



An  
Bord  
Pleanála

## Inspector's Report PL.04.247205

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<b>Development</b>	House, sewage treatment system and percolation area together with ancillary site works and services.
<b>Location</b>	Kilcrea, Ovens, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	16/05217
<b>Applicant(s)</b>	Kate O'Flynn
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Larry O'Flynn
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	1 <sup>st</sup> December 2016
<b>Inspector</b>	Kenneth Moloney

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located within a rural area, near Aherla, west of Ballincollig and approximately 1.5 km south of the N22.
- 1.2. The subject site is situated within a private stud farm and the access to serve the proposed house is from a private lane. The appeal site is not visible from the public road.
- 1.3. The appeal site is currently used for grazing and there is a private laneway situated to the immediate north of the subject site. There is a dense mature hedgerow situated to the front of the site.
- 1.4. The site levels of the subject site are situated above the adjoining private laneway. The site slopes gently upwards towards the rear of the site.
- 1.5. The local area is defined by agricultural land and in general the land drainage in the local area is relatively poor.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises of a two-storey house with an overall floor area of approximately 427 sq. metres.
- 2.2. The floor plan of the ground floor comprises of living area and the first floor plan consists of 5 bedrooms.
- 2.3. The maximum height of the proposed house is 8.8m above ground level. The width of the proposed house is approximately 17.6 metres.
- 2.4. The proposed development includes vehicular access from an existing private laneway. The proposal includes a private well and a domestic wastewater treatment system.

### 3.0 Planning Authority Decision

3.1. Cork County Council decided to grant planning permission subject to 20 conditions. The conditions are standard for the nature of the development.

#### 3.2. Planning Authority Reports

3.2.1. The main issues raised in the planner's report are as follows;

- Senior Planner considers that the scale of the proposed house, given its distance from the public road, is acceptable.
- The applicant is engaged in the family farm business as an accountant.
- It is considered that the applicant complies with category (a) and (d) of policy objective RCI 4-2 (d).
- The applicant has not previously received planning permission for a family home in this rural area.
- The planning history, i.e. L.A. Ref. 03/6354, is relevant. This application was appealed to the Board (appeal ref. 206261) and the Board granted permission with condition no. 1 which restricted the number of new houses in the local area.
- It is considered that this condition is 12 years old and that the case Langrath Properties Limited v Bray Urban District Council is relevant.
- It is contended that sterilisation agreements are not to be held in perpetuity.
- The current County Development Plan superscedes the Section 47 agreement.
- The separation distance from the dwelling to the polishing filter is less than 10m which is not acceptable.

3.2.2. Area Engineer; - Additional information sought in relation to (a) sightline provision, (b) location of the proposed well and wastewater treatment system.

### 3.3. Third Party Observations

There is one third party submission and the issues raised have been noted and considered.

## 4.0 Planning History

- The actual appeal site has no relevant planning history.

### Overall Landholding

- L.A Ref. 03/6354 (appeal ref. 206261) – Permission **granted** to the east of the appeal site for a large dwelling house and a domestic store. Condition no. 1 of this permission required that a Section 47 Stipulation agreement shall be entered into with the Planning Authority (see assessment below for details).
- L.A. Ref. 08/4178 (appeal ref. 230376) – Permission was **granted** for the construction of a paved area for use as helicopter landing area to the rear of a private residence.
- L.A. Ref. 92/2322 – Planning permission was **granted** for alterations to an extension to a dwelling at the northeastern corner of the landholding.

## 5.0 Policy Context

### 5.1. Development Plan

The operational Development Plan is the Cork County Development Plan, 2014 – 2020. Section 4.4 of the County Development Plan sets out the ‘Categories of Rural Generated Housing Need’ and the appeal site is located within the area designated ‘Rural Area under Strong Urban Influence’.

Policy Objective RCI 4-2 sets out the categories of housing need that are compliant with this area.

