



An  
Bord  
Pleanála

## Inspector's Report PL29N. 248832

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<b>Development</b>	Bar and restaurant
<b>Location</b>	12b and 12c Lower Abbey Street, Dublin 1
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3660/16
<b>Applicant</b>	JD Wetherspoon plc
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Brenda Tynan
<b>Observer</b>	None
<b>Date of Site Inspection</b>	28 <sup>th</sup> September & 17 <sup>th</sup> October 2017
<b>Inspector</b>	Stephen J. O'Sullivan

## 1.0 Site Location and Description

1.1. The site lies on a principal street in the city centre of Dublin. It has a stated area of 900m<sup>2</sup>. It is occupied by two early 19<sup>th</sup> century buildings that are currently vacant. That at No. 12B Lower Abbey Street is a two storey structure with a stone façade that was previously a bank. It is a protected structure. The building at No 12C Lower Abbey Street has a rendered façade and was formerly a church. It is not a protected structure. It stands on the corner with Northumberland Square, a secondary street that provides access to the underground car park beneath the Irish Life Centre, which is mixed use development that dates from the second half of the 20<sup>th</sup> century that occupies most the city block on the northern side of Lower Abbey Street. It includes an office building that adjoins the western site boundary, and a 5-storey apartment building known as Abbey Court that adjoins part of the northern site boundary. The rest of the northern boundary adjoins a courtyard overlooked by some of the offices and apartments in the Irish Life Centre. The Luas runs along the other side of Abbey Street. Bus stops occupy the road along the footpath in front of the site. Office use predominates the immediate vicinity of the site, along with some commercial, cultural and social uses.

## 2.0 Proposed Development

- 2.1. It is proposed to change the use of the two buildings to a bar and restaurant. A glazed link would be provided between the two buildings. The total floor area of the proposed development is stated to be 1,620m<sup>2</sup>, of which 920m<sup>2</sup> would be retained from the existing buildings on the site and 700m<sup>2</sup> would be new building. The public areas of the bar and restaurant would extend over two floors, with ancillary accommodation and plant in the basement and roof spaces. Part of the roof over the former church at No. 12C would be replaced by a retractable roof light, so that some of the premises towards the street at No. 12C would be open to the air at certain times. Its area is given as 92m<sup>2</sup>. There would also an open drinking area between the western boundary of the site and the side of the building at 12B, partly (16m<sup>2</sup>) at ground floor and partly (35m<sup>2</sup>) at first floor level.
- 2.2. The applicant stated that the operation of the proposed bar and restaurant would be similar to its other premises in Ireland and Britain in that food would be served all day

until 2300 and there would be no amplified music. Many of its other pubs are in historic buildings of significant conservation value, including former churches. The application was accompanied by an assessment and record of the existing condition on the buildings on the site by a conservation architect which was supplemented in the further information submitted to the planning authority. That information also provided minor alterations to the proposed development involving an increase in the floor area in the gallery in 12B and a decrease in the size in the gallery in 12C, as well as clarification of the indoor location of the bin store on the western site boundary

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority decided to grant permission subject to 16 conditions. Condition no. 1 referred to the further information submitted to the planning authority on 15<sup>th</sup> May 2017. The conditions did not substantially alter the proposed development.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The report on the initial application stated that the proposed uses were in keeping with the zoning of the area and would contribute to the vitality of the area where offices predominate and there are relatively few bars or restaurants. The proposed development would not lead to an over concentration of such uses. Reference was made to the conservation officer's report. The outdoor terraces would be on the west side of the bank building and so would be screened from the apartments at Abbey Court. The outdoor terraces would be seated, and should not cause an undue impact on residential amenity. The beer garden would be closer to the apartments and would have a retractable roof. The proposed delivery arrangements are satisfactory. It was recommended that further information be sought regarding waste storage and the details required by the Conservation Officer. The submitted

information was regarded as acceptable and a grant of permission was recommended.

### 3.2.2. Other Technical Reports

The report from the Conservation Officer on the initial application stated that the proposed development would return underutilised buildings to use, and that the design approach of uniting the two premises while placing the larger part of the services in the non-protected structure is reasonable. However more detailed information was required. The subsequent report on the further information recommended conditions to be attached to any grant of permission.

The Roads Division raised no objection to the proposed development.

The Drainage Division raised no objection to the development.

The Waste Management Division of the council recited general conditions with regard to the proposed development.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland recommended the attachment of conditions to avoid interference with the Luas along Abbey Street.

