



An  
Bord  
Pleanála

**Board Direction**  
**BD-012338-23**  
**ABP-313925-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on the 11/05/2023.

**WHEREAS** by Order dated the 17<sup>th</sup> day of May, 2019 An Bord Pleanála, under appeal reference number ABP-303462-19 granted subject to conditions a permission to Sean O'Hagan care of Shay Duff and Associates of Clan Dubh, Lobinstown, Navan, County Meath for development comprising 12 number two-bedroom apartments and 12 number three-bedroom duplex apartments, a new vehicular and pedestrian entrance on the north-west boundary from the Mullingar Road, connection to existing services, car parking, bin storage, bicycle storage, boundary treatment and all ancillary site works, all at Mullingar Road, Kinnegad, County Westmeath:

**AND WHEREAS** condition number 15 attached to the said permission required the developer to lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of watermains, drains and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development and the condition required that the form and amount of the security were to be agreed between the developer and the planning authority or, in default of agreement, the matters were to be determined by An Bord Pleanála:

**AND WHEREAS** the developer and the planning authority failed to agree on the form and amount of the security in compliance with the terms of the condition and

the matter was referred by the developer to An Bord Pleanála on the 27<sup>th</sup> day of June, 2022 for determination:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 34(5) of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, hereby determines that the applicant shall not submit a security bond to the local authority in compliance with condition number 15 of the Board's Order.

### **Reasons and Considerations**

Having regard to the following.

- Condition No. 15 of the Board's decision ABP 303462-19 related to the lodgement of a cash deposit, a bond of an insurance company or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of watermains, drains and other services required in connection with the development.
- It is Westmeath's Taking in Charge Policy not to take in charge communal areas associated with apartment and duplex developments and the local authority have indicated that they do intend taking in charge any of the infrastructure and common areas in this development and accordingly in the Board's view the requirement for the payment of a security bond does not apply because the development is not going to be taken in charge as it will be maintained by a management company.

**Board Member**



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Peter Mullan

**Date:** 02/06/2023