Section 4.6 sets out 'General Planning Considerations' and this includes objectives in relation to;

- Design
- Servicing of individual houses
- Ribbon Development
- Occupancy Conditions

Chapter 13 relates to Green Infrastructure and Environment and sets out policies in relation to landscape.

## 6.0 National Policy

### Sustainable Rural Housing Guidelines

The subject site is located within an 'Area under Strong Urban Influence' as identified in Map 1: Indicative Outline of the NSS rural areas types in the DOEHLG Sustainable Rural Housing Guidelines for Planning Authorities, 2005. The Guidelines note that in these areas the objective should be on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.

## 7.0 The Appeal

7.1. The following is the summary of a third party appeal submitted by Larry O'Flynn;

### Violation of a planning condition

- Condition no. 1 of L.A. Ref. 03/6354 (appeal ref. 206261) prohibits future housing development within the applicant's father's landholding. The proposed development violates this condition.

- It is submitted that in 2004 the An Bord Pleanála Inspector recommended that planning permission for a house for Michael O’Flynn shall be refused. The Board granted permission for this development subject to strict adherence to conditions.
- It is contended that should planning permission be granted for L.A. Ref. 16/05217 then it would have two serious consequences. Firstly the previous development within the land portfolio no longer meets the concerns of the Planning Inspector and secondly both the previous development and the current proposal are in contravention of the proper planning and sustainable development of the area.

#### Precedent

- The grant of planning permission would set a precedent whereby conditions established by An Bord Pleanála are set aside.
- This case should not be considered in isolation but rather from the perspective that it would have serious ramifications for future development.

#### Contravention of the County Development Plan

- It is submitted that many third party applicants in in this local area have had their planning permission refused in line with the County Development Plan.
- It is considered that a planning application should be turned down when it is in breach of An Bord Pleanála conditions and the County Development Plan.
- It is submitted that the existing farm holding has 8 bungalows, 4 no. two-storey houses and an 10,000 sq. foot house.
- The density of construction is far in excess of similar sized farms in the area.
- It is submitted that an adjacent farm recently acquired by the applicant’s father has a single two-storey house which is currently vacant.
- This vacant property would offer an opportunity to the applicant without impacting on the local area the same way as new build would.

#### Access Points to the Proposed Sites

- The site in question is landlocked with no road frontage.

- The applicant intends to use a right way to access the site.
- The right of way was established under a gentleman's agreement.
- It is contended that the proximity of the active equestrian area at the western access point to the proposed vehicular access from the public road is a safety hazard.
- It is contended that any Bank or financial institution would not provide a mortgage for the proposed house on the basis that the right of way arrangement is an impediment to their security. This makes the site less marketable.

#### Geological Topography

- The geology of the site is not conducive to a building project of any magnitude.
- The subject site is known as the quarry field.
- The site was given this name due to the porous limestone rock on which the field is situated.
- There has been a history of limestone extraction in the local area.
- It is contended that subterranean caverns embedded in the porous limestone rock are a noted feature of the immediate area.
- The site is elevated relative to the surrounding area.

#### Planning Conditions

- It is contended that the planning conditions do not relate to the proposed development, in particular condition no. 11.
- Condition no. 11 refers to a public road which is not adjoining the site.

## 7.2. Applicant Response

The following is the summary of a response submitted by the applicant's agent;

#### Introduction



- The appeal submission is vexatious and the Board is requested to exercise its discretion under Section 138 of the Planning and Development Act.
- The Board can determine that an appeal is vexatious or frivolous without substance or foundation.
- It is submitted that the appellant is a brother of the applicant's father.
- It is submitted that the appeal includes many unfounded allegations.
- There is no evidence to support the argument that the planning authority granted permission in breach of planning permission due to the unique relationship between the planning authority and the applicant's father.
- The appeal submission defames the applicant and the local authority.

The Development violates An Bord Pleanala conditions.

