



An  
Bord  
Pleanála

## Inspector's Report ABP-300405-17

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<b>Development</b>	Construction of 10 houses which will form part of residential development granted under register reference number SD12A/0168, site development works and modifications to the previously permitted site layout.
<b>Location</b>	Elder Heath, Kiltipper, Tallaght, Dublin 24.
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD17A/0337
<b>Applicant(s)</b>	Kelland Homes
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Kelland Homes
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	13 <sup>th</sup> March 2018
<b>Inspector</b>	Ciara Kellett

## 1.0 Site Location and Description

- 1.1. The appeal site is located in Kiltipper, Tallaght, Dublin 24. It is located c.1.7km to the south of the N81 road, c.1.9km south of the Tallaght Town Centre and c.200m to the south of Killinarden Heights road. The site is situated on the southern fringes of the built up area of Tallaght. It is part of the Elder Heath housing development which is still partly under construction. The Elder Heath development comprises mainly 3-bedroomed, 2 storey, semi-detached and terraced dwellings. It is stated that over 120 houses have been completed within the Elder Heath development and over 100 are occupied already.
- 1.2. The Elder Heath housing development has access from the Killinarden Heights road, as well as from Kiltipper Way to the east and Kiltipper Road to the south. The overall development is bounded by Killinarden Heights road to the north, the Deerpark and Cushlawn housing estates to the east, open space and the Kiltipper Road to the south and open space to the west. Two wayleaves bound the site to the north and south.
- 1.3. The appeal site itself is stated as being 0.345Ha in area within the larger landholding of the developer. The site is to the south-west of the overall development. Public open space to serve the Elder Heath development is being developed to the north of the appeal site and this public space is linked to the wider lands to the south via the subject site. The open spaces comprise a number of historical hedgerows which defined the field and land boundaries. One such hedgerow runs in a north-south direction parallel to the subject site.
- 1.4. The appeal site is roughly rectangular in shape and is bounded by the constructed dwellings of Elder Heath Dale to the east. 'Road 5' forms the western boundary and public open space bounds the site to the north and south.
- 1.5. Appendix A includes maps and photos.

## 2.0 Proposed Development

- 2.1. It is proposed to develop 10 dwellings as part of the Elder Heath housing development. The dwellings comprise a pair of 2 storey semi-detached dwellings and a terrace block of 3 no. 2 storey dwellings, with a mirror image arrangement to

the rear, i.e. in total 4 no. 3 bedroom semi-detached dwellings and 6 no. 3 bedroom terrace dwellings.

- 2.2. On each corner there is an 'E' type dwelling which has a side entrance, to provide passive surveillance over the remaining public space to the east and over 'road 5' to the west.
- 2.3. The dwellings are identical in design and materials to the dwellings under construction. An extension to road 5 is proposed to the north and an extension to road 3 to the south connecting with Elder Heath Dale is also proposed. The existing hedgerow running north-south will be bisected to connect road 3 with Elder Heath Dale.
- 2.4. Two car park spaces per dwelling are proposed and the dwellings will connect with the existing services.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to refuse permission for two reasons.

1. *The proposed development would contravene materially conditions attached to existing permissions for development, namely, Condition 2 of SD12A/0168 and Condition 2 of SD16A/0346 which omitted development from the current application site to ensure the provision of adequate good quality, well located and functional open space in accordance with the standards required in the South Dublin County Development Plan 2010 – 2016 and 2016 – 2022 respectively. Thus, the proposed development would be contrary to the proper planning and sustainable development of the area.*
2. *The proposed layout would seriously injure the visual amenity of the area with poor active street frontage and would seriously injure the amenity of the public open space to the east and could give rise to anti-social behaviour by virtue of design. The proposal would therefore not be in accordance with policy H15 Objective 2 of the South Dublin County Development Plan 2016 – 2022 with regard to street frontage and surveillance of streets and spaces (which seeks to ensure that all developments are designed to provide street frontage and to*

