

An  
Bord  
Pleanála

## Board Order ABP-316491-23

### Planning and Development Acts 2000 to 2022

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 22/1291**

**Appeal** by John Lynch of Cloney Castle Farm, Athy, County Kildare against the decision made on the 28<sup>th</sup> day of March, 2023 by Kildare County Council to grant subject to conditions a permission to Diageo Ireland care of McGill Planning Limited of 22 Wicklow Street, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Purpose-built brewery as follows: main brewery facility (circa 9,148 square metres), including brew house, storage and handling areas, labs, control rooms, workshops, plant rooms/areas (internal and external/roof), storage rooms/areas, process areas and valve blocks, utilities and services areas, circulation, office/admin and welfare facilities, and all associated ancillary areas. Building height ranging up to circa 24.3 metres and including ground floor area (circa 7,325 square metres), part basement (circa 72 square metres), 1<sup>st</sup> floor (circa 1,213 square metres), 2<sup>nd</sup> floor (circa 270 square metres) and 3<sup>rd</sup> floor (circa 268 square metres). Tanker filling station (open area with canopy circa 462 square metres) and raw materials deliveries area (open area with canopy circa 138 square metres in extent), 92 number new storage vessels/silos/tanks, with associated access platforms, ranging in height up to circa 23.3 square metres. Two number external substation buildings (total area 60 square metres and building height circa 3.8 metres). Provision of external pipe bridges ranging up to circa 7.7 metres in height.

Provision of PV panels on roofs (circa 1,171 square metres in extent). Provision of external building signage (total area circa 12 square metres). Renewable Heating Plant Building (circa 1,644 square metres, with height up to circa 15.9 metres), including ground floor area (circa 1,358 square metres), part basement (circa 286 square metres) and including internal plant area, turbine room, fuel store, electrical distribution, office/admin areas, externally located Electrostatic Precipitators (ESPs), and two number flue stacks (each circa 20 metres total height). Utilities Area, including welfare and control room building, external electrical plant area, electrical container plant rooms, combined heat and power container plant room (with a flue stack circa 11 metres in total height), fire water tanks (two number up to circa 4.5 metres in height) and pump house room. Total floor area of Utilities Area buildings circa 142 square metres and building height up to circa 4.2 metres. Wastewater Treatment Plant (WWTP) area with associated tanks (nine number ranging in height up to circa 22.25 metres) with associated plant rooms/areas (including biogas infrastructure and chemical storage areas), electrical container plant rooms, and dewatering building. Total floor area of WWTP buildings circa 55 square metres and building height up to circa 8.1 metres. Water Recycling Plant (WRP) area with main plant building (with external open area with canopy), two number tanks (each circa 10 metres in height), external plant and equipment. Total floor area of WRP buildings circa 195 square metres and building height up to 7.5 metres. Water Treatment Plant (WTP) with three number tanks (ranging in height up to circa 17.4 metres) with associated plant rooms and external plant areas and electrical container plant room. Total floor area of WTP buildings circa 75 square metres and building height up to circa 5.4 metres. Waste Storage building (circa 161 square metres and building height circa 4.8 metres). ESB Substation and customer switch room building (circa 37 square metres and building height circa 3.7 metres). Security Gatehouse building (circa 35 square metres and building height circa 5.5 metres). Total gross floor area of all buildings circa 11,552 square metres. Development access to be provided via existing roundabout spur off the Newbridge South Orbital Relief Road. Provision of 20 number truck parking spaces, 50 number car parking spaces and 16 number bicycle parking spaces. Site works include for diversion of Pinkeen Stream across the site; provision of borehole and associated works/pump room (for the purpose of water abstraction for use in the facility). Provision of temporary



construction access to the development from the Newbridge South Orbital Relief Road with associated compound and facilities. All associated site development works, drainage and services/utilities provision, hard and soft landscaping, all hardstanding areas and internal roads, two number weighbridges, boundary treatments (including security fencing), entrance gates, and associated ancillary works, all on a site of circa 21,336 hectares located in the IDA Newbridge Business and Technology Park (Littleconnell) within the townlands of Greatconnell, Littleconnell and Clownings, Newbridge, County Kildare. The lands are located to the east of the Newbridge South Orbital Relief Road (NSORR) and the Lidl Regional and Distribution Centre, north-east of the KDP Ireland (Keurig Dr. Pepper) facility and the Barola/Primark distribution centre (currently under construction).

