routing, parking, loading unloading arrangement and vehicle maintenance, such as wheel washing and consistency with the CMP with regard to compound location, hours of operation etc. should ensure good practice and management and minimisation of adverse impact on residential property and public safety. The immediate street network is not heavily trafficked and is primarily used for access purposes. It is noted that no concerns have been raised by the Roads and Transportation Department at Dublin City Council.

### 13.4. Footprint, site coverage and intensity of development.

The applicant's argument has demonstrated in the response to the appeal a number of considerations about the central business district location, transportation, employment and sustainable development interests to support a site coverage and plot ratio in excess of the indicative coverage and ratio provided for in the development plan. The increases are not significant and are modest compared to other relatively recently permitted commercial developments in the Dublin 2 and 4 areas that have been subject of appeal to the Board. However, acceptance of the proposed development being satisfactory and suitable for the location in all other respects.

### 13.5. Scale, Form, Height and Mass.

For the purposes of clarity, there is no conflict with the development plan limits for maximum height or number of storeys for a refurbished commercial building within the central business district and Z6 zoned land. The transition between development on lands within the Z6 and Z2 (residential conservation area) requires careful consideration and a satisfactory design is achieved in the further information submission. It is demonstrated that the site location has the capacity to accept the

proposed additional floors having regard to the setbacks provided for notwithstanding the slight incline towards the south in the ground level.

13.6. Overshadowing/Overlooking of 12 Gratton Street and properties to the north east.

The appellant property at No 12 Gratton Street was extended to the rear some time ago and the extension has fenestration and a balcony at ground and first floor levels in the rear elevation. As a result, the rear garden depth and size has been reduced with there being a corresponding reduced separation distance between the with the enlarged footprint and flank wall of the dwelling. The properties on Gratton Street have an east -west orientation with the front facades facing east. Owing to the provision for the setbacks for the additional floors shown for the proposed development it is concluded that overall there is a relatively insignificant variation between the “before” and the “after” development scenarios in terms of access to sunlight, daylight and vertical sky component (VSC) on the appellant party property and properties to the north along Gratton Street and Grant’s Row. Furthermore, with regard to sunlight impact, it is agreed that the numeric assessment in the methodology used as prescribed in BRE Guidance: *Site Layout for Planning for Daylight and Sunlight: A Guide for Good Practice* 2011 which indicate modest changes from the pre development scenario according to the applicant’s submissions is more appropriate for assessment purposes than shadow cast imagery which formed the basis for the claims in the appeal by the occupants of 12 Gratton Street.

Overlooking of 12 Gratton Street and properties to the north east.

Overlooking is prevented in the design for the first and second floor balconies due to the separation distance of circa 3.5 metres from the common boundary in conjunction with the proposed privacy screen. In addition, there is sufficient separation distance and screening to eliminate any concern as to diminution of residential amenity by reason of overlooking or disturbance from use of the balcony. It is noted that access to the fourth and third floor balconies by occupants of the building is to be omitted, according to the condition attached to the planning authority decision. confined to access for maintenance purposes only. The inclusion of a privacy screen in conjunction with the height and the orientation of the fourth floor

balcony relative to the rear elevation windows, balcony and rear garden of the house and the property at 12 Gratton Street is such that no direct overlooking can be achieved from the internal accommodation. Furthermore scope for overlooking from the balconies themselves would be very limited.

The increase in height above the boundary wall with the property at No 12 Gratton Street is confined to eight metres within the site and 7.5 metres in height above the ground level of No 12 Gratton Street and this increase at first floor level is confined to three metres with the façade being seven metres from the footprint of the ground floor extension.

Given the foregoing it is considered that the proposed development would not give rise to no undue adverse impact on residential amenity at No 12 Gratton Street and that the modifications to the design sought in the appeal are not justified.

Furthermore, relative to the existing building, the presentation of the proposed building in views from the residential properties to the east would be considerably enhanced.

