

Planning and Development Acts 2000 to 2020

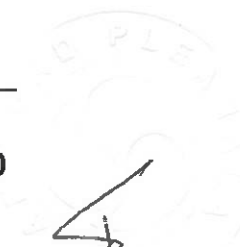
Planning Authority: Donegal County Council

Planning Register Reference Number: 19/50042

Appeal by Glenmore Action Group care of Patricia Quinn of Ballynatone, Welchtown, Ballybofey, County Donegal and by Glenmore Rivers care of Jarlath Winters of Glenmore Rivers, Glenmore Lodge, Welchtown, Ballybofey, County Donegal against the decision made on the 23rd day of September, 2019 by Donegal County Council to grant subject to conditions a permission to Glenmore Generation Limited care of MBA Planning of 1st Floor, 4 College House, Citylink Business Park, Belfast, Northern Ireland in accordance with plans and particulars lodged with the said Council:

Proposed Development: Development works at the Glenmore Biogas Plant, which shall process alternative feedstocks and produce renewable energy and fertiliser. The development will be accessed via the existing internal connecting access road within Glenmore Estate which links the site to the R253. The works involve:

1. development within curtilage of the existing biogas plant involving (a) the construction/provision of an extension to the existing feedstock (waste) reception building to accommodate feedstock reception activities and digestate processing equipment, (b) gas purification and compression



plant, (c) office extension (first floor open plan), and (d) externally located test tank;

2. extension to the northern boundary of the biogas plant to accommodate (a) internal access road from the existing biogas site, (b) concrete retention bund, (c) 3 number digesters vessels with collection domes, (d) 3 number hydrolysis tank with collection covers, (e) pump houses (2 number) and associated process pipework, and (f) stormwater attenuation tank, petrol interceptor and associated pipework;
3. extension to the northern boundary of the biogas plant to accommodate a fertiliser plant, comprising (a) fertiliser processing building containing digestate processing equipment, storage areas and associated, externally located, odour control equipment/exhaust stack (17.5 metres in height), (b) liquid fertiliser storage tanks (6 number), (c) HGV parking, (d) all process pipework and associated drainage works, and (e) associated site works including fencing and landscape screening.

The planning application relates to development which comprises an activity requiring an industrial emissions licence from the Environmental Protection Agency (EPA); all at Glenmore Estate, Aghaveagh, Ballybofey, County Donegal, as amended by a further public notice received by the planning authority on the 30th day of July 2019.

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.

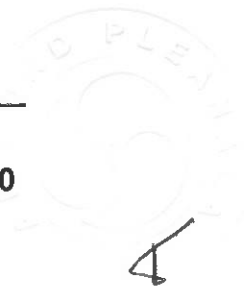
Matters Considered

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:

- (a) the established nature of the existing Glenmore Biogas Plant, the detailed nature, scale and form of the development and its location relative to nearby sensitive receptors,
- (b) the mitigation measures which are proposed for the construction and operation phases of the development including the management and discharge of surface water and digestate arising on site,
- (c) national planning policy in respect of waste management and climate action together with the provisions of the Connacht-Ulster Region Waste Management Plan 2015 – 2021 and the Donegal County Development Plan 2018-2024,
- (d) the nature of the landscape and the absence of any specific conservation or amenity designation for the site in the Development Plan,
- (e) the submissions on file including those from prescribed bodies and the planning authority, and
- (f) the Inspector's initial and addendum report,

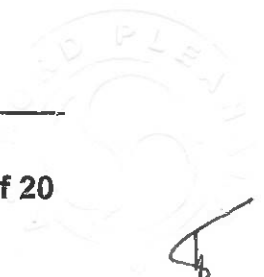


it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the provisions of the Donegal County Development Plan, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health or water quality, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion in the Inspector's reports in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of potential significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European Sites other than the River Finn Special Area of Conservation (Site code: 002301) in view of the sites Conservation Objectives.

Therefore, appropriate assessment is required to examine and assess the possible impacts in detail taking account of the conservation objectives of the River Finn Special Area of Conservation (Site code: 002301).



Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Finn Special Area of Conservation (Site code: 002301) is a European site for which there is a possibility of significant effects and must, therefore, be subject to Appropriate Assessment.

The Board considered the Natura impact statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European sites in view of the site's Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered the following:

- (i) site specific Conservation Objectives for these European sites,
- (ii) current conservation status, threats and pressures of the qualifying interest features,
- (iii) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (iv) the recommendations of the Department of Culture, Heritage and the Gaeltacht, and
- (v) mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of the River Finn Special Area of Conservation (Site code: 002301), having regard to the site's



Conservation Objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European site in view of the site's Conservation Objectives and there is no reasonable doubt as to the absence of adverse effects.

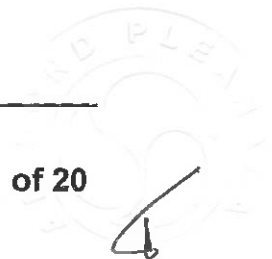
This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development including the Environmental Impact Assessment Report, the submissions made during the course of the application and appeal and the Inspectors initial and addendum report taking into account:

- (i) the nature, scale and extent of the proposed development,
- (ii) the Environmental Impact Assessment Report and associated documentation submitted in support of the application and appeal,
- (iii) the submissions from the observers and prescribed bodies in the course of the application, and
- (iv) the Inspector's report.

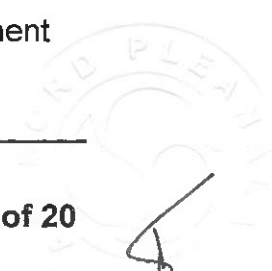
The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.



The Board noted and agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and the submissions made in the course of the application and appeal. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

The main issues raised specific to Environmental Impact Assessment relate to project splitting, risk of pollution, traffic impact, noise pollution, disposal of digestate, odour, climate change and impact to the River Finn Special Area of Conservation (Site code: 002301). The Board is satisfied that the information submitted by the applicants identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the Environmental Impact Assessment Report has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the Environmental Impact Assessment Report and supplementary information provided by the developer, adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment, and complies with article 94 of the Planning and Development Regulations 2000, as amended.

Concern was raised that the information relating to land spreading is not contained within the submitted documentation and, therefore, is project splitting for the purposes of the Environmental Impact Assessment Regulations and the Environmental Impact Assessment Report is incomplete. The Glenmore Biogas Plant is authorised to accept 90,000 tonnes of feedstock and to generate more than 150,000 tonnes of whole digestate. The proposed development does not change the amount of feedstock but will substantially reduce the volume of whole digestate (to 30-40,000 tonnes) and, indeed the outputs from the process by half. Project splitting only arises where development is carved up in such a way as to avoid any requirement for Environmental Impact Assessment. In this case the application was

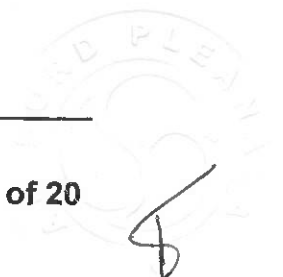


accompanied by an Environmental Impact Assessment Report. The Board also noted the further information submitted, together with the response to the appeal including the letter from the Department of Agriculture, Food and the Marine where it states, inter alia, that digestate produced from a bio-gas plant using the EU transformation parameters is considered to be an organic fertilizer/soil improver (OFSI) as defined in the European Union (Animal By-products) Regulations. Overall, the Board agreed with the applicants that the case law cited by the appellants, in particular, O’Grianna vs An Bord Pleanála, does not have the relevance suggested.

As documented, the development will reduce overall production of digestate and movements/land spreading associated with same. Even if it was conceded that the effects of the land spreading are indirect effects, it remains that the environmental effects of digestate have been addressed in the planning application, further information and appeal response and have not been excluded completely. Overall, the Board is satisfied that issues of project splitting do not arise in this case.

