

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Dún Laoghaire-Rathdown County

Planning Register Reference Number: D15A/0247

An Bord Pleanála Reference Number: PL 06D.246601

APPEAL by Brian Hayden of 38 The Cedar, Cruagh Wood, Stepside, Dublin and by Viscount Securities care of John Spain Associates of 39 Fitzwilliam Place, Dublin against the decision made on the 19th day of April, 2016 by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to the said Viscount Securities in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: A seven year permission for a residential development of 410 number residential units and a childcare facility of 339 square metres (ground floor of apartment Block F), and including vehicular access from Ballyogan Road, all associated site and infrastructural works, on a site area of approximately 13.63 hectares. The residential component of the development consists of 190 number houses and 220 number apartments, to be provided as follows:

- 25 number three bed two-storey terraced houses (11 number Type B1 and 14 number Type B2);
- 66 number four bed three-storey terraced houses (Type C1);
- 52 number three bed two-storey terraced houses (Type C2);
- 20 number four bed two-storey terraced houses (Type C3 (Option A or B));

- 20 number four bed three-storey terraced houses (Type D1);
- seven number three bed two-storey terraced houses (Type D2);
- nine number apartment blocks (E1-E7, F and G) of five storeys in height (four storeys plus a penthouse level), containing 44 number one bed apartments and 176 number two bed apartments.

Six number bin and cycle storage sheds (five number type BSA1 and one number type BSA2) are proposed for apartment blocks E1, E4-E7 and G and double and single bin stores are proposed for the houses. Five number electricity sub-stations are proposed across the site. The associated site and infrastructural works includes foul and surface water drainage, flood compensatory works within the proposed Clay Farm Valley Park, 713 number surface and basement (apartment blocks E2 and E3) car parking spaces, 342 number cycle parking spaces, public open space measuring circa 6.4 hectares, landscaping, boundary walls and fences, internal roads, cyclepaths and footpaths. In addition to the main vehicular access from Ballyogan Road (which will be the first phase of the eastern section of the new local distributor road serving these and adjoining undeveloped lands), two number pedestrian/cycle access points and an emergency access/exit are provided from Ballyogan Road. A pedestrian/cycle access is proposed to connect to Castle Court to the north-west and the potential for a future vehicular access to Castle Court/Elmfield (part of the Loop Distributor Road) can also be catered for). The proposed development site includes, but does not directly affect the possible linear earthworks (DU026-087), a Recorded Monument, within the Valley Park, all on a site at Clay Farm, Ballyogan Road, Dublin. The site is located to the south-west of Ballyogan Road, to the south-east of the Elmfield and Castle Court residential developments and to the north-west of the ESB Carrickmines Electrical Transformer Station. The proposed development was revised by further public notices received by the planning authority on the 13th day of November, 2015.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to-

- the residential zoning objective for the site set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022,
- the proximity of the site to a high quality public transport corridor and the proposals for improved pedestrian and cycling permeability,
- the availability in the area of a wide range of social infrastructure,
- the density of the proposed residential development and the proposals for an Ecopark along the Ballyogan Stream,
- the provision of part of the Clay Farm Loop Road, and
- the standards of amenity generally provided by the proposed residential units,

it is considered that the proposed development, subject to compliance with the conditions set out below, would provide the basis for a sustainable residential community, would not give rise to traffic hazard or obstruction of road users at the Ballyogan Road and M50 and would not affect the operation of the Luas, would protect and enhance the ecology of the area, would accord with the provisions of the said County Development Plan and would, otherwise, be in accordance with the proper planning and sustainable development of the area.

Environmental Impact Assessment

The Board considered that the Environmental Impact Statement submitted with the application, the report, assessment and conclusions of the Inspector with regard to this file and other submissions on file, were adequate in identifying and describing the direct and indirect effects of the proposed development. The Board completed an environmental impact assessment, and agreed with the Inspector in her assessment of the likely significant effects of the proposed development, and generally agreed with her conclusions on the acceptability of the mitigation measures proposed and residual effects. The Board generally adopted the report of the Inspector. The Board concluded that, subject to the implementation of the mitigation measures proposed, the effect of the proposed development would be acceptable. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board noted the Appropriate Assessment Screening determination carried out by the Inspector. The Board concurred with the Inspector's determination, and adopted her conclusions and recommendations in this regard. The Board is, therefore, satisfied, having regard to the nature, location and scale of the subject development, that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on the Rockabill to Dalkey Island Special Area of Conservation (Site Code 003000), and on the Dalkey Islands Special Protection Area (Site Code 004172), or on any other European sites, in view of their conservation objectives.