## **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.**

## **Reasons and Considerations**

Having regard to:

- (a) the provisions of the Kildare County Development Plan 2023-2029, including Policy Section 2.13.1, which identifies the subject site and its surrounding area as a Strategic Economic and Employment Zone, and policies and objectives regarding economic growth and enterprise, renewable energy and fuel, biodiversity and green infrastructure, and climate,
- (b) the location, nature, size and scale of the proposed facility and established character and pattern of development in the vicinity, including other employment and industrial uses in an existing business park,



- (c) the location of the proposed development next to the Newbridge South Orbital Relief Road (NSORR) and its proximity to the national road network, including the M7 and M9 Motorways,
- (d) the requirement for the proposed facility to be subject to, and regulated under, an Industrial Emissions Licence to be issued by the Environmental Protection Agency,
- (e) the nature of the receiving environment,
- (f) the mitigation measures proposed for the construction and operational phases of the proposed development,
- (g) the submissions on file, including those from prescribed bodies, the appellant and the planning authority, and
- (h) the documentation submitted with the application, including the Environmental Impact Assessment Report, Appropriate Assessment Screening Report and the Natura Impact Statement,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Kildare County Development Plan 2023-2029 and with European, national, and regional planning policy, would be in accordance with the planned industrial expansion of Newbridge Business and Technology Park, County Kildare, would be acceptable in terms of traffic safety and convenience, and the protection of ground and surface water quality, would not give rise to a risk of serious pollution given its regulation under licence by the Environmental Protection Agency, or be prejudicial to public health, would not seriously injure the amenities of the area or of property in the vicinity, and would not have a negative impact on archaeological or cultural heritage. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



### **Appropriate Assessment Stage 1:**

The Board considered the Screening Report for Appropriate Assessment and all other relevant submissions and carried out an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites. The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site and considered the nature, scale and location of the proposed development, as well as the report of the Inspector.

The Board agreed with the screening report submitted with the application and with the screening exercise carried out by the Inspector. The Board concluded that Appropriate Assessment is required as it cannot be excluded, on the basis of objective information, that the proposed development, individually or in combination with other plans or projects, would not have a significant effect on the following European Sites (namely that there is the possibility of significant effects occurring): the South Dublin Bay Special Area of Conservation (Site Code: 000210), the North Dublin Bay Special Area of Conservation (Site Code: 000206), the South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024) and the North Bull Island Special Protection Area (Site Code: 004006).

### **Appropriate Assessment Stage 2:**

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 the South Dublin Bay Special Area of Conservation (Site Code: 000210), the North Dublin Bay Special Area of Conservation (Site Code: 000206), the South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024) and the North Bull Island Special Protection Area (Site Code: 004006) in view of the sites' Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment, as well as the report of the Inspector. In completing the assessment,



the Board considered the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the Conservation Objectives for these European Sites. In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the South Dublin Bay Special Area of Conservation (Site Code: 000210), the North Dublin Bay Special Area of Conservation (Site Code: 000206), the South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024) and the North Bull Island Special Protection Area (Site Code: 004006) or any other European Site in view of the sites' Conservation Objectives and that there is no reasonable scientific doubt as to this finding.

#### **Environmental Impact Assessment:**

The Board completed an environmental impact assessment of the proposed development. The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted with the planning application, adequately considers alternatives to the proposed development, and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment. Having regard to the examination of environmental information contained within the Inspector's report, the Environmental Impact Assessment Report and the supplementary information provided by the applicant, and the submissions from the planning authority and the appellant, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:



**Biodiversity:** Development of the site will result in terrestrial habitat removal and disturbance and displacement of species occurring on or around the site. The impacts from such activities would be adequately mitigated by: implementation of the Construction and Environmental Management Plan and the appointment of an Ecological Clerk of Works; adherence to relevant published guidance, including Construction Industry Research and Information Association guidance on water pollution and Inland Fisheries Ireland Guidelines on the protection of fisheries, Bat Conservation Ireland guidance on lighting design and National Roads Authority Guidelines for the treatment of badgers, bats and otters; monitoring of badger setts during post-construction; measures for the diversion, as outlined in Section 6.7 of the Environmental Impact Assessment Report; proposed planting and landscape works using native species; clear delineation and fencing off of habitat conservation areas and retained trees/vegetation; timing and management of tree/vegetation removal works, with pre-development surveys of features to be removed; erection of bat boxes and bird nesting boxes; and biosecurity measures for invasive species.

