

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 23513

Appeal by Patrick Lynch of Proudstown Road, Navan, County Meath against the decision made on the 4th day of August, 2023 by Kildare County Council to grant subject to conditions a permission to Glenveigh Homes Limited care of Turley Associates Limited of 34 Pembroke Street, Upper, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: (1) Construction of 237 number residential units ranging in height from two to three storeys comprising 30 number two-bedroom houses (circa 86.8 square metres each), 124 number three-bedroom houses (ranging in area from circa 103 square metres to 114 square metres each), 13 number four-bedroom houses (ranging from circa 151 square metres to 168 square metres), 20 number one-bedroom apartments (ranging in area from circa 56.6 square metres each), 22 number two-bedroom duplex apartments (ranging in area from circa 86.9 square metres to 89.0 square metres) and 22 number three-bedroom duplex apartments (ranging in area from circa 127 square metres to 139 square metres each); (2) Construction of a two-storey creche (circa 278 square metres in area) with associated external play area (circa 85.8 square metres in area); (3) Provision of public open space (totalling circa 7.71 hectares of which circa 5.61 hectares

comprises strategic amenity space), communal open space (serving the duplex apartments) (circa 570 square metres), and private open space (in the form of private garden areas serving the houses and terraces/balconies serving the apartments/duplexes); and (4) Provision of vehicular, cyclist and pedestrian access/egress and associated circulation routes (including the construction of a fourth arm to the existing three arm junction on the Celbridge Road (R404) opposite the entrance to the existing Barnhall Meadows residential development and pedestrian and cyclist access to the north-east of the site providing access to the existing residential development known as Leixlip Park). The development will also consist of: (5) 303 number car parking spaces (including 31 number car parking spaces for visitors and 12 number car parking spaces serving the proposed crèche); (6) Electric vehicle (EV) charging infrastructure; (7) 355 number bicycle parking spaces (including 17 number bicycle parking spaces serving the proposed crèche and 160 number bicycle parking spaces serving the proposed strategic amenity/public open space); (8) Bicycle storage; (9) Bin storage; (10) three number ESB substations; (11) Undergrounding and diversion of the existing 20kV and 38kV overhead power lines; (12) Equipped play areas; (13) Photovoltaic roof panels; (14) Boundary treatments (including gates, piers, railings, walls and openings to the former demesne wall); (15) Provision of lighting; (16) All hard and soft landscaping; (17) Provision of Sustainable Urban Drainage systems (SuDs); and (18) All other associated site excavation, infrastructural and site development works above and below ground, changes in level (including the relocation of artificially raised ground from construction of the M4 to create an enlarged berm to the southern boundary of the site bounding the M4 motorway) and associated retaining features, associated site servicing (foul and surface water drainage and water supply) at a site of circa 14.3 hectares at Leixlip Demesne, Leixlip, County Kildare. The application site is principally bounded by Celbridge Road (R404) and Back Gate Lodge, Celbridge Road, Leixlip, County Kildare to the west; the existing residential developments of Leixlip Park and Wogansfield to the north; the M4 motorway to the south and by agricultural lands to the east.



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

In coming to its decision, the Board had regard to the following:

- (a) the policies and objectives set out in the Kildare County Development Plan 2023-2029, and the Leixlip Local Area Plan 2020-2026 (as extended),
- (b) the policies and objectives set out in the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midland Region,
- (c) Housing for All, A New Housing Plan for Ireland, issued by the Department of Housing, Local Government and Heritage in 2021,
- (d) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, issued by the Department of Environment, Heritage and Local Government in 2009, accompanied by the Urban Design Manual: A Best Practice Guide, 2009,
- (e) the Urban Development and Building Heights, Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in 2018,



- (f) the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2023,
- (g) the Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in 2011,
- (h) the Design Manual for Urban Roads and Streets, 2013, issued by the Department of Transport in 2011, updated 2019,
- (i) the Childcare Facilities, Guidelines for Planning Authorities, issued in 2001,
- (j) The Planning System and Flood Risk Management, Guidelines for Planning Authorities, issued by the Department of Environment, Heritage and Local Government in 2009,
- (k) the Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, issued by the Department of housing, Local Government and Heritage in 2021, updated 2023,
- (l) section 37(2)(a) of the Planning and Development Act 2000, as amended, in respect of the material contravention process provided for,
- (m) the nature, scale, and design of the proposed development,
- (n) the availability in the area of a range of social, community, and transport infrastructure,
- (o) the pattern of existing and permitted development in the area,

- (p) the planning history of the site and within the area,
- (q) the submissions received by the planning authority from observers and prescribed bodies,
- (r) the grounds of appeal,
- (s) the responses to the grounds of appeal by the applicant and planning authority, and
- (t) the report and recommendation of the Inspector including the examination, analysis and evaluation undertaken in relation to Appropriate Assessment and Environmental Impact Assessment.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development, the information for screening for Appropriate Assessment submitted with the application and appeal, the Inspector's Report, and submissions on the application. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other developments in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives and qualifying interests of such sites, and that a Stage 2 Appropriate Assessment and submission of a Natura Impact Statement is not required.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the application,
- (c) the submissions received from the observers, prescribed bodies, and planning authority, and
- (d) the Inspector's report.