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 to the planning authority on the 13th of November, 2015 and the 24th of February, 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 mitigation measures and commitments identified in the Environmental Impact Statement, and other plans and particulars submitted at planning application stage shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development

3. This permission is for a period of seven years from the date of this order.

Reason: In the interest of clarity.

4. Prior to commencement of development on Phase 1C, the developer shall submit to and agree in writing with the planning authority the temporary and permanent access arrangements for Phase 1C.

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

5. (a) The 25 metre wide Clay Farm Loop Road reservation, as identified on the taking in charge drawing number pS(cfi)09 received by the planning authority on the 24th day of February, 2016, from Phase 1 to Phase 2, traversing the open space area between apartment Blocks E3 and E4 and over the Ecopark shall not be conditioned as open space and shall be maintained free from development to facilitate the completion of the Clay Farm Loop Road as a public road to the satisfaction of the planning authority. Nothing in this permission shall preclude, impede or be taken to limit the potential to deliver the Clay Farm Loop Road at a future date and by way of a future permission.
- (b) The taking in charge drawing OMP(CFI)09 received by the planning authority on the 24th day of February, 2016, shall be agreed in writing with the planning authority and shall include a minimum of 25 metres width road reservation which is free of development and shall make provision for a wider reservation width for the bridged section of the Clay Farm Loop Road.

Reason: In order to ensure the completion of the Clay farm Loop Road in accordance with the objectives of the County Development Plan, 2016-2022 and in the interest of the proper planning and sustainable development of the area.

6. The access roads located between Block G and Houses 158 to 163 and between Block E7 and Houses 154 to 157 shall be constructed up to the site boundary with the adjoining land to the north-west with no 'ransom' strip remaining. Details to include a revised site layout plan, revised landscaping masterplan and revised taking in charge drawing pS(cfi) 09 shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of permeability and to ensure Phase 1C has direct access to the Loop Road located west of the site.

7. When required by the planning authority the developer shall:-
- (a) construct the westernmost access from Phase 1C to the Clay Farm Loop Road/Elmfield Road in accordance with DBFL drawing number 133094-2020-C and drawing number 133094-2040-A, and
 - (b) remove the temporary road linking Phase 1B and 1C and reinstate the open space in accordance with OMP drawing number pS(cfi)04a (Feb 2016), BSM drawing number 310 (Insert showing Central Open Space with future footpath/cycle path after link road is removed).
 - (c) lodge a bond for €135,000 (one hundred and thirty five thousand euro) with the planning authority, as security for the construction of the permanent access to Phase 1C, and a bond for €15,500 (fifteen thousand five hundred euro) for the removal of the temporary road and the reinstatement of the open space in accordance with the above drawings. The bonds shall not be released as and until all works have been fully undertaken to the satisfaction of the planning authority.

Reason: In the interest of providing the long term access solution in accordance with drawing number pS(cfi)04a (February, 2016) and of the proper planning and sustainable development of the area.

8. The temporary road linking Phase 1B and 1C shall be provided with a raised table using a shared vehicular/pedestrian material (such as setts, brick) laid at the same height as the adjoining footpaths. This raised table shall be provided for the length of that section of the road that adjoins the open space to the north.

Reason: In the interest of pedestrian/cyclist safety.

9. A sculpture/element of artwork shall be commissioned and implemented, at the developers' expense, at the entrance to the open space in accordance with the Landscape drawing 6065-302 received by the planning authority on the 24th day of February, 2016 prior to commencement of Phase 1B. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

10. Each proposed house or apartment shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.

Reason: To prevent unauthorised development.

11. A specification and layout for public lighting, including lighting along all pedestrian and cycle routes through the open space except where this conflicts with ecology requirements, shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Public lighting shall be available and operational as each house is occupied. Details to be submitted for agreement shall include lantern type, lighting column height and type, spacing, light intensity/lux levels, detail/location of the public lighting mini-pillars all in accordance with BS 5489-1:2013 specifications. In addition, the developer shall provide an assessment of the adequacy of the street lighting at the Ballyogan Road frontage of the proposed residential development and provide additional street lighting if necessary. All proposed street lighting shall be shown to be designed in accordance with Dún Laoghaire-Rathdown County Council's February 2015 guidance document for 'Public Lighting Installations in Residential and Industrial Areas'. Detailed public lighting specifications shall be designed in consultation with the project ecologist and assessed by a bat expert so as to ensure that they are compliant with good practice in terms of bat-friendly lighting and countersigned by such an expert before being submitted to the planning authority. In addition, as part of any contract of sale, a condition prohibiting the installation of spotlights by residents shall be included.

Reason: To ensure a satisfactory standard of public lighting and in the interests of bat conservation and the proper planning and sustainable development of the area.