*maximise surveillance of streets and spaces) and would be contrary to the proper planning and sustainable development of the area.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Zoning: Notes zoning is 'RES-N – To provide for New Residential Communities' and considers housing would be acceptable in principle, but there are issues regarding compliance with conditions of previous grants.
- Previous grants: Notes development is part of a site which is currently being developed under the relevant grants of permission, Reg. Ref. SD12A/0168 and SD16A/0346. Refers to condition no.2 therein.
- Conditions on both permissions relate to the subject site. Notes that while the townland boundary hedgerow is now retained, the application would contravene the condition relating to the omission of housing in this location which provided for an area of unbroken public open space.
- Considers it is clear from the conditions referred to, that the intention of the Planning Authority is to preserve the subject site for the provision of good quality, well located and functional open space.
- Having regard to the location of the proposed 10 houses and the planning history, considers that the proposal would not be in accordance with conditions of previous planning permissions.
- Refers to the proposed layout: Considers design provides for the private amenity space to side onto the public street and open space. Considers design would seriously injure the visual amenity of the area with poor active street frontage and could give rise to anti-social behaviour by virtue of design.
- Recommends permission is refused.

The decision was in accordance with the Planner's recommendation.

#### 3.2.2. Other Technical Reports

- **Surface Water:** No objection subject to conditions.

- **Flood Risk:** No objection subject to conditions.
- **Roads Section:** No objection
- **Public Lighting:** No report
- **Housing Strategy Unit:** No objection subject to conditions.
- **Parks and Landscape:** No report
- **EHO:** No objection subject to conditions.

### 3.3. Prescribed Bodies

- **Irish Water:** No report

### 3.4. Third Party Observations

None received

## 4.0 Planning History

There are a substantial number of planning applications associated with the larger landholding, including the parent permission for the Elder Heath development. The relevant applications are summarised below.

- **SDCC Reg. Ref. SD16A/0346:** Permission was granted in March 2017 for the construction of 73 dwellings in the south-west corner of the landholding including the subject site. Condition no.2 of that proposal omitted the 12 dwellings located on the subject site and required the retention of the hedgerow. The condition required the space to be replaced with areas of public open space that connects to the open space to the north in one continuous unbroken area of public open space. The reason for the omission was to retain the hedgerow's cultural and historic value as a townland boundary, and to ensure the provision of good quality functional open space.
- **SDCC Reg. Ref. SD16A/0118:** Permission was refused in May 2016 for the development of 12 houses on the subject site. It was refused for one reason, that it would materially contravene condition no.2 of SD12A/0168 which omitted development from the site to ensure provision of adequate open space.

- **SDCC Reg. Ref. SD12A/0168:** Permission was granted in May 2013 for the development of 328 houses and a crèche. However condition no.2 omitted 39 dwellings resulting in a total of 289 dwellings. Condition no.2 omitted two blocks of dwellings – on the subject site and to the north-east of the site. The reason for the omission was to retain the hedgerow’s cultural and historic value as a townland boundary, and to ensure the provision of good quality functional open space.
- **SDCC Reg. Ref. SD10A/0263:** Permission was granted in December 2010 for modifications to the development permitted under SD7A/0013 consisting of a reduction in the number of dwellings from 79 to 74. This relates to the development currently under construction to the west of the subject site. It is stated that the permission expired in October 2015.
- **SDCC Reg. Ref. SD07A/0013:** Permission was granted in March 2008 for the development of 519 dwellings and a crèche. Condition no.2 permitted only 245 units. The reason for the omission of units was stated as being that the development of the full site area would be premature given the deficiencies in the quantum of public open space.

## 5.0 Policy Context

### 5.1. South Dublin County Development Plan 2016 – 2022

- 5.1.1. Chapter 2 of the Plan refers to Housing, Chapter 3 refers to Community Infrastructure, Chapter 8 refers to Green Infrastructure, and Chapter 11 refers to Implementation.
- 5.1.2. Chapter 2 refers to Housing. Housing **(H) Policy 6** Sustainable Communities states:

*It is the policy of the Council to support the development of sustainable communities and to ensure that new housing development is carried out in accordance with Government policy in relation to the development of housing and residential communities.*

**H8 Objective 6** states:

*To apply the provisions contained in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009)*