The Board agreed with the summary of the results of consultations and information gathered in the course of the Environmental Impact Assessment, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the applicant as set out in the Inspector's report. The Board is satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation, and are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the



Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered the main significant direct and indirect effects of the proposed development on the environment to be positive, and are as follows:

- **Population and Human Health** – moderate to significant positive effects arising from increased levels of economic activity, the provision of new residential homes, and creation of a new community served by ancillary community facilities including extensive areas of public open space.
- **Biodiversity** – significant positive effects arising from the creation of an extensive new wetland habitat with breeding and foraging opportunities for amphibian species.
- **Material Assets: Site Services** – significant positive effects on surface water drainage due to the provision of an extensive range of SuDS measures, the incorporation of a two-stage process of filtration and treatment, and the significant reduction in the proposed discharge rate to the public surface water system than the existing permitted equivalent greenfield run-off rate.
- **Material Assets: Cultural Heritage** – significant positive effects on architectural heritage arising from the programme of remedial repairs to the Leixlip Castle demesne wall within the site including the removal of adversely affecting vegetation, tree, and security wire, and the reconstruction of damaged section.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed in each chapter of the Environmental Impact Assessment Report, and, subject to compliance with the conditions set

out below, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting Inspector.

Conclusion on Proper Planning and Sustainable Development

The Board considered that the proposed development would constitute an acceptable quantum and density of residential development in this location, subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities of property in the vicinity, would not seriously injure the architectural or arboricultural heritage of the site, would not cause serious pollution in respect of water, air, noise, or waste, would not be prejudicial to public health, would not cause serious injury to biodiversity and the natural environment, and would be acceptable in terms of pedestrian, cyclist and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In coming to its conclusion, the Board agreed with the recommendation of the reporting Inspector to grant permission for the proposed development in accordance with section 37(2)(a) of the Planning and Development Act 2000, as amended.



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 information plans and particulars submitted to the planning authority on the 12th day of July 2023, and by the further plans and particulars received by An Bord Pleanála on the 28th day of September 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 development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of development, the developer shall submit to the planning authority for its written agreement:
 - (a) A site layout plan indicating all components of residences in Cell 4, Character Area 1, contained within lands zoned as 'C – New Residential' in the Leixlip Local Area Plan 2020-2023 (as extended).
 - (b) Plans and particulars of a revised design of the main vehicular entrance (piers and signage).

Reason: In the interest of clarity and orderly development.

3. Mitigation and monitoring measures outlined in the plans and particulars as submitted with the application, including those set in Chapter 21: Mitigation and Monitoring Measures in the Environmental Impact Assessment Report, Site Specific Flood Risk Assessment, Arboricultural Report, Noise Impact Assessment, and Architectural Heritage Impact Assessment shall be carried out in full except where otherwise required by conditions attached to this permission.

The developer shall appoint an appropriately qualified person as an environmental manager to ensure that the mitigation measures identified in the Environmental Impact Assessment Report are implemented in full.

Prior to commencement of development, the developer shall submit a comprehensive list of mitigation measures and a corresponding timeline/ schedule for implementation of same to the planning authority for its written agreement.

Reason: In the interest of clarity and protecting the environment.

4. The development shall be carried out in a phased manner in accordance with Phasing Site Plan: Dwg No. PL60, including a pedestrian link to be completed prior to the occupation of phase 2 units, unless otherwise agreed in writing with the planning authority.

Reason: To ensure the timely provision of amenities and infrastructure for future residents.



5. Details of the materials, colours, and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. Details of security shuttering, external lighting, and signage for the childcare facility shall be agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity, and to protect the visual amenities of the area.

6. 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/ street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed street/building name(s) shall be based on the site's historic association with Leixlip Castle and/or the townland of Leixlip Demesne, or other alternatives acceptable to the planning authority. No advertisements/ marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. The agreed lighting system shall be fully implemented and operational before the proposed development is made available for occupation.

Reason: In the interests of amenity and public safety.

8. 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.

Reason: In the interests of visual and residential amenity.