### 3.4. Third Party Observations

The appellant and other residents and owners of apartments at Abbey Court made submissions objecting to the proposed development on grounds similar to those raised in the subsequent appeal. Concerns regarding odour from the kitchen and waste handling were also expressed. Irish Life plc also made a submission, stating their intention to improve the public realm on their property beside the current site and their concern that the proposed development be managed appropriately with regard to noise, waste, deliveries and security so as not to reduce the amenities of its property and the value of its investment in it.

## 4.0 Planning History

No recent relevant planning applications pertaining the site were raised by the parties.

## 5.0 Policy Context

### 5.1. Development Plan

The Dublin City Development Plan 2016-2022 applies. The site is zoned under objective Z5 as part of the city centre. The former bank building at No. 12B Abbey Street is a protected structure. Policy CHC1 is to seek the preservation of the built heritage of the city. Policy CHC2 is to ensure that the special interests of protected structures is protected, and that changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted subject to various criteria. Section 11.1.5.3 states that the historic use of the structure is part of its special interest and in general the best use for a building will be that for which it was built. However, on occasion the change of use will be the best way to secure the long term conservation of a structure. Section 16.29 states that the positive contribution of café and restaurant uses and the clusters of such uses to the vitality of the city is recognised, The impact on nearby residents, traffic, waste storage and the need for a suitable mix of uses will be considered when applications for restaurants are made. Section 16.32 of the plan refers to licensed premises. It states that there is a need to protect the amenities of residents from an over-concentration of late night venues. Noise emanating from and at the boundaries of these establishments are issues which will need to be addressed in planning applications for such establishments. Noise insulation and reduction measures, especially relating to any mechanical ventilation or air-conditioning, will be required to be submitted with any such planning application. The development of 'superpubs' will be discouraged and the concentration of pubs will be restricted in certain areas of the city where there is a danger of over-concentration of these to the detriment of other uses.

### 5.2. Natural Heritage Designations

None

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- The appellant is amplifying the concerns of all the residents at Abbey Court in the Irish Life Centre regarding the noise aspect of the proposed public house that will operate from 0700-2300 and will have deliveries from 0100-0600. It is clear from the application that the proximity of a residential building was overlooked. The planning application report submitted by the applicant stated that there were no noise sensitive receptors in the immediate vicinity of the subject site and did not mention the adjoining apartments. Photographs are submitted to demonstrate the proximity of the apartments to the development site that backs onto them.
- The proposed development would cause serious noise pollution and severely impact the quality of life of the residents due to the operation of the pub; associated increases in social and anti-social behaviour in and around the site; the proposed beer garden and terrace; and more pedestrian activity late at night. Section 4.1.1 of the applicant's report acknowledges that the proposed development would significantly alter the public realm. It does not refer to the fact that this would produce reasonable cause for annoyance due to the greater noise and pedestrian activity and animation of the area. Footfall would be increased both during the working day and at night. Pedestrian activity from a licensed premises would consist of significantly increased noise levels for the immediate area which is a significant concern for residents and will cause a deterioration in their quality of life. It would significantly increase the noise levels in the area, contrary to what is stated in the applicant's report.
- The development would have two outdoor areas and a beer garden with a retractable roof that would back onto the living areas, bedrooms and balconies of the apartments at Abbey Court. The noise and odours emanating from them would be cause disturbance and annoyance to residents. The noise and odours from the ventilation systems would also cause disturbance and annoyance to the residents of Abbey Court. The windows on the

apartments are single glazed, which would provide little insulation from the noise arising from the proposed development.

- The carrying out of the proposed development would result in significant noise and disturbance to the residents of Abbey Court and an increase in traffic to and from the site in the early hours of the morning.
- The applicant's noise management plan is large reactive and relies on the ability of staff to curtail noise from patrons after it arises. If the customer has already made noise then it is too late for the residents of Abbey Court who will have had reasonable cause for annoyance. Measures such as signage reminding patrons of the need to respect the rights of neighbours or with taxi numbers will have no impact in reducing or managing noise pollution.
- The proposed deliveries between 0100 and 0600 would cause serious noise pollution and sleep deprivation for the residents of Abbey Court and is of grave concern. The schedule has been designed to fit the needs of Dublin Bus with absolutely no regard for the residents of Abbey Court. It will cause undue stress and anxiety to the residents. The entrance to the kitchen off Northumberland Square would be beside the entrance to Abbey Court and below bedroom windows. Northumberland Square is a short narrow street and it is unlikely that an 18 tonne lorry could access it without difficulty
- The development contravenes the development standards relating to licensed premises in the development plan . Section 16.32 states that the development of superpubs will be discouraged. The proposed public house occupying 1,620m<sup>2</sup> over two buildings would reasonably be considered a superpub and approving them can hardly be seen as discouraging their development. Section 16.32 also states that noise would need to be addressed in planning applications for such developments. The noise management plan submitted with the application failed to address the noise from the proposed establishment with the roof terraces and beer garden exacerbating the noise at the boundaries rather than mitigating it. The noise management plan does not address increased pedestrian activity or noise at the boundary of the establishment. The proposed development will significantly and detrimentally alter the current quality of life for residents of

Abbey Court due to noise and the change in the use of an area that is currently largely residential and office based.