*relating to Outer Suburban locations, including a density range of 35-50 units per hectare, to greenfield sites that are zoned residential (RES or RES-N) and are not subject to a SDZ designation, a Local Area Plan and/or an approved plan, excluding lands within the M50 and lands on the edge or within the Small Towns/ Villages in the County.*

Section 2.3.2 refers to Public Open Space. **Housing (H) Policy 12** Public Open Space states:

*It is the policy of the Council to ensure that all residential development is served by a clear hierarchy and network of high quality public open spaces that provides for active and passive recreation and enhances the visual character, identity and amenity of the area.*

**H15 Objective 2** Privacy and Security states:

*To ensure that all developments are designed to provide street frontage and to maximise surveillance of streets and spaces.*

5.1.3. Section 3.13.0 of Chapter 3 refers to Open Space Management & Use. It states ‘*Open space and recreational facilities are central to the delivery of sustainable communities. The Council is committed to maximising the leisure and amenity resource offered to the communities of South Dublin through its parks and open spaces*’.

5.1.4. Chapter 8 refers to Green Infrastructure. Green Infrastructure **(G) Policy 1** Overarching:

*It is the policy of the Council to protect, enhance and further develop a multifunctional Green Infrastructure network by building an interconnected network of parks, open spaces, hedgerows, grasslands, protected areas, and rivers and streams that provide a shared space for amenity and recreation, biodiversity protection, flood management and adaptation to climate change.*

**G2 Objective 6** states:

*To protect and enhance the County’s hedgerow network, in particular hedgerows that form townland, parish and barony boundaries, and increase hedgerow coverage using locally native species.*

- 5.1.5. Table 11.3 of Chapter 11 refers to zoning objective '*RES-N - To provide for new residential communities in accordance with approved area plans*'. The subject site is zoned RES-N.
- 5.1.6. Section 11.3.1(iii) with respect to Open Space requires that "*In areas that are designated Zoning Objective RES-N all new residential development shall be required to incorporate a minimum of 14% of the total site area as public open space*".

## 5.2. Natural Heritage Designations

Glenasmole Valley SAC (Site Code 001209) is located c.1.2km to the south of the site. Wicklow Mountains SAC (Site Code 002122) is located c.1.8km to the south. Wicklow Mountain SPA (Site Code 004040) is located c.3.5km to the south-east.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A First Party appeal against the decision of the Planning Authority has been lodged. In summary, it states:

- Consider it is a simple application for 10 dwellings similar to what has already been permitted and constructed. Site forms a residual area of land which arose as a result of a condition attached to an extant permission that sought to preserve a hedgerow and townland boundary within the overall development.
- The hedgerow/townland boundary is being maintained as part of the overall Elder Heath development in accordance with the parent permission. The current application has no impact on the hedgerow as it is outside the red line of the application.
- The hedgerow will be maintained similar to other trees and hedgerows throughout the site and provided with supplementary planting.



- The residual lands are not required for public open space as more than adequate open space has already been provided as part of the overall development.
- Consider refusal by Planning Authority is contrary to proper planning for fully serviced lands. There is nothing to preclude permission being granted in the Planning and Development Act where previous conditions attached to permissions have been resolved.
- Given that adequate open space is being provided, the development of the site will not diminish the recreational value of 10 families.
- The lands have been zoned since 1998 and the only approved plan is the Killinarden-Kiltipper Area Action Plan approved in September 2000. The provision of public open space within Elder Heath complies with the required standard of the Development Plan, i.e. 14%, and accords with the layout of the development in the 2000 Area Action Plan.
- Public open space is catered for under Reg. Ref. SD12A/0168 measuring 2.15Ha. Lands are zoned open space to the west. Notwithstanding that, there is 14% within the development. A hierarchy of good quality open space is being provided.
- With respect to first reason for refusal, consider that the proposal does not materially contravene the parent permission, because one large continuous area of public open space is being provided and the hedgerow is being retained to preserve its cultural and historical value – disingenuous to suggest the current proposal is contravening the extant permission. Proposal will not impact on the quality and quantity of open space to be provided. Sketch enclosed demonstrating quantity and location of open space.
- Consider the wording of Condition no.2 of SD12A/0168 is ambiguous as the subject site is considered to be “sterilised” for the provision of open space rather than being required to protect the hedge, which was the intention of the condition.
- With respect to the second reason for refusal, it is stated that there are 4 no. E type houses with side entry directly overlooking the adjoining open space to

the east and road 5 to the west, thereby providing a strong elevation and passive supervision.

