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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 21/529**

**Appeal** by Shane Campbell care of David Mulcahy Planning Consultants Limited of 67 The Old Mill Race, Athgarvan, County Kildare in relation to the application by Kildare County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 35 of its decision made on the 16<sup>th</sup> day of November, 2021.

**Proposed Development:** The change of use of the existing two-storey and part single storey commercial building to a two-storey and part single storey residential building consisting of 12 number apartments as follows:- four number one-bed ground floor apartments; four number one-bed first floor apartments; three number two-bed ground floor apartments and one number two-bed first floor apartment together with the provision of all associated and ancillary site works, private and public open space, boundary treatments and landscaping works as amended by the revised public notice received by the planning authority on the 22<sup>nd</sup> day of October, 2021 providing for significant further information which consists of a reduction in the number of apartments from 12 number to 10 number units by reducing the number of ground floor apartments from seven dwellings to five dwellings by combining the previously proposed apartments numbers 4 and 6 (both single bed units) into a three-

bed apartment and combining apartments numbers 5 and 7 (both single bed units) into a two-bed apartment along with a revised site layout indicating all associated and ancillary site works, private and public open space, boundary treatments and landscaping works; all at Suncroft Road, Brownstown Great, Brownstown, The Curragh, County Kildare.

## **Decision**

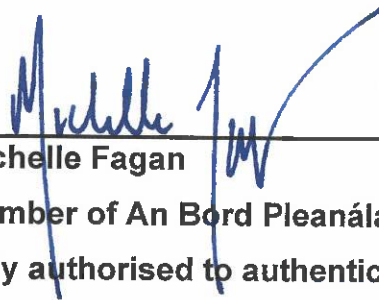
**The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 35 and directs the said Council to REMOVE condition number 35 and the reason therefor.**

## **Reasons and Considerations**

A development contribution is not payable, as per the Kildare County Council Development Contribution Scheme 2015-2022, on foot of a grant of planning permission for a change of use of a development where section 12 g) of the aforementioned Scheme specifically provides for a 100% reduction in same where the development would not lead to the need for new or upgraded infrastructure/services or a significant intensification of demand placed on existing infrastructure. Furthermore, the contributions considered to be outstanding in respect of amendments made to the parent permission have been paid/are not applicable and in this instance the rationale of the planning authority to apply the contribution on this basis is an error. The planning authority has, therefore, erred in its application of the Development Contribution Scheme and condition number 35 should be deleted accordingly.

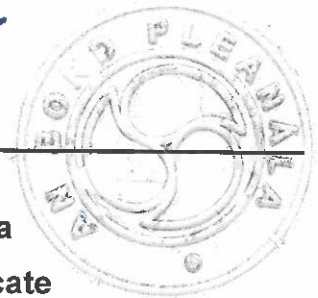
## Matters Considered

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.



Michelle Fagan

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



Dated this 8<sup>th</sup> day of April 2022.