## 6.2. Applicant's Response

- The application documents referred to the mixed use Irish Life Building and considered the residential use as part of a city centre where a broad range of activities take place. A survey of the noise in the receiving environment is submitted. The noise assessment indicates that forecast noise levels can be appropriately managed to acceptable levels. If required, the terrace and roof can be closed at 2300 on foot of a planning condition. The local authority did not consider the roof terrace or beer garden to be an undue threat to the amenities of nearby property. The outdoor areas will be seated and are separated from the apartments. They will not have an undue impact on the residential amenity of city centre properties. No amplified music will be played in the proposed facility and general controls on noise were required by the condition no. 8 of the planning authority's decision. Having regard to these factors, it can be concluded that the proposed development would have a significant negative impact on the adjoining residential units.
- The proposed construction management plans are in line with best practice. It is impractical to be precise at this stage, but the applicant is committed to minimising impacts where possible. However it is not possible to develop without construction traffic.
- The use of Abbey Street for deliveries at appropriate times is in keeping with the current arrangements for servicing commercial properties. Glass bins will not be emptied between 2100 and 0900. Deliveries to the kitchen can take place from vans parked on Abbey Street using a hand trolley to reach the kitchen door.
- The location and design of the ventilation equipment would reduce the impact of noise from them.
- The proposed development would not be a superpub, which is not definable in landuse terms. The public areas are largely for seated patrons and food



service. It is not intended to be a late night destination. There will be no amplified music.

- A noise impact assessment report was included with the response to the appeal. It specifies that delivery vehicles should only access Abbey Street, with no dropping or rolling of kegs. The roof terrace and the rooflight would need to be closed at 2300 to comply with standards set in BS8233:2014 which is cited in the city development plan. Cumulative plant noise at the nearest façade of the apartments should not exceed 39dB  $L_{Aeq,T}$ . The occupier of the site could not control the noise from pedestrians on the public road, while the applicant's policy on the control of noise from within the development is provided as a mitigation measure.

### 6.3. **Planning Authority Response**

The authority's response refers to its planner's report on the application.

### 6.4. **Further Responses**

The applicant's response was circulated for comment. The planning authority responded to say that they had no further response. The appellant's response can be summarised as follows-

- The submission does nothing to refute the grounds of the appeal, which are reiterated. It is disingenuous not to describe the proposal as a superpub.
- The noise survey submitted by the applicant was carried out at a time when noise from seagulls nesting and hatching artificially raised background noise levels. The assessment concedes that noise from the outdoor areas would cause annoyance to residents when it proposes a curfew. However the curfew would not mitigate the disamenity. It would be more appropriate to remove the beer garden and roof terrace, although this would not remedy the injury to the character of the area. The applicant's noise management plan remains reactive and relies upon the management being able to control noise once it arises. The applicant's submission states that it could not deal with noise by customers on the street, however the development plan states that

noise at the boundaries of these establishments should be addressed in planning applications.

- The applicant's submission does not adequately address noise from deliveries, which would not be mitigated by the use of a hand trolley. Emptying glass bins is a cause of concern at any time of day. The use of pallets would not remove the potential for noise from handling kegs. The noise from plant would occur over 24 hours. Noise insulation and reduction measures were not considered in the application as required by the development plan.

## 7.0 Assessment

7.1. The planning issues arising from the proposed development can be addressed under the following headings –

- Policy
- Residential amenity
- Architectural Heritage

### 7.2. Policy

7.2.1. The proposed bar and restaurant uses are permissible under the Z5 zoning that applies to the site. Section 16.29 of the development plan recognises the positive contribution that cafes and restaurants make to the vitality of the city. Given that the proposed bar would serve food over the larger part of the day, it would be supported by this provision of the development plan. Section 16.32 of the plan refers to the need to avoid concentration of late night venues and pubs in certain parts of the city. The proposed development would not lead to an over concentration of licensed premises or late night venue as there are few in the immediate vicinity of the site. There was a pub near the site at Northumberland Square which had functioned as a late night venue. However it was recently demolished during works to improve the public realm at the front of the Irish Life Centre. Section 16.32 of the plan discourages the development of superpubs. "Superpub" is a rather pejorative term that is not precisely defined in planning terms. The scale of the proposed pub