The use of the space at the rear adjacent to the property at 12 Gratton Street, providing for access including two car spaces for access and parking is relatively low and does not represent a significant departure the use before the building was vacated.

#### 13.7. Overlooking to Holles Row and Grant's Row properties.

The Holles Row properties are perpendicular to the footprint of the proposed development. The height and setbacks for the additional floors and the modifications to the original design detail for the front elevation shown in the further information submission demonstrate effective design mitigation of any potential for overlooking of the residential properties along Holles Row and Grant's Row.

The finishes and materials proposed are considered to be appropriate and overall the proposed development both in terms of quality of design and use as a commercial building should contribute sustainable use of a serviced site location

within the central business district which is consistent with strategic and specific development plan objectives.

While it is acknowledged that from the perspective of the appellant parties the proposed development would change the immediate environs, it is considered that satisfactory standards have been achieved in terms of avoidance of adverse impact on the amenities of residential properties and the immediate environment.

13.8. Appropriate Assessment Screening:

Having regard to the nature and scale of the development which includes extensions and refurbishment to an existing structure, the proposed use as a commercial development and to the nature of the receiving environment which is that of mixed use development within the central business district of the city no appropriate assessment issues arise.

14 **Conclusion and Recommendation:**

In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld and that no further modifications of a material nature are required. It is therefore recommended that the appeal be rejected and that permission be granted on the basis of the reasons and considerations and subject to the conditions set out in the draft order overleaf.

## 14.0 DRAFT ORDER

### DECISION

Grant permission on the basis of the reasons and considerations and subject to the condition set out below

### REASONS AND CONSIDERATIONS.

Having regard to the site location within an area subject to the zoning objective Z6 and adjacent to an area subject to the zoning objective Z2, Residential conservation area to the form, design and heights and in particular the incorporation of significant setbacks to the upper floors to the configuration of the site, the footprint, orientation and separation distances relative to adjoining properties, it is considered that subject to compliance with the conditions set out below, the proposed development would be compatible with and integrate satisfactorily in to the existing streetscape, would not give rise to overlooking or overshadowing of adjoining properties would be acceptable in terms of traffic safety and convenience and would therefore be in accordance with the proper planning and sustainable development of the area.

### 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 plans and particulars submitted to the planning authority on 17<sup>th</sup> June 2016 and as amended by the further plans and particulars received by An Bord Pleanála on 16<sup>th</sup> August, 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. Access onto third and fourth floor balconies on the rear elevation shall be confined to access for maintenance purposes only.

**Reason:** In the interest of the residential amenities of the area.

3. Site development and building works shall be confined to the hours of 0700 hrs and 1800 hrs on Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

4. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of permission.

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

5. A panel displaying samples of the proposed materials, textures and colours of all proposed external finishes shall be displayed on site following demolition and site clearance. These details shall be agreed in writing with the planning authority prior to construction.

**Reason:** In the interest of clarity and the visual amenities of the area.

6. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other

external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

7. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include details of the proposed boundary treatment including materials and finishes, the proposed locations for trees, hard and soft landscaping including street furniture, and seating;

**Reason:** In the interest of the visual and residential amenities of the area. amenity.

8. No development other than that which is shown in the application shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, without a prior grant of planning permission.

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

9. Drainage requirements including the attenuation and disposal of surface water which shall include Sustainable Drainage Systems shall comply with the requirements of the planning authority for such works and services.

**Reason:** To ensure a satisfactory standard of development

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development and noise management measures.

**Reason:** In the interest of clarity, public safety and the amenities of the area.

11. Construction traffic shall be managed in accordance with a construction traffic management plan which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of routing, arrangements for loading and deliveries and vehicle management which shall be adhered throughout the construction stage of the development.

**Reason:** In the interest of clarity, public safety and the amenities of the area.

12. 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 Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

13. 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 is applied to the permission.

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**JANE DENNEHY.**  
**Senior Planning Inspector.**  
**18<sup>th</sup> October, 2016.**