- Condition no. 1 of appeal ref. 206261 relates to the 2003 County Development Plan. The policy on rural housing was significantly different to that which applied in the current County Development Plan.
- Policy Objective SPL 3-5 of the 2003 County Development Plan had the potential to allow a significant number of new dwellings in the rural area where there was significant rural-generated demand. On this basis Cork County Council began to apply sterilisation agreements.
- The widespread use of Section 47 agreements is not advised or recommended in the Guidelines on Sustainable Rural Housing, 2005, and the Development Management Guidelines, 2007.
- Objective RCI 11-1 of the Cork County Development Plan, 2009, made provision for Section 47 to be used for occupancy restrictions and not for sterilisations of landholding.
- The question of weight that should be applied to a 2004 sterilisation agreements, which are no longer consistent with national guidelines is raised.
- This issue was addressed in High Court Case Langrath Properties Limited v Bray Urban District Council.

- Mr. Justice Frederick Morris concluded that the local authority in considering future redevelopment of sites is restricted to considering the proper planning and sustainable development of the area and it is not open to the Authority to rely solely upon the fact that there is an agreement which will prohibit further development of lands in existence. This restriction would be an unconstitutional interference with the right of private ownership of land.
- It was contended that the restrictions of a Deed of Covenant of this nature only remain valid when the proper planning of the area no longer requires that the restriction remain in place.
- It is submitted that the implication of the High Court case is that Cork County Council was obliged to assess the planning application without regard that there is a Section 47 in place.
- The legal issues relating to the case were addressed in the Executive Planner's report and unsolicited information, submitted with the case on behalf of the applicant. It is submitted that the fact that the Council failed to refer to either documents confirms the vexatious nature of the appeal.
- The legislative provisions regarding the Planning Policy must be considered having regard to the planning application.
- The Planning and Development Act sets out the legal provisions for making a development plan which sets out the overall strategy for the development of the area referred to in the Development Plan.
- It is submitted that it was never intended that Section 47 of the Planning and Development Act could be used to circumvent the statutory provisions that govern the adoption and review of the Development Plan.
- Section 34 of the Planning and Development Act ensures that it is not open for the Planning Authority or the Board to consider historical agreements which may be in place as it would be acting in contravention of Section 34.

#### Precedent

- It is submitted that having regard to the high court decision in the case *Langrath Properties Limited v Bray Urban District Council* and relevant legislative provisions in the Planning Development Act that the consideration

of the planning application is on the basis of current planning policy and objectives and not having regard to historical agreements.

- The period of any agreement and any decision as to whether or not the Section 47 agreement is enforced is between the Local Authority and the applicant under appeal ref. 206261. This is outside the scope of the Board and therefore would not create any precedent whether conditions requiring Section 47 agreements will be imposed in the future.

#### Contravenes County Development Plan

- The claim that many applicants for rural houses in the local area were denied is unfounded.
- Since the period 2003 there were 15 applications for dwellings in the Kilcrea townland. Only 3 of these applications were refused planning permission. One of these was subsequently permitted and the other two related to the same site. As such one application for a house was refused.
- The appellant did not object to any development proposal in the area apart from the application from his brother Micheal O'Flynn.
- The appellant did not object to a recent permission (L.A. Ref. 16/5006) which was situated 200m from his dwelling.
- There have been 4 no. appeals in the local area and the appellant has made three of these appeals against members of his own family. It is contended that this outlines the vexatious nature of the appeal.

#### Access

- The vexatious nature of the appeal is evident from the manner in which the appeal submission attacks the applicant's legal title.
- There is a formal grant of right of way in place over the private roadway from which the site is accessed. The submission includes a letter from the applicant's solicitor confirming the legal status of the right of way.

#### Limestone foundation

- It is submitted that the waulsortian limestone bedrock of the proposed site applies throughout this area and is the same as the appellant's site.

- This is similar to the wider area including Cork City and Environs and Ballincollig.
- A technical note is included in Appendix 2 in relation to the geology of the site. It is confirmed that there is no evidence to suggest that the ground conditions of the site make it unsuitable for development.