- Consider Council paid no regard to the drawing submitted. Refute the notion that the dwellings would seriously injure the visual amenity of the area. The design of the E type houses has been accepted by the Council throughout the site.

## 6.2. **Planning Authority Response**

The Planning Authority responded confirming their decision and stating that all issues raised in the appeal have been addressed in the Planner's Report.

## 7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. I am satisfied that the principle of development of 10 dwellings on the subject site is acceptable within the RES-N zoning. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Provision of open space
- Material Contravention of conditions of earlier permissions
- Visual Amenities
- Appropriate Assessment

### 7.1. **Provision of Open Space**

- 7.1.1. At the heart of this appeal, is the provision of open space and the protection of the hedgerow. The Planning Authority have consistently refused permission for development in this area or conditioned the omission of development in this part of the site, for reasons relating to the provision of a continuous unbroken public open space, and for protection of the townland hedgerow boundary for cultural and historical value, as well as in the interest of biodiversity.

- 7.1.2. The zoning of the site in the Development Plan is specifically RES-N, new residential. The zoning to the west is OS – Open Space and the zoning to the south is RU – rural amenity. The applicant considers that the Planning Authority have not fully acknowledged this, notwithstanding that the Elder Heath development complies with the requirement to provide 14% open space, without including the subject site.
- 7.1.3. A sketch was included as part of the appeal, which indicates where the open space is located throughout the development. The main bulk of the open space is just to the north of the subject site and is noted as being Class 1 space, 1.19Ha in area. The land to the east, outside of the red line and containing the townland boundary hedgerow, is noted as being Class 2 space, and 0.062Ha in area. This Class 2 space links the central Class 1 area to the rural zoned area to the south. I am satisfied that this Class 2 area will continue to link the open space to the north to the rural zoned area to the south, to provide a continuous unbroken area of public open space, as required by the Planning Authority. While this overall area will be reduced in scale with the development of the 10 dwellings, 0.062Ha remains and will provide for visual amenities for the dwellings in Elder Heath Dale, as well as the proposed 10 dwellings. I am satisfied that the development of 10 dwellings will not compromise the provision of good quality open space.
- 7.1.4. The reasons for the conditions to omit development in this part of the site, as referred to in refusal reason no.1, also referred to the cultural and historical townland boundary hedgerow. The subject proposal does not include the hedgerow per se. However, with the development of the road extension, part of the hedgerow will be required to be removed to enable Road 3 extend and connect to Elder Heath Dale. A potential solution is to omit the connection of this road with Elder Heath Dale or to minimise the removal by permitting only a pedestrian/cycle path connection. However having regard to the Design Manual for Urban Roads and Streets, I consider it is preferable to link both sides of the development. Should the Board consider granting permission, the Board may consider appending a condition to omit this link road, however, having regard to the gaps in the hedgerow which already exist, I consider that the development of the link road is acceptable in this instance. Adequate protection of the remaining hedgerow during construction could be a condition of permission, should the Board consider granting permission.

7.1.5. In conclusion, I am satisfied that the reasons and conditions for omission of development of dwellings in this part of the site are not contravened by the subject proposal. One large continuous unbroken area of public open space is maintained and the hedgerow is preserved as the historical town boundary it is.

