



An  
Bord  
Pleanála

## Inspector's Report ABP 301221-18

---

<b>Development</b>	108 dwellings, crèche and ancillary works.
<b>Location</b>	Clonmore, Ballyvinitter Lower, Mallow, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	16/6949
<b>Applicant</b>	O'Flynn Construction Co. Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	<ol style="list-style-type: none"><li>1. 3<sup>rd</sup> Party v. Grant</li><li>2. 1<sup>st</sup> Party v. Condition</li></ol>
<b>Appellants</b>	<ol style="list-style-type: none"><li>1. Andrew &amp; Bridie Courtney.</li><li>2. Kevin &amp; Annemarie O'Donnell.</li><li>3. Bobby Willis.</li><li>4. John &amp; Deirdre Cotter.</li><li>5. O'Flynn Construction Co. Ltd.</li></ol>
<b>Observer(s)</b>	None

**Date of Site Inspection**

27/06/18

**Inspector**

Pauline Fitzpatrick

## 1.0 Site Location and Description

- 1.1. The site with a stated site area of 5.85 hectares, is located to the north-west of Mallow town centre and comprises the completion of the Clonmore Estate housing development. Permission under PL04.211534 provided for 193 houses of which 90 have been constructed on the northern portion of the original overall site. The permission has lapsed. The Clonmore Estate is served by two entrances from the public road (Ballyvinitter Road) to the north and comprises of two storey detached and semi-detached units. Footpaths are provided on both sides of the road. Development along this road comprises a number of recently completed housing developments and a number of older one-off houses.
- 1.2. The majority of the appeal site has been cleared and is fenced off from the estate developed to date. The Ballyvinitter Road which forms the northern and eastern boundary of the overall site boundary intersects the N72 at a T junction to the south east. There is an extensive ribbon of individual houses along the eastern section of the road which back onto the site. The Hazel Brooke housing scheme comprising a mix of semi-detached and terraced dwellings with access from Ballyvinitter Road to the north, bounds the site to the west.
- 1.3. The site slopes down in a southerly direction with a wetland zone with marsh habitat at the southern end of the development site which is delineated by the Spa Stream, a tributary of the River Blackwater, and this Spa Stream flows south under the N72.
- 1.4. The Glaise Stream is culverted under the Ballyvinitter Road and enters the site near the north-west corner. This stream flows along the western site boundary to join the Spa Stream.

## 2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on 28/11/16 with unsolicited further information (FI) on Part V proposals submitted 07/12/16 and on drainage and roads submitted 25/01/17. FI was submitted on 31/10/17 following a request dated 30/01/17 with clarification of further information accompanied by copies of revised public notices received 08/01/18 following a request dated 27/11/18.

2.2. The proposal, as amended, entails:

- 106 detached, semi-detached and terraced 3 and 4 bedroom dwellings (reduced from 108)
- 380 sq.m. crèche providing 35 child places
- 1.2 diameter culvert leading to an open watercourse in lieu of existing pipework along the western site boundary.

2.3. The application is accompanied by:

- Services/Infrastructure Report
- Construction and Waste Management Plan
- Appropriate Assessment Screening Report
- Natura Impact Statement
- Fisheries Assessment of the Glasha Stream
- Outdoor Lighting Report
- Stage 1 Road Safety Audit
- Traffic Modelling Report
- Flood Risk Assessment
- Detailed Culvert Design: Hydraulic Model Report

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Grant permission for the above described development subject to 72 conditions. In addition to standard planning and engineering requirements the following are noted:

*Condition 2:* Prior to commencement necessary approval/Section 50 consent under the Arterial Drainage Act 1945 from OPW to be secured.

*Condition 4:* Development to be phased. Creche to be constructed and in active use prior to the occupation of the 50<sup>th</sup> dwelling.

*Condition 5:* Details of mitigation measures to prevent risk of flooding to the south-west of the site including house nos. 195 & 196 as set out in the CFRAM Spa Glen flood extent map.

*Condition 8:* Alterations to crèche layout and fenestration.

*Condition 10:* Revised landscape plan including details of the proposed reinstatement of the streams and riparian areas.

*Condition 25:* Submission of Ground and Surface Water Management Plan for construction phase.

*Condition 55:* Childproof fencing along river/stream banks.

*Condition 59:* No surface water from development to be allowed to flow into proposed new culvert.

*Condition 61:* Details of ongoing maintenance within the estate to be submitted.

*Condition 65:* Submission of plan to restrict access to the proposed culvert on the downstream section.

*Condition 71:* €312,000 special contribution towards provision of works to Mallow Bridge, upgrade works to the footpath network, upgrade works to the junction of the N72 and Ballyvinitter Road and upgrade works to the culvert including trash screen and associated works north of the proposed development.

*Condition 72:* €221,897.28 contribution in accordance with Development Contribution Scheme.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

Reports by the *Executive Planner* dated 27/01/17, 22/11/17 and 28/02/18 refer. A grant of permission subject to conditions is recommended.