### Conditions

- It is submitted that the Planning Authority and An Bord Pleanala regularly use planning conditions and this is recommended by Section 7.2 of the Development Management Guidelines.
- The appellant's argument in relation to condition no. 11 ignores the fact that surface water on the private lane may find its way towards the public road.
- The appeal submission also ignores the fact that conditions no. 12, 13, 14 and 15 may involve changes to the drainage regime at the junction between the private and public roads.
- The planning authority's approach in relation to planning conditions was in accordance with best practice.
- It is submitted that the appellant's claims in relation to condition no. 11 is sufficient ground to treat the appeal as vexatious, frivolous and without substance.

### **7.3. Planning Authority Response**

The Planning Authority submitted a response stating that it was considered that the applicant adequately complied with the rural housing policy having regard to the rural housing policy, the applicant's social and economic links to the area, the nature of the site and planning history on the landholding.

### **7.4. Observations**

None

## 8.0 **Assessment**

### 8.1. Introduction

Prior to considering this assessment it is important to note that the applicant, in their response to the appeal submission, contends that the appeal submission is vexatious and frivolous. I have examined the appeal submission and I am of the opinion that the submission has raised valid planning issues and therefore I would not recommend to the Board, to dismiss the submitted appeal on grounds that it is vexatious or frivolous.

### 8.2. Principle of Development

A key consideration in this appeal relates to the applicant's rural housing need in this area and as such whether this housing need complies with the provisions of the Cork County Development Plan, 2014 – 2020, and the Sustainable Rural Housing Guidelines, 2005.

I would note from the supplementary planning application form which accompanied the planning application that the primary applicant is a local rural person who intends to build a house for her own occupation adjacent to her parent's house. The owner of the appeal site is the applicant's father and there is a signed note within the documentation on the file whereby the father consents to the applicant's planning application. The applicant has lived all her life in the local area and has attended school locally and has sporting connections to this local rural area. In addition the family have been farming land in this local area for generations and currently operate a stud farm. The applicant who is an accountant is employed as a chartered accountant for the family stud farm business.

I would acknowledge that Figure 4.1 of the Cork County Development Plan, 2014 – 2020, sets out the rural area types and the appeal site is located in the area designated 'Rural Area under Strong Urban Influence'. Section 4.4.3 of the Cork

County Development Plan, 2014 – 2020, sets out the criteria required to be met in order to be considered eligible for a one off rural house in areas designated 'Rural Area under Strong Urban Influence'. The local need criterion includes the following;

- *Farmers, including their sons and daughters who wish to build a first home for their permanent occupation on the family farm.*

This is arguably the case as the applicant is a daughter of the landowner who in turn owns the stud farm operation.

- *Persons taking over the ownership and running of a farm on a full-time basis, who wish to build a first home on the farm for their permanent occupation, where no existing dwelling is available for their own use. The proposed dwelling must be associated with the working and active management of the farm.*

This is not the case.

- *Other persons working full-time in farming, forestry, inland waterway or marine related occupations, for a period of over seven years, in the local rural area where they work and in which they propose to build a first home for their permanent occupation.*

This would be the case.

- *Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation.*

This is clearly the case as confirmed in the submitted supplementary planning application. Notwithstanding the applicant's claims there is no documentary evidence such as school records or utility bills with the applicant's address details however I would note that the applicant's local connections to this rural area are not contested by the Local Authority or the third party and given the planning history the applicant's local rural connections would appear genuine.

- *Returning emigrants who spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation, who now wish to return to reside near other immediate family members (mother, father, brother, sister, son, daughter or guardian), to care for elderly immediate family members, to work locally, or to retire.*

This is not the case.

On the basis of the rural area type where the appeal site is located, i.e. Rural Area under Strong Urban Influence, and the basis of the applicant's submitted application I would conclude that the applicant would have a genuine rural housing need in this location. However there are other planning considerations that must be assessed. Accordingly I would conclude that the proposed development is acceptable in principle.

### 8.3. Condition no. 1 of appeal ref. 206261

Condition no. 1 of this history file is relevant to the current case before the Board.