**Groundwater and/or surface water:** The proposed development could give rise to impacts on groundwater and surface water as a result of run-off sediments, accidental spillages of chemicals, hydrocarbons or other contaminants entering waterbodies during construction. These impacts would be adequately mitigated by the implementation of the Construction and Environmental Management Plan and of standard best practice guidance and measures, including measures for the control of soils, materials and pollutants, and drainage design and the management of surface water; soil and stockpile management; the measures outlined in section 8.5 of the Environmental Impact Assessment Report, including the prevention of works within 10 metres of the Pinkeen Stream where possible, and the installation of silt traps and petrol interceptors; standard measures for the storage and management of fuels, lubricants and hydraulic fluids and other potential contaminants to avoid spillage, properly secured excavation, sealed storage and off-site disposal measures for the management of any sediments impacted by contamination.



**Landscape and visual amenity:** Potential impacts on the landscape and visual amenities of the area will be adequately mitigated by the capacity of the receiving environment and the existence of other similar-type industrial structures in the business park area, and separation from sensitive receptors in the area, such as residential properties, along with landscaping proposals for the site.

**Residential amenity:** Potential impacts on population and human health during the construction phase due to noise, airborne emissions and dust, traffic movements and general disturbance would be adequately mitigated by separation from sensitive receptors, implementation of the CEMP and the Dust Management Plan and adherence to identified emission limit values and guidelines.

**Climate:** Construction and operation of the proposed development would give rise to some greenhouse gas emissions. The impacts from such activities would be adequately mitigated by measures to minimise energy usage outlined in the Environmental Impact Assessment Report and the associated documentation submitted with the planning application, including the design of the energy plant within the overall development, which will enable no greenhouse gas emissions associated with the energy required to power the facility in operational phase.

**Vehicular traffic movements:** Traffic generated during construction will give rise to potential disturbance and congestion along the local road network. These impacts would be adequately mitigated by the proximity of the development site to the national road network and the Newbridge South Orbital Relief Road, the short-term nature of the construction activities, and the implementation of a Construction Traffic Management Plan.



## Conditions

1. The proposed 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 received by the planning authority on the 3<sup>rd</sup> day of February, 2023, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Detail of the finishes of the buildings and structures on site shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. (a) The proposals, mitigation measures and commitments set out in the Environmental Impact Assessment Report, the Natura Impact Statement and the Construction Environmental Management Plan shall be implemented in full as part of the proposed development.  
(b) An Ecological Clerk of Works (ECoW) with suitable experience shall be appointed to ensure all mitigation measures outlined in the Environmental Impact Assessment Report, Natura Impact Statement and the Construction Environmental Management Plan shall be carried out. The ECoW shall submit yearly reports to the planning authority demonstrating compliance with mitigation measures and ecological considerations during the full extent of the construction phase.



- (c) Should any such issues arise, the Ecological Clerk of Works shall be responsible for the supervision of implementing protection measures, immediately notifying the National Parks and Wildlife Service, and preparing any necessary documentation.

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

4. All over ground tanks containing liquids, other than water, shall be contained in a waterproof bunded area, which shall be of sufficient volume to hold 110 per cent of the volume of the tanks within the bund. All water contaminated with hydrocarbons, including stormwater, shall be discharged via a grit trap and three-way oil interceptor with sump. The sump shall be provided with an inspection chamber and shall be installed and operated in accordance with the written requirements of the planning authority.

**Reason:** In order to protect groundwater.

5. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction and Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following:
- (a) The location of the site and materials compound(s), including area(s) identified for the storage of construction refuse.
  - (b) The 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) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

- (f) 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.
- (g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels, including the implementation of the Dust Management Plan.
- (h) 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.
- (i) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (j) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water bodies, sewers or drains.
- (k) Collection and disposal of construction waste.
- (l) Onsite road construction.
- (m) Environmental management measures during construction, including working hours, noise control, and dust and vibration control.
- (n) The location of any archaeological or cultural heritage constraints.
- (o) A plan detailing how engagement and liaison with local residents and businesses will be established and how it is proposed to keep the public and other bodies informed of impending disruption to traffic flow in the area of the proposed works.
- (p) Phasing protocols.

A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the proposed development. The Plan shall include all necessary requirements by the planning authority with regard to the provision of an environmental audit and any such reports necessary to ensure no environmental degradation of the site or surrounding area.

**Reason:** In the interest of public safety and ecological protection.

6. Prior to commencement of development, a finalised construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority, which shall include:
  - (a) Details of the timing and routing of construction traffic to and from the construction site and works areas and associated directional signage.
  - (b) Proposals to manage the delivery of abnormal loads, including routing and scheduling.
  - (c) Measures to obviate queuing of construction traffic on the adjoining road network.