With regard to potential transboundary effects, the proposed development includes the spreading of digestate in lands in Northern Ireland. The Boards understanding is that land spreading in Northern Ireland is also subject to statutory control under the Nutrients Action Programme 2019-2022 and would be a matter for that jurisdiction.

The Environmental Impact Assessment Report was prepared in support of proposed changes to the site layout, process layout and infrastructural components of the biogas plant. Because the existing biogas plant is already operational, the Environmental Impact Assessment Report provides an assessment of the cumulative impacts of the existing plant and construction of new components (extensions) and changes to processes.



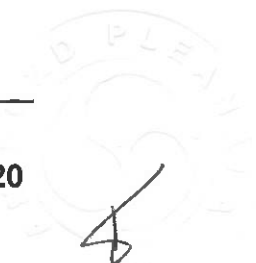
Reasoned Conclusions on the Significant Effects

Having regard to the examination of environmental information submitted, and in particular to the Environmental Impact Assessment Report and the supplementary information provided by the applicant, and the submissions of the prescribed bodies and objectors in the course of the application, it is considered that the main significant direct and indirect impacts of the proposed development on the environment are as follows:

- **Biodiversity** - Impacts to biodiversity are likely to arise during construction works. Ecological desk and field studies were undertaken for the proposed project. Based on these, sensitive biodiversity receptors identified within the proposed development site, or connected via indirect/secondary pathways for effects include the River Finn Special Area of Conservation (Site code: 002301), Atlantic salmon; and aquatic invertebrate communities. The impacts arising would be mitigated by additional planting, appointment of an Ecological Clerk of Works, a Construction Environmental Management Plan, attenuation of surface water and adhering to best practice and procedures during the construction phase. Detailed mitigation measures are prescribed within this Biodiversity chapter and in additional chapters of the Environmental Impact Assessment Report (Soils and Geology and Water) together with further information submitted. With the full implementation of these mitigation measures, residual impacts are evaluated as being neutral to slightly negative in magnitude; restricted to the local context; of temporary to short-term in duration and reversible; and therefore, not significant,
- **Water** – Potential environmental impacts arise from wastewater discharge and surface water. Having regard the Environmental Impact Assessment Report and further information submitted together with the mitigation measures contained in the EIAR that include surface water management, SuDS and attenuation tanks, it is considered that all

potential discharges, both those governed by the Industrial Emissions license from the Environmental Protection Agency and discharges that may result from spillage or firewater, can be adequately contained. Subject to full compliance with all mitigation measures listed in the documentation, it is considered that there is no potential for significant adverse impact on the receiving environment proximate or removed from the site from this development either individually or in combination with other developments.

- Air Quality and Odour - Air pollution and odour are likely to arise during the construction/operational phase such as would impact negatively on sensitive receptors and populations in the vicinity of the site. The Air Quality and Odour Impact Assessment demonstrated that the emissions would result in an acceptable air quality impact in accordance with the Air Quality Standards Regulations 2011 (S.I. No. 180 of 2011). Impacts are avoided by the indicated operation of the existing plant through air handling and extraction and abatement systems, odour removal techniques (UV radiation) and dust filters as well as by the agreement of measures within a Construction and Environment Management Plan (CEMP) to include specific provisions relating to dust monitoring and odour management.
- Traffic and Transport – Construction phase impacts in the form of short term increases in the traffic (private cars and HGVs) on the local road network are recognised and addressed in the Environmental Impact Assessment Report and, specifically in the Construction and Environment Management Plan. The mitigation measures are reasonable and practicable. With the recommended mitigation measures in place, no significant adverse roads and traffic related environmental impacts are anticipated during the construction, operational or decommissioning phases of the proposed development.