Condition no. 1 states *'prior to commencement of development an agreement shall be entered into with the planning authority under Section 47 of the Planning and Development Act, 2000, to preserve the lands bounded blue on the rural place*

*map number 0198-02 submitted to planning authority on the 11<sup>th</sup> day of December, 2003, free of any further residential development.*

The reasons for this condition were stated as *'the proposed site is located in a rural area where it is necessary to restrict the number of new houses in the area'*.

The Planning Inspector in the previous appeal (appeal ref. 206261) considered that the applicant did not fulfil the rural housing need criteria as set out in the County Development Plan at that time and for that reason recommended refusal. The Board decided to grant planning permission subject to conditions and principally condition no. 1 stated above. The Board's Order for this permission was granted on the 6<sup>th</sup> of July 2004, over 12 years ago.

I would consider that it is evident from the Board's condition no.1 of appeal ref. 206261 and having regard to drawing no. 0198-02 (referred to in the Board's condition) that the Board has previously categorically determined that a single dwelling only would be permitted within the applicant's landholding.

The current application and appeal before the Board provides for a second dwelling within the same landholding as the previous application and as such the purpose of this current application and appeal before the Board is to challenge condition no. 1 of previous decision (appeal ref. 206261). I acknowledge the appellants comments that the current proposal would represent a precedent. However I would not consider that should permission be granted that this would represent a precedent as each case is considered on its own merits.

I would acknowledge the comments submitted by the applicant's agent in relation to guidelines on the sterilisation of land. Section 4.7 of the Sustainable Rural Housing, Guidelines for Planning Authorities, 2005, offers guidance in relation to sterilisation agreements. In general it is stated that these agreements were used to regulate development in rural areas. The guidelines state that these agreements



were used to regulate overdevelopment in rural areas, mainly through urban generated development. However the national guidelines recommend that given the inflexible nature of sterilisation agreements that they should be avoided. The guidelines further advocate that Planning Authorities should decide on the merits of individual proposals in terms of the proper planning and sustainable development of the area. This recommendation from the guidelines is adopted by the Cork County Development Plan, 2014. Paragraph 4.6.12 of the Cork County Development Plan, 2014, acknowledges that sterilisation agreements should generally be avoided and shall be used only in exceptional circumstances and the Local Authority should decide on the merits of the case.

The Development Management Guidelines, 2007, also advise that the conditions relating to sterilisation agreements under Section 47 of the Planning and Development Act should be avoided because of the inflexible nature of these agreements. In considering the current case before the Board I would also acknowledge the law case in Langrath Properties Limited v Bray Urban District Council. The judgement in this case concludes importantly that the Local Authority or An Bord Pleanala in considering future redevelopment of land are restricted to considering the proper planning and sustainable development of the area.

In relation to the current case before the Board I would consider that material changes to policy or national guidelines would allow the Board's decision to be revisited given that condition no. 1 was imposed over 12 years ago. I would conclude, having regard to the above, that planning decisions and conditions can be challenged over time given the changing nature of policy provisions and guidelines which can vary over time.

I would consider that the a genuine rural housing need has been determined in Section 8.1 above and I would consider the individual merits of this case would be

sufficient to overcome the sterilisation agreement as set out in Condition no. 1 of Board's Order in appeal ref. 206261.

#### 8.4. Design

Although this issue was not raised in the appeal submission I will just outline a few issues for the Board's consideration given the scale of the proposed house. The appeal site is removed from the public road and allowing for established mature vegetation to the immediate east and west of the appeal site the proposed development would not be visible from the public road. In addition the proposed development includes dense planting which will provide additional screening.

The Cork County Development Plan, 2014, sets out landscape designations for the County and these include 'Scenic Routes' and 'High Value Landscapes'. I have reviewed the landscape designations of the County Development Plan and I would note that the appeal nor its immediate environs is not afforded any landscape designations.

Overall I would consider that the site can accommodate and absorb the proposed development.

#### 8.5. Access

The proposed vehicular access to serve the site is from a private laneway which will access the public road via an established vehicular access to the east of the proposed development. The established vehicular access from the private laneway currently serves the applicant's parents house.