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

7. Prior to commencement of development, the developer shall prepare a Construction Surface Water Management Plan (CSWMP) to safeguard the ecological integrity of local surface and groundwater and to protect water quality and the wildlife habitat of any watercourse, including the Pinkeen Stream. The CSWMP shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** In the interest of the protection of water quality, groundwater and environmental protection.

8. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including a demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness, these details shall be placed on file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

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

9. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to, and agreed in writing with, the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the developer and details to be agreed with the planning authority shall include the provision of centralised facilities within the proposed development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

10. The landscaping scheme lodged with the application, as amended by the further plans and particulars received by the planning authority on the 3<sup>rd</sup> day of February, 2023, shall be carried out within the first planting season following substantial completion of external construction works. In addition to the proposals in the submitted scheme, the following shall be carried out:

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the proposed development,
- (b) the proposed locations of trees and other landscape planting in the proposed development, including details of proposed species and settings,
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating,
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes, and
- (e) measures for the protection of those trees which are proposed to be retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.

All planting shall be adequately protected from damage until established. Any plants which 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.

11. (a) An Arboricultural Consultant shall be engaged to carry out a post construction Tree Survey and Assessment on the condition of the retained trees and hedgerows. Any necessary remedial or planting works shall be undertaken. A Completion Certificate shall be signed off by the Arborist when all permitted development works are complete and in line with the recommendations of the tree reports and plans. The Tree Survey and Assessment and Certificate shall be submitted to the planning authority upon completion of the construction phase.
- (b) The clearance of any vegetation, including trees, scrub and hedgerows, shall be carried out outside the bird breeding season (1<sup>st</sup> March – 31<sup>st</sup> August, inclusive).

**Reason:** To facilitate the identification and subsequent protection of trees to be retained on the site, in the interest of visual amenity and in the interest of biodiversity.

12. The developer shall facilitate the preservation, recording and protection of 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 operations, 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,
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the planning authority considers appropriate to remove, and

- (d) agree in writing the archaeological method statements for mitigation with the Department of Culture, Heritage and the Gaeltacht prior to commencement of any works onsite.

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 site and to secure the preservation and protection of any remains that may exist within the site.

13. Water supply and drainage arrangements, including the attenuation and disposal of surface water, the provision of swales and/or constructed wetlands, as appropriate, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

14. Prior to commencement of development, the developer shall enter into a connection agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and wastewater collection network.

**Reason:** In the interest of public health.

15. Comprehensive details of the proposed public lighting system to serve the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed lighting system shall include a recommended strategy for reducing the impact of lighting on bats and shall be fully implemented and operational before the proposed development is made available for use.

**Reason:** In the interest of public safety and visual amenity.



16. (a) Prior to the opening and operation of the completed purpose-built brewery, the developer shall remove the temporary construction site entrance and restore the kerb line, grass verge, footpath and cycle track to the condition prior to the construction of the temporary entrance. The developer shall reinstate the surface wearing course of the Newbridge South Orbital Ring Road for a distance of 20 metres on the Great Connell Roadside and for a distance of 50 metres on the M7 Motorway side. Prior to commencement of these works, the developer shall liaise with the Newbridge Kildare Municipal District Area Office for the agreement of these works.
- (b) Construction and operation HGV access to the site shall be from the Newbridge South Orbital Relief Road (NSORR) only with a right out/left in arrangement only for HGVs off the NSORR into the development, unless otherwise agreed with the planning authority.
- (c) Vehicular access (not HGVs) for staff and visitors for the operational phase of the proposed development to the site shall be both from the Newbridge South Orbital Relief Road (NSORR) and the Great Connell Road.
- (d) Prior to the opening and operation of the proposed development, the developer shall submit to, and agree in writing with, the planning authority a Stage 3 Road Safety Audit.

**Reason:** In the interest of traffic safety.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

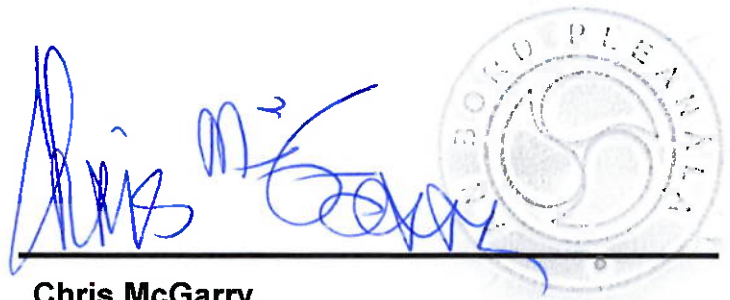
18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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.



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.



**Chris McGarry**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board**

Dated this 8<sup>th</sup> day of December 2023.