The *Senior Executive Planners* reports dated 30/01/17, 27/11/17 & 05/03/18 refer. The 2<sup>nd</sup> report notes that subsequent to the deferral of the application and concurrent application 16/6953 the PA engaged JBA Consulting to assist in resolving matters regarding drainage and surface/storm water management including works to the Glaise Stream. The response to the FI has amended proposals regarding the culvert

design in line with the recommendations of JBA Consulting. The density and mix of house type are considered reasonable. The number of dwellings has been reduced from 108 to 106. The comments from the OPW received 23/11/17 are noted which outlined that while there are no objections in principle to the subject application and 16/6953 it is essential that the impact of the development on the fluvial drainage in the area is properly addressed and the required consent (Section 50 of the Arterial Drainage Act) for the rectification of the culverting of the stream obtained. It would be possible to manage the issue regarding the undertaking of any works pursuant to a grant of permission and Section 50 approval by way of conditions, such that no development works proceed until such time the required consent is secured. The Flood Risk Assessment needs to comprehensively address and assess all of the risks and impacts and clearly demonstrate the adequacy of the proposals and any mitigating measures to the satisfaction of the PA and the OPW, in particular with respect to the Munster Blackwater Drainage Scheme. Given that these matters are tied into the functioning of the natural hydrological processes in the adjoining watercourses which are integral to ensuring compatibility with the protection of habitats and species for which the Blackwater River SAC is designated these issues need to be resolved. A NIS is required. The 3<sup>rd</sup> report following submission of the NIS and revised Flood Risk Assessment states that there is no objection to the proposal and a grant of permission subject to conditions is recommended.

*Senior Planner* in a report dated 24/11/17 states that while there may be some issues of detail still to be resolved it is noted that the OPW has no objection in principle to either the additional housing or the proposals for a new culvert. Further information required.

### 3.2.2. Other Technical Reports

*Estates Report* dated 20/12/16 recommends FI on culverting/piping of the stream through the site and surface water drainage. A 2<sup>nd</sup> report dated 23/11/17 following FI considers the revised drainage proposals to be acceptable. No objection subject to conditions.

*Kanturk Mallow MD Roads* reports dated 27/01/17 (2 no.) note that the existing piped arrangement carrying the Glaise Stream through the development lands is unsatisfactory and that a flood risk assessment has not been submitted. A traffic

impact assessment is required. Insufficient parking has been provided for the creche. A refusal of permission is recommended.

*Cork National Roads Office* has no objection.

*Engineering Reports* dated 24/11/17 & 26/02/18 considers a grant of permission premature due to the absence of information sought by way of FI in particular pertaining to the culvert and the required Section 50 approval. Permission should be refused until such time as the Section 50 approval is in place. The latest Flood Risk Assessment shows that the development will not have a negative impact on the flood defence scheme and, in turn, Spa Stream in Mallow. As per the CFRAM Spa Glen flood extent map 2 no. properties in the south west corner could be affected by flooding. Mitigation measures should be put in place. A special contribution of €45,000 required towards drainage works required on the public road and north of the site incorporating installation of trash screen and possibly some works to the stream bed on the upstream approach. The works are estimated to be €130,000. Access to the downstream section of the culvert should be restricted. Commuting traffic will have a significant impact on the Clockhouse Junction and Mallow Bridge area. A report by ARUP outlines a programme of infrastructural measures that would improve the existing situation and provide a small amount of additional capacity which would provide for the proposed development. The works involve a pedestrian boardwalk and the removal of footways on Mallow Bridge, thereby facilitating the provision of a southbound right turn lane on Mallow Bridge. The special contribution of €216,000 towards same is recommended. The estimated cost of the works is €1.5m. A further special contribution of €25,000 towards pedestrian infrastructure is also recommended. The overall estimated costs of same is €100,000. Traffic would also impact on the volume of traffic utilising the junction of the N72 and the Ballyvinitter Road (known locally as Ballylough Cross). The junction has poor visibility and works would be required to improve same. A special contribution of €30,000 recommended. Estimated cost of overall works €120,000. A schedule of conditions provided should permission be granted.

*Traffic and Transport* has no objection.

*Public Lighting* details requirements should permission be granted

The *Ecologist's* reports dated 26/01/17 and 27/11/17 refer. The latter report following FI considers the proposals for the reinstatement of the Glasha Stream and the flood plain of the Spa Stream to be generally acceptable. The success of the proposals will rely on how they are implemented. A detailed reinstatement plan to be required. The plan should have the approval of the IFI. A report dated 28/02/18 following submission of NIS has no objection to the proposal subject to conditions.

*Housing Officer* recommends further information on Part V requirements.

*Environment* reports dated 23/11/17 & 15/11/17 refer. The 1<sup>st</sup> recommends consultations with the OPW and IFI regarding proposed stream realignment. The 2<sup>nd</sup> recommends one larger playground rather than 3 no. proposed.

### 3.3. Prescribed Bodies

*Environmental Health Office HSE* in a report dated 20/12/16 requires details on whether the crèche is a sessional service or full day care.

*Inland Fisheries Ireland* in a report dated 10/01/17 has no objection in principle but that the County Council should be entirely satisfied that there is adequate spare capacity in the wastewater treatment works in Mallow. SUDS measures should be adequately addressed with respect to the protection of the flora/fauna and ecological status of the receiving river catchment. Conditions should permission be granted are outlined.