relates to that of the historic buildings that it would occupy. The original purposes of those buildings, as a branch of a bank and a place of worship, are not likely to provide viable long term uses that would support their maintenance and conservation. Their proposed conversion would therefore be supported by policy CHC2 and section 11.1.5.3 of the development plan. The proposed conversion of two buildings allows a greater part of the services to be located in the former chapel which means that more of the historic fabric of the protected structure can be retained. The joint conversion of the buildings and thus the scale of the proposed bar is therefore justified, and so it should not be refused as a superpub. The principle of the proposed development is therefore supported by the provisions of the development plan and is acceptable. However whether this specific proposal is in keeping with the proper planning and sustainable development of the area also depends on whether it adequately protects the built heritage of the area and the residential amenities of adjacent property, as stated in policy CHC2 and sections 16.29 and 16.32 of the development plan. These matters are considered below.

### **7.3. Residential Amenity**

- 7.3.1. The proposed development would increase the animation of the public realm in this part of the city centre, particularly in the evenings and at weekends, by providing a use that was active and attractive to pedestrians. This impact on the character of the area would be generally positive. It would not represent a threat to the residential amenities of the nearby apartments. The proposal to make deliveries from vehicles parked on Abbey Street at night would protect the operation of public transport facilities in the city. The location of the parking for delivery vehicles and of the gate through which goods would be received on Abbey Street would, along with the use of a trolley for deliveries to the kitchen door on Northumberland Square and the prohibition on dropping or rolling kegs, be adequate to avoid any significant threat to the residential amenities of the apartments at Abbey Court on the other side of the site.
- 7.3.2. The beer garden and terrace in the western part of the site would be separated from the apartments at Abbey Court and screened from them by substantial walls and the building at No 12B. The noise and activity there would not threaten the residential amenities of the apartments. The proposed open area under the retractable roof at

No 12C would be closer to the apartments and the potential effect of noise from it would need to be mitigated. The measures outlined in the noise management plan submitted with the application are reasonable, but do not amount to matters that could be effectively required under a planning permission. However the statement from the applicant that the amplified music will not be played is a relevant planning matter. Its absence would in itself reduce the noise generated by the proposed bar. It would also tend to reduce the noise generated by the customers in the bar. The absence of amplified music in the bar can be readily verified and could therefore be effectively required under a planning condition, as could the closing of the roof at 2300. Subject to the implementation of these measures, the use of the open area at No 12C would not significantly injure the residential amenities of the apartments at Abbey Court by virtue of noise. The proposed open areas in the development would be sufficiently removed from the apartments to avoid significant nuisance from tobacco smoke.

- 7.3.3. There is a possibility that poorly functioning buildings services, including ventilation and refrigeration plant, could give rise to noise and odours that would impinge on the enjoyment of the balconies of the apartments at Abbey Court. However the risk is not inherent in the location or design of the proposed development and could be avoided by the proper installation, use and maintenance of plant. It would be appropriate to control this matter by general conditions similar to that imposed by the planning authority and recommended by its Environmental Health Officer. The proposals specify that the bin storage area will be covered and situated on the western side of the site furthest from the apartments, which would adequately mitigate the risk of odour from waste interfering with the residential amenities of the nearby apartments.
- 7.3.4. Having regard to the foregoing, it is considered that the proposed development would not seriously injure the amenities of property in the vicinity of the site.

#### 7.4. **Architectural Heritage**

- 7.4.1. As stated above, the proposed development would provide a viable long term use and contribute to the maintenance of two historic buildings including a protected structure. It would maintain the external appearance of both buildings, subject to a requirement for a further application for signage. The proposed development would

allow public resort to the buildings, which were both originally intended for such, albeit on a commercial basis. The layout of the former bank and protected structure would be largely retained. It is noted that the main banking hall was substantially altered in the 20<sup>th</sup> century, but the proposed development provides for the retention of the larger part of the historic details on the upper floor and in the former offices in the bank. Extensive information was submitted to substantiate the proposals in this regard, including survey details and construction method statements. Greater changes are proposed to the former chapel which would accommodate kitchens, toilets and an open area on the first floor. This is considered appropriate given the lesser significance of the building at 12C, the extensive alterations that have already occurred to it and the fact that it is not a protected structure. The proposed link between the buildings would be a glazed structure and so could be easily distinguishable from their historic elements. Its installation would also be reversible. It is noted that the council's conservation officer was satisfied with the proposals, and that the applicant has an established business model that involves the adaptation of historic buildings in city centres whose former civic functions are no longer viable. In these circumstances it is considered that the proposed development would not have a detrimental impact on the special interest of either building on the site and would be compatible with their long term conservation. As such it would have a positive impact on architectural heritage, and would be in keeping with policy CHC2 of the development plan.