- Noise and Vibration – Noise pollution is likely to arise during the construction/operational phase such as would impact negatively on sensitive receptors and populations in the vicinity of the site. These impacts will be mitigated by the agreement of measures in the Construction and Environment Management Plan to include specific provisions relating to noise management. There will be no negative impacts subject to mitigation measures outlined or otherwise addressed by condition.
- Landscape and Visual Impact Assessment – The proposed development entailing a series of modern industrial design buildings would have an impact on the visual character of the immediate area. This impact is considered acceptable given the location of the site beyond which, any effects will be of slight and non-significant nature given the limited visual envelope, existing site context, nature of peripheral woodland and distance of any possible views. In more distant views from across the River Finn valley, it will not have any significant, unacceptable, or adverse effects on the setting or amenity value of these areas.
- Population and Human Health – There are potential positive impacts for employment opportunities and economic activities in the region. Impacts arising from noise, odour, traffic, and construction will be mitigated by a Construction Management Plan including traffic management measures. There will be no negative impacts subject to mitigation measures outlined or otherwise addressed by condition.

In conclusion, having regard to the above identified significant effects, the Board is satisfied that, subject to compliance with the mitigation measures proposed, the proposed development would not have any unacceptable direct or indirect impacts on the environment.



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 21st day of May 2019 and by the further plans and particulars received by An Bord Pleanála on the 18th day of November 2019, 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.

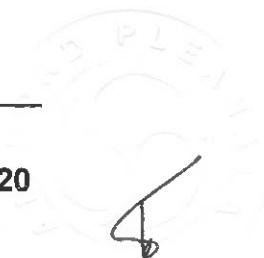
Reason: In the interest of clarity.

2. The proposed office extension shall be omitted.

Reason: In the interest of public health.

3.
 - (a) A maximum of 90,000 tonnes per annum of raw materials shall be treated in the anaerobic digesters.
 - (b) A maximum of 20 tonnes of biogas shall be stored on site at any given time (inclusive of gases within tank domes and gases being stored prior to transportation off-site)

Reason: In the interest of clarity.



4. All environmental mitigation measures set out in the Natura impact statement and the Environmental Impact Assessment Report, and associated documentation submitted by the developer during the course of the application and the appeal, shall be implemented in full except as may otherwise be required in order to comply with the conditions attached to this order.

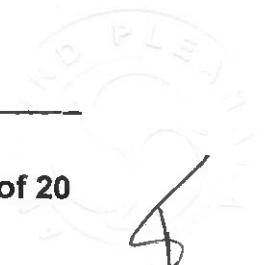
Reason: In the interest of clarity and to protect the environment during the construction and operational phases of the development.

5. Digestate generated by the proposed development shall be disposed of by spreading on land, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The location, rate and timing of spreading together with any buffer zones required shall be in accordance with the requirements of the European Communities (Good Agricultural Practices for the Protection of Water) Regulations, 2017, as amended.

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of watercourses.

6. Feedstock deliveries to the site and transport of digestate and biogases from the site shall be confined to between the hours of 0700 to 1900, Monday to Friday and between the hours of 0900 to 1500 on Saturday and Sunday.

Reason: In the interest of orderly development and the residential amenity of surrounding dwellings.

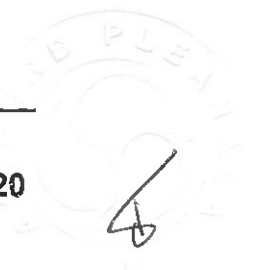


7. Monitoring of the construction phase shall be carried out by a suitably qualified and competent person to ensure that all Environmental mitigation measures contained in the documentation which accompany the application, further information, and appeal submission are fully implemented. In addition, the designated member of the company's staff shall interface with the planning authority or members of the public in the event of complaints or queries in relation to environmental emissions. Details of the name and contact details, and the relationship to the operator of this person shall be available at all times to the planning authority on request whether requested in writing or by a member of staff of the planning authority at the site.

Reason: To safeguard the amenities of the area.

8. An annual report on the operation of the facility hereby permitted shall be submitted to the planning authority. The content of this report shall include inter alia:
- (a) details of the source of all associated waste and the final disposal areas,
 - (b) the volumes of raw materials treated in the anaerobic digester in the previous 12 months,
 - (c) the volume of digestate produced and stored in previous 12 months, and
 - (d) the volume/quantity of gas produced/stored on site in previous 12 months.