12. 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. Roof colour shall be blue-black, black, dark brown or dark grey in colour only. The brick colour to be used shall be the same as that used in the adjoining residential area.

Reason: In the interest of visual amenity.

13. 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, including:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
 - (b) Location of areas for construction site offices and staff facilities.
 - (c) Details of site security fencing and hoardings.
 - (d) Details of on-site car parking facilities for site workers during the course of construction.
 - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network.
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- (i) Provision of parking for existing properties at during the construction period.
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

14. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

15. No dwellinghouse or apartment shall be occupied until all the services have been connected thereto and are operational.

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

16. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's Development Works Guidance document. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

17. The main sewers, water mains and public lighting conduits shall be located under roads/footpaths as far as practically possible, and not through private areas. Wayleave documentation shall be submitted to and agreed in writing with the planning authority prior to commencing works on site granting Dún Laoghaire-Rathdown County Council all necessary rights for future maintenance of any sewers, water mains or public lighting conduits which are to be taken in charge and which are to be laid through private areas.

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

18. The developer shall facilitate the provision by the planning authority of a direct temporary link for pedestrians and cyclists across lands within the developers' control to link Ballyogan Road and Cruagh (Cruagh Wood/Manor and Stepside Park) as identified on BSM drawing number 6065-313 received by the planning authority on the 24th day of February, 2016 (exact route alignment for K1-L1-M to be agreed on site and in writing with a recommended five metres route width for Level A Quality of Service in accordance with Section 3 of NTA Permeability Best Practice Guide) prior to or during construction (Phase 1A) of the proposed Phase 1 development.

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

19. Prior to occupation of Phase 1B units, at the developers expense the permanent pedestrian/cycle route K-L-L2-M as identified on BSM drawing number 6065-313 received by the planning authority on the 24th day of February, 2016 shall be provided and available for use. Final details for provision of a Level A Pedestrian/Cycle route Quality of Service in accordance with Section 3 of National Transport Authority's Permeability Best Practice Guide shall be submitted to and agreed in writing with the planning authority prior to commencement of construction.

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

20. All proposed and required works indicated on DBFL drawing number 133094-2021 received by the planning authority on the 24th day of February, 2016 for the four arm signalised junction at Ballyogan Road shall be carried out at the developers' expense. The detailed design shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

21. At least one car parking space shall be allocated to each residential unit within the scheme. Car parking spaces shall be sold off in conjunction with the units and not sold separately, or let to avoid non take-up by residents. Details of all car parking allocation, including visitor and crèche spaces, shall be submitted with updated taking-in-charge plans to the planning authority for agreement in writing prior to commencement of development.

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

22. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

23. (1) The noise levels shall adhere to 'Guidance note for Noise: Licence Applications, Surveys and Assessments in relation to Scheduled Activities' (NG4) as published by the Environmental Protection Agency in 2016. In this regard, noise levels -
- (a) shall not contain any pure tones, and;
 - (b) shall not exceed the background level by 10 dB(A) or more or exceed NG4 limits whichever is the lesser. (Background noise level is determined by LAeq,t, with the specific noise source off and measured from the boundary of the nearest noise sensitive location).
- (2) A programme of continuous noise monitoring shall be carried out along the site boundary/noise sensitive locations by an appropriately qualified and experienced acoustic technician. This information needs to be stored on site by the developer and made available to the planning authority on request.

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

24. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

25. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of 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.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing 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 An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

26. Details of the management and protection of open space areas numbered Area 1 (Ecopark), Area 3A, Area 3B, and Area 5 (as shown on BSM drawing number 6065-310 received by the planning authority on the 24th day of February, 2016) during the construction phase shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of the protection of planned open space during the construction phase.

27. 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.

28. Bicycle parking spaces shall be provided within the site in accordance with the requirements of the planning authority. Details of the layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

29. 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.

30. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development. This scheme shall include the following:-

- (a) details of the development and management of the Ecopark,
- (b) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development,
- (c) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings,
- (d) details of proposed play equipment and street furniture, including bollards, lighting fixtures and seating, and
- (e) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

31. (a) A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores for the apartment units, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

32. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

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

33. The design, layout and materials of construction of the junction of the proposed access road with the Ballyogan Road shall comply with the detailed requirements of the planning authority. Prior to commencement of development, detailed plans and particulars showing compliance with this condition shall be submitted to and agreed in writing with the planning authority.

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

34. 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.

35. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. 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 and to ensure the use of locally appropriate place names for new residential areas.

36. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the development is made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

37. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) 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 in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

37. 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 local authority of roads, footpaths, watermains, drains, public open space 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. 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 ensure the satisfactory completion and maintenance of the development until taken in charge.

38. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

39. The developer shall pay to the planning authority a financial contribution in respect of the Extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.