## **7.2. Material Contravention of conditions of earlier permissions**

- 7.2.1. As noted above, the first reason for refusal of permission refers to conditions of earlier permissions which govern the development of the overall site. Those conditions explicitly referred to are Condition no.2 of Reg. Ref. SD12A/0168 and Reg. Ref. SD16A/0346.
- 7.2.2. The conditions (both no.2) explicitly omit development on the subject site. The reasons are referred to above, but in summary refer to retaining the hedgerow's cultural and historic value as a townland boundary, in the interest of biodiversity protection and to ensure adequate good quality functional open space.
- 7.2.3. I am of the view that the subject proposal does retain the hedgerow, and does not affect the integration of the open space. A continuous unbroken area of public open space is maintained in the interest of biodiversity and adequate open space. As noted above, the overall development of Elder Heath does comply with the Development Plan standards requiring 14% of open space in new residential areas.
- 7.2.4. I am satisfied that the proposal is seeking to address the conditions imposed by Reg. Ref. 12A/0168 and Reg. Ref. 16A/0346, and is therefore not a material contravention of the conditions.
- 7.2.5. I am satisfied that the proposal will not reduce the open space below the Development Plan standards, will retain the hedgerow for cultural and historical reasons, and will not affect the provision of a continuous unbroken area of public open space. I am therefore satisfied that by seeking to address the condition by way of the subject application, the proposal is not a material contravention of the conditions.

### **7.3. Visual Amenities**

- 7.3.1. The second reason for refusal referred to the visual amenities of the area. The Planning Authority considered that the layout would seriously injure the visual amenity of the area with poor active street frontage, and would seriously injure the amenity of the public open space to the east and could give rise to anti-social behaviour by virtue of design. Reference is made to policy H15 Objective 2, which seeks to ensure that all developments are designed to provide street frontage and to maximise surveillance of streets and spaces.
- 7.3.2. The 10 houses include 4 no. E type houses on each corner. The E type houses have been used throughout the estate, and incorporate a side entry design which will provide passive surveillance over the open space to the east and Road 5 to the west. I am satisfied that the proposal is in accordance with policy H15 Objective 2.
- 7.3.3. I have addressed the amenity of the open space above – I do not consider that the proposal would seriously injure the amenity of the public open space. Furthermore, having regard to the layout of the proposal with E type houses, as provided for throughout the development, I am satisfied that they will provide passive surveillance over the open space and will not give rise to anti-social behaviour.
- 7.3.4. In addition, I note the 5 dwellings facing north will overlook the children's play area – enhancing the overlooking provided by the dwellings to the west.
- 7.3.5. In conclusion, I am of the opinion that the proposal is in accordance with policy H15 objective 2 of the Development Plan. By virtue of the design and proposal to include E type houses, the development is designed to provide street frontage and to maximise surveillance of streets and spaces.

### **7.4. Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

Having regard to the location of the site on residentially zoned lands in the current South Dublin County Development Plan 2016-2022, to the compliance with the development standards for public open space, to the compliance with design of dwellings to provide passive surveillance of streets and spaces 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 residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance 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, 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. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on 06/03/2017 under planning register reference number SD16A/0346, and any agreements entered into thereunder.

**Reason:** In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) Existing trees and hedgerows specifying which are proposed for retention as features of the site landscaping.

(ii) The measures to be put in place for the protection of these landscape features during the construction period.

(iii) The species, variety, number, size and locations of all proposed trees and shrubs.

(iv) Details of screen planting which shall not include *cupressocyparis x leylandii*.

(v) Details of roadside/street planting which shall not include *prunus* species.

(vi) Hard landscaping works, specifying surfacing materials and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) A timescale for implementation.

All planting shall be adequately protected from damage until established.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity and to protect the

townland boundary hedgerow.

4. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree and hedgerow to be retained.

**Reason:** To protect trees, hedgerows and planting during the construction period in the interest of visual amenity.

5. No trench, embankment or pipe run shall be located within three metres of any hedging which are to be retained on the site.

**Reason:** To prevent damage to the root systems of hedging.

6. Water supply and 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.

7. (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

(b) Footpaths shall be dishd at road junctions in accordance with the



requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(c) The internal road network to serve the proposed development (including junctions, parking areas, footpaths and kerbs) shall comply with the detailed standards of the planning authority for such road works.

(d) The materials used, including tactile paving, in any roads/footpaths provided by the applicant shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interests of traffic, cyclist and pedestrian safety.

8. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the occupation of the development.

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

9. 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.

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

10. 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.

11. 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.

12. 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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Ciara Kellett

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Inspectorate

14th March 2018