9. All links/connections to adjoining zoned lands to the east (within and outside the developers' control) shall be provided up to the site boundary to facilitate future connections subject to the appropriate consents.

Reason: In the interest of permeability and safety.

10. The internal road network serving the proposed development, including carriageway widths, corner radii, turning bays, junctions, parking areas, footpaths, kerbs, pedestrian crossings, raised tables, and cycle lanes shall be in accordance with the detailed construction standards of the planning authority for such works, and design standards outlined in the Design Manual for Urban Roads and Streets and the National Cycle Manual issued by the National Transport Authority.

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



11. A minimum of 10% of communal car parking spaces should be provided with electric vehicle (EV) charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/ stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

12. Prior to the occupation of Phase 1 of the development, a Mobility Management Plan 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 residents/ employees/ visitors of the development and to reduce and regulate the extent of car parking. The mobility strategy shall be prepared and implemented by the management company for applicable residential/ commercial units within the development.

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

13. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To ensure the satisfactory completion and maintenance of this development.

14. (a) The areas of public open space in the development shall be constructed, levelled, contoured, soiled, seeded, and landscaped (hard and soft) in accordance with the Landscape Design Statement and associated landscape plans, unless otherwise agreed in writing with the planning authority.
- (b) Final design, finishes, methods of construction and/ or installation of footpaths, cycle paths, crossing points over nature-based SuDS features, equipment in play areas shall be submitted to the planning authority for its written agreement.
- (c) This landscaping work shall be undertaken in accordance with Phasing Site Plan: Dwg No. PL60 and completed before any of the dwelling units in Phase 2 are made available for occupation.
- (d) A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of Phase 1 of the development. This schedule shall cover a period of at least three years and include details of the arrangements for its implementation.
- (e) The areas of public open space shall be reserved and maintained for such use by the developer until such time as these are taken in charge by the local authority or management company.

Reason: To ensure the satisfactory development of the public open space areas, their future maintenance, and their continued use for this purpose.

15. (a) The communal open spaces, 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.

16. Prior to the commencement of development, the developer or any agent acting on its behalf, 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 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 the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the 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 sustainable waste management.



17. The construction of the development shall be managed in accordance with a Construction Environmental 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) 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) Off-site disposal of construction/ demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (m) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

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

18. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 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.

19. (a) The developer shall engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930–2004) to carry out pre-development monitoring of ground disturbance aspects of the development. No sub-surface work shall be undertaken in the absence of the archaeologist without his/ her express consent.
- (b) The archaeologist shall notify the National Monuments Service of the Department of Housing, Local Government and Heritage in writing at least four weeks prior to the commencement of site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work.
- (c) The archaeologist shall carry out any relevant documentary research and may excavate test trenches at locations chosen by the archaeologist, having consulted the proposed development plans.
- (d) Having completed the work, the archaeologist shall submit a written report to the planning authority and to the National Monuments Service of the Department of Housing, Local Government and Heritage for consideration.
- (e) Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) and/or monitoring may be required and the Department of Housing, Local Government and Heritage will advise the developer with regard to these matters.
- (f) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the planning authority

in consultation with the Department of Housing, Local Government and Heritage.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

20. (a) An Operational Waste Management Plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of these facilities for each dwelling unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the 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 duplex apartment blocks and for the childcare facility, the locations, and designs of which shall be as indicated in the plans and particulars lodged within the application unless otherwise agreed in writing with the planning authority.
- (c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

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



21. 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 and surface water management.

22. (a) The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann, prior to commencement of development.
- (b) All development shall be carried out in compliance with Uisce Eireann codes and practices.

Reason: In the interest of public health.

23. 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.



24. All of the permitted house and duplex units in the development, when completed, shall be first occupied as a place of residence by individual purchasers who are not a corporate entity and/or by persons who are eligible for the occupation of social or affordable housing, including cost rental housing. Prior to commencement of development, the applicant, or any person with an interest in the land shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect. Such an agreement must specify the number and location of each house or duplex unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

25. 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 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 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 of the development.


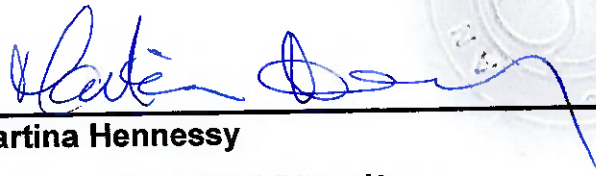


26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the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

27. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision of 80m of paved footpath along the R404 (Celbridge Road) necessitated to be constructed to serve the development. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.



Martina Hennessy

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

Dated this 18th day of December 2023.