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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Westmeath County Council**

**Planning Register Reference Number: 12/5109**

**WHEREAS** by order dated the 6<sup>th</sup> day of February, 2013, a decision was made by Westmeath County Council under planning register reference number 12/5109 to grant permission subject to conditions to Andrews Construction Limited care of McGrane and Partners Limited of Paradigim House, Dundrum Office Park, Dundrum, Dublin for development comprising construction of 22 number dwellings comprising 14 number three bedroom two-storey semi-detached (L and L1 Type), eight number four bedroom two-storey semi-detached (J and J1 Type) along with all other site development works on land at Glenmore Wood, Pettiswood, Mullingar, County Westmeath, and an appeal against the imposition of development contributions under conditions numbers 14 and 15 of this decision was made by the applicant to An Bord Pleanála:

**AND WHEREAS** An Bord Pleanála decided, by order dated the 13<sup>th</sup> day of June, 2013, to attach these conditions, but to reduce the amount payable under the two conditions, under An Bord Pleanála appeal reference number PL 25M.241681:

**AND WHEREAS** an extension of Duration of Permission was subsequently granted by the planning authority on the 24<sup>th</sup> day of April, 2018 to extend the duration of the permission until the 12<sup>th</sup> day of June, 2023:

**AND WHEREAS** condition number 14 of this planning permission required the developer to pay to Westmeath County Council the sum of €100,182 being the appropriate contribution to be applied to this development in accordance with the Supplementary Development Contribution Scheme for Mullingar Main Drainage made under section 49 of the Planning and Development Act 2000, as amended, but that the condition further provided that the amount of the contribution would be subject to any applicable indexation provisions of the Scheme at the time of payment, and that the application of any indexation would be agreed between the planning authority and the developer or, in default of such agreement, the matter could be referred to the Board to determine:

**AND WHEREAS** the developer and the planning authority failed to agree as to whether this contribution should be paid, and as to the amount of the contribution to be paid pursuant to condition number 14, and the matter was referred by Andrews Construction Limited on the 24<sup>th</sup> day of July 2019, to An Bord Pleanála for determination:

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 34(5) and 49 of the Planning and Development Act 2000, as amended,

- (b) The provisions of the Westmeath County Council Supplementary Development Contribution Scheme for Mullingar Main Drainage, adopted June 2013 and which was in force up to the 28th day of February 2015,
- (c) Circular Letter PS21/2013 Transfer of water service functions to Irish Water: planning issues, issued by the Department of the Environment, Community and Local Government in December 2013, and
- (d) the planning history of the site, and the submissions on file:

**AND WHEREAS** An Bord Pleanála has concluded that development contributions on all planning permissions granted prior to the 1<sup>st</sup> day of January 2014 are, in accordance with the Circular Letter, payable to the relevant local authority and after this date are payable to Irish Water, and accordingly that payment of the development contribution required under condition number 14 of planning register reference number 12/5109 (An Bord Pleanála appeal reference number PL 25M.241681) is payable to Westmeath County Council rather than to Irish Water:

**AND WHEREAS** An Bord Pleanála has concluded that, as the date of the planning permission under planning register reference number 12/5109 (An Bord Pleanála appeal reference number PL 25M.241681) in 2013, is prior to the expiry of the Westmeath County Council Supplementary Development Contribution Scheme for Mullingar Main Drainage on the 28<sup>th</sup> day of February 2015, the development contribution under condition number 14 is payable, because the developer in this case has elected to implement the permission concerned and is therefore obliged to comply with all of the conditions of that permission, notwithstanding the fact that the commencement of the development to which this permission relates did not take place until 2018, and notwithstanding the fact that the Mullingar Main Drainage Scheme project had, in the meantime, been completed. In this regard, it is considered that the

provision of the Mullingar Main Drainage Scheme by Westmeath County Council represents public infrastructure and facilities that benefits the development in question:

**AND WHEREAS**, having regard to the provisions within the condition whereas the amount of the contribution in question, which had been set at €100,182 at the date of the permission, was subject to indexation up to the date of payment, and that the planning authority had, in the meantime, implemented reductions in the amounts of financial contributions generally, it is therefore reasonable that the amount of contribution be reduced from €100,182 to €75,067.21:

**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, hereby determines that the terms of the Westmeath County Council Supplementary Development Contribution Scheme for Mullingar Main Drainage has been properly applied and that a development contribution is payable to Westmeath County Council under condition number 14 of planning register reference number 12/5109 (An Bord Pleanála appeal reference number PL 25M.241681), and that the amount of the development contribution to be paid is €75,067.21 (seventy five thousand and sixty seven euro and twenty one cent)

## **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.

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**Philip Jones**

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

**Dated this            day of            2019.**