Reason: In the interest of orderly development and to ensure a proper standard of development.



9. 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.

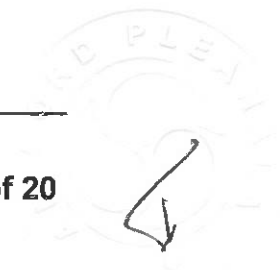
Reason: In the interest of public health and to ensure a proper standard of development.

10. Lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall minimise obtrusive light outside the boundaries of the development at all times.

Reason: In the interest of amenity and public safety.

11. The developer shall facilitate the planning authority in preserving, recording or otherwise protecting archaeological materials or features that 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,
 - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide satisfactory arrangements for the recording and removal of any archaeological material which may be considered appropriate to remove.

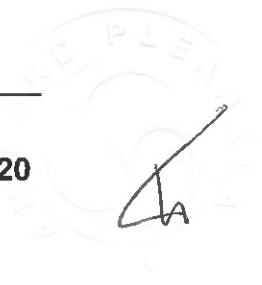
Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.



12. 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.

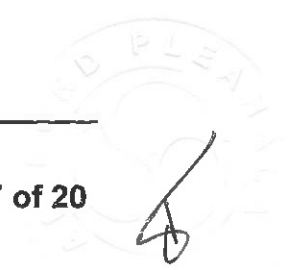
13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including and not limited to:
- (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 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 if required,
 - (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) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (j) 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,
- (k) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains,
- (l) a maintenance contract for the oil interceptor to ensure it is emptied on a regular basis shall be submitted
- (m) details of construction lighting, and
- (n) details of key construction management personnel to be employed in the development.

The plan shall include measures for monitoring dust, noise, groundwater and surface water and shall include a proposal for periodic reporting to the planning authority.

Site preparation and construction shall adhere to best practise and shall conform to the Inland Fisheries Ireland "Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites"



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

A Construction Manager shall be appointed to liaise directly with the Council for the duration of the construction of the scheme.

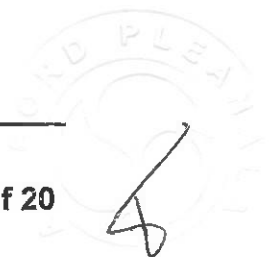
Reason: In the interest of amenities, environmental protection, public health and safety.

14. 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.

Reason: In the interest of sustainable waste management.

15. All solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the planning authority. In any event, no such wastes shall be stored on the site except within the confines of the buildings on site. Adequate on-site arrangements for the storage of recyclable materials prior to collection shall be made to the satisfaction of the planning authority.

Reason: To safeguard the amenities of the area.



16. A noise management plan and an odour management plan which shall include a monitoring programme shall be put in place by the developer in respect of the construction and operation phase of the development. The nature and extent of the plan and the monitoring sites shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development. The results of the programme shall be submitted to the planning authority on a monthly basis.

Reason: To protect the residential amenities of the area.

17. During construction the wheels of all trucks shall be washed prior to their exit from the site in a wheel wash facility. Details of the construction, installation and operation of this facility shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To safeguard the amenities of the area.

18. The site shall be landscaped and planted in accordance with a scheme to comprise predominantly native and naturalised hedgerow, shrub and tree species reflecting those species naturally occurring in the locality. This plan shall be prepared with input from an ecologist. Full details (including drawings and a timescale for implementation) of a landscape plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. It is desirable that the plan will reflect the principle of no net loss of native trees or hedgerows. All planting shall be adequately protected from damage until established. Any plants that die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity and protecting the biodiversity value of the site.



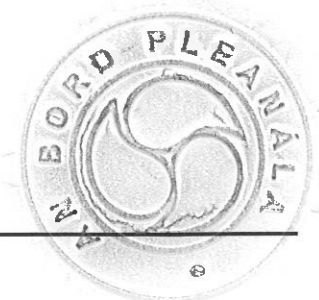
19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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



Terry Ó Niadh

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



Dated this 22nd day of September, 2021.