## **8.0 Recommendation**

8.1. I recommend that permission be granted subject to the conditions below.

## **9.0 Reasons and Considerations**

Having regard to the zoning of the site as part of the city centre under objective Z5 of the Dublin City Development Plan 2016-2022, to policy CHC2 of the plan to allow changes in the use of protected structures which are compatible with their conservation, to the measures proposed to limit the emissions of noise and odour, and to the pattern of development in the area it is considered that, subject to compliance with the conditions set out below, the proposed development would not

seriously injure the amenities of property in the vicinity of the site, would not detract from the architectural heritage of the city and would be in keeping with the provisions of the development plan. The proposed development would therefore be in keeping with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 15<sup>th</sup> day of May 2017, 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. No music or any other sound for entertainment shall be amplified in or outside the premises on the site. The retractable element of the roof over the building at No. 12c Lower Abbey Street shall be closed between 2300 and 0700.

**Reason:** To protect the amenities of the area and adjacent properties

3. The developer shall comply with the following requirements –
  - a) Prior to the site preparatory works and construction phase a residential notification procedure shall be drafted by the contractor subject to the agreement of the planning authority. This procedure must fully inform all residents of sensitive premises in the area how and to what extent the works will impact them.
  - b) The procedures for noise and vibration control as outlined in BS 5228: Code of Practice for noise and vibration control on construction and open sites Part 1 (BSI 2009) should be implemented in full.
  - c) Adequate measures should be taken to ensure the boundary of the

development shall be free from dust during the site preparation and construction phase.

d) The noise levels from the development, during the operational phase, measured as an LAeq (5 minutes at night, 15 minutes in the day) when all proposed plant is operating, shall not exceed the LA90, when no plant is operating, by 5dB(A) or more.

e) Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place.

f) All of the commitments and noise control measures as outlined in the noise management plan submitted with the application must be implemented in full.

g) No emissions, including odours, from any activities carried on associated with the development shall result in an impairment of, or an interference with amenities or the environment beyond the site boundary or any other legitimate uses of the environment beyond the site boundary.

h) A suitable filtration system shall be installed to neutralise odours prior to their discharge e.g. carbon filtration system.

**Reason:** In order to safeguard the amenities of adjoining premises, residential amenity, and the general surroundings.

4. (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

(b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in

2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

(c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.

**Reason:** To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

5. No exterior signage shall be erected or displayed on the site without a separate grant of planning permission whether or not it would otherwise be exempted development.

**Reason:** To protect the character of the area and that of the buildings on the site

6. Prior the commencement of development the developer shall submit for the written agreement of the planning authority detail of the following -
- External lighting
  - External extraction, ventilation and associated plant or equipment
  - The treatment of the semi-public domain along Abbey Street including any modifications to the hard surfacing or the railings and entrances.

All construction materials and details shall be of high quality, and materials that require a high level of maintenance shall be avoided.

**Reason:** To protect the character of the area and of the buildings on the site

7. The authorised bar and restaurant shall not operate outside the following



hours –

- Between 0700 and 2330 from Monday to Thursday
- Between 0700 and 0030 on Fridays and Saturdays and the day before public holidays
- Between 0700 and 2300 on Sundays

**Reason:** To protect residential amenity

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste. The hours of work shall be restricted to between 0700 and 1800 from Monday to Friday and 0800 to 1400 on Saturdays unless the prior written agreement of the planning authority has been given.

**Reason:** In the interests of public safety and residential amenity

9. The developer shall comply with the following requirements of Transport Infrastructure Ireland:
- a) The developer is required to implement the 'Delivery Plan Briefing Note' document to ensure that no aspect of the proposed development unreasonably interferes with or delays works and operational requirements of TII in respect of the construction and operation of the Luas Cross City Line.
  - b) The developer shall comply with the TII's code of engineering practice for works on, near or adjacent the Luas light rail system.
  - c) The applicant, developer or contractor shall apply for a works permit from the Luas operator required under the Light Railway (Regulation of Works) Bye-Laws 2004 (S.I. number 101 of 2004).

**Reason:** In the interests of public safety and the operation of the LUAS Tram System.

10. The development shall comply with the requirements of the planning authority with respect the supply of water, drainage and the management of waste.

**Reason:** In the interests of public health

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, 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

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Stephen J. O'Sullivan  
Planning Inspector

17<sup>th</sup> October 2017