I would note that the Area Engineer sought additional information requesting the applicant to demonstrate adequate sightline provision in either direction from the vehicular entrance onto the private laneway. The applicant submitted a drawing illustrating a sightline provision of 90m in either direction from a setback distance of

distance of 2.5m and the Area Engineer considers this acceptable. Overall I would consider that the sightline provision to serve the proposed development as adequate.

I would also note that the legality of the private laneway has been raised by the appellant. This is a legal issue which the Board are unable to adjudicate on within the remit of the Planning and Development Act. It is important to note Section 34(13) of the Planning and Development Act, 2006, which states '*a person shall not be entitled solely by permission under this section to carry out any development*'. There is therefore an obligation on the applicant to ensure that they have full legal title before proceeding with any permitted development.

#### 8.6. Condition no. 11

I would consider that this condition is generally acceptable as having regard to the local topography which undulates and given that there is a direct pathway from the appeal site, in the form of a private laneway, to the public road there is the potential for surface water to enter the public road from the site or its private laneway.

#### 8.7. Drainage

In relation to waste water treatment I would note from the submitted Site Characteristic Form that the recorded T-value is 7.14. The E.P.A. publication, Code of Practice, Wastewater Treatment and Disposal Systems Serving Single Houses, 2009, advises that T value between 3 and 50 that the site is suitable for development of a septic tank or a secondary treatment system. The Site Characteristic Form recommends a proprietary packaged wastewater treatment system and a packaged tertiary treatment filter be used. I would consider this as an acceptable means to facilitate the proposed domestic waste water.

The appellant, in his submission, claims that the local geology is unsuitable to the proposed development and in this regard considers that the presence of a former

limestone quarry adjacent to the site would confirm that there is a presence of 'subterranean caverns' locally which would have implications for the proposed build.

In response I note that the applicant's submission includes a 'Technical Note on Geological Setting'. This technical note concludes that having regard to GSI karst data base there is no record of karst subsidence features in the locality.

I would consider that there is no evidence to support the appellant's claims and that the information in the technical note would address any concerns.

#### 8.8. Appropriate Assessment

I would note from the NPWS website ([www.npws.ie](http://www.npws.ie)) that the nearest Natura 2000 designated site, i.e. The Gearagh SAC (Site code 000108) is located in excess of 15km west to the appeal site.

Having regard to the nature and scale of the development proposed, to the nature of the receiving environment and the likely effluents arising from the proposed development I recommend that no appropriate assessment issues arise.

### 9.0 **Recommendation**

9.1. I have read the submissions on the file, visited the site, had due regard to the Town Development Plan and the County Development Plan, and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

### 10.0 **Reasons and Considerations**

Having regard to the location of the site, the nature of the proposal, the policies of the Cork County Development Plan, 2014 – 2020, and the Sustainable Rural Housing Guidelines for Planning Authorities, 2005, it is considered that, subject to compliance with conditions set out below, the proposed development would not be prejudicial to the amenities of the area and would be acceptable in terms of traffic

safety. The proposal would therefore be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by plans and particulars submitted to Cork County Council on 15 July 2016 and, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

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

2.
  - (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
  - (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. The entire premises shall be used as a single dwelling unit only.

**Reason:** To prevent unauthorised development.

4. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes shall be submitted to the planning authority for agreement.

**Reason:** In the interest of orderly development and the visual amenities of the area.

5. The proposed vehicular entrance shall be designed and constructed in accordance with the requirements of the planning authority. Details shall be agreed with the planning authority prior to the commencement of development.

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

6. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

**Reason:** In the interest of orderly development and the visual amenities of the area.

7.

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.

8.

Surface water from the site shall not be permitted to drain onto any public roads.

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

9. That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

**Reason:** To protect the amenities of the area.

10.

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 the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of amenities and public safety.

11.

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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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Kenneth Moloney  
Planning Inspector

20<sup>th</sup> December 2016