*Irish Water* in a report dated 30/01/17 has no objection subject to conditions.

### 3.4. Third Party Observations

Objections to the proposal received by the PA raise issues including:-

- Drainage
- Flooding
- Changes to the flood plain along the stream to the south resulting in increased water levels
- Traffic congestion
- Traffic management in the estate



- Adequacy of parking
- Location of crèche
- House finishes

## 4.0 Planning History

2005 - PL04.211534 (04/5912) - permission granted for 193 houses, crèche, and ancillary site works.

2018 - 16/6953 – permission granted for the construction of an additional 900mm diameter drainage culvert through the existing Clonmore housing development housing development as well as all associated site development works.

2018 - ABP 301429 -18 – permission granted for 149 dwellings on lands to the south- west of the appeal site.

## 5.0 Policy Context

### 5.1. Development Plan

#### 5.1.1. Kanturk Mallow Municipal District Local Area Plan 2017

The site is within an area zoned residential where objective MW-R-03 applies which provides for medium A density residential development. Consideration should be given to the provision of serviced sites within the overall layout. Lands to the south which are at risk of flooding should, in general, be retained as open space with potential to be included in an extension of the Spa Glen Amenity Corridor.

The southern part of the site is within an area identified as Susceptible to Flooding: Zone A.

IN-01 - proposals for development within the areas identified as being at risk of flooding will need to comply with Objective WS 6-1 and WS 6-2 as detailed in Chapter 11 Volume 1 of the Cork County Development Plan, 2014, as appropriate, and with the provisions of the Ministerial Guidelines – ‘The Planning System and Flood Risk Management’. In particular, a site specific flood risk assessment will be required as described in WS 6-2.

Traffic Impact Assessment and RSA required.

5.1.2. Cork County Development Plan, 2014

Objective HOU 4-1 – Medium A housing density is between 20 – 50 units per hectare.

5.2. **Natural Heritage Designations**

None in the vicinity.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. 4 no. 3<sup>rd</sup> Party Appeals refer. Submissions by Sean R. McCarthy, accompanied by supporting detail including photographs, is made in each instance. The appellants are:

1. Andrew & Bridie Courtney. Their property is to the south-east of the appeal site
2. Kevin & Annemarie O'Donnell. Their property is 31 Clonmore Estate
3. Bobby Willis. His property is to the north of the overall development on the opposite side of the Ballyvinitter Road.
4. John & Deirdre Cotter. Their property is 29 Clonmore Estate

The grounds of appeal relate to drainage and can be summarised as follows:

- Since the construction of the existing portion of Clonmore estate Mr. & Mrs. Courtney's' front garden has experienced extensive flooding. Prior to the construction no flooding was experienced. Any surface water from the area flowed in a western direction along the Spa stream.
- The appellants' properties in the Clonmore Estate have experienced extensive flooding. This has arisen from the Glaise Stream which has been improperly contained within pipework crossing the public road and through Clonmore Estate.

- For Mr. Willis an issue is the rerouting of the Glaise Stream which flows along the north-eastern boundary of his property.
- Whilst it is accepted that the proposal for a culvert 1.8m x 1.2m through the Clonmore Estate will help to alleviate flooding of the estate it will not necessarily eliminate flooding.
- The Glaise Stream north of the public road is an open channel. Where it passes underneath the public road it is confined to a 750mm diameter pipe which is of insufficient capacity.
- Adequate proposals are required to accommodate the stream within the estate and where it passes underneath the public road. The proposed culvert through Clonmore Estate should extend under the public road to the northern boundary of the public road.
- There is no detail in respect of the trash screen for which a special contribution has been levied by way of condition. Maintenance is required to ensure they do not become blocked resulting in flooding.

*Note:* Representation made by K. O’Keeffe TD on behalf of the appellants.

6.1.2. 1<sup>st</sup> Party against condition 71 - special contribution of €312,000 towards works at Mallow bridge, upgrade works to the footpath network, upgrade works to the junction of the N72 and Ballyvinitter Road and upgrade works to the culvert including a trash screen.

- The Council has not demonstrated that the costs incurred are either specific or exceptional and has not provided sufficient justification to warrant the costs of the works.
- When the Council prepared the Development Contribution Scheme the issue of road improvements and drainage were dealt with under the general contribution scheme as a basic requirement for all lands zoned for development. The site has been zoned and identified for development since the 1996 Development Plan.
- Where a general contribution for infrastructure is imposed on the basis that all services are available as is the case in this instance, the imposition of a special contribution for roads and drainage/culvert infrastructure would, in

effect, be a double charge. This is inconsistent with the Department of the Environment, Community and Local Government's Development Contributions Guidelines for Planning Authorities 2013.

- The main justification and breakdown of the works associated with the special development contribution are outlined in the Area Engineer's report dated 24/11/17. It does not demonstrate or justify that the works are either specific or exceptional to the proposed development.
- The traffic increases calculated in the Traffic Modelling Report of 15% in the morning peak and 5% in the evening peak is not commensurate with the level of special development contribution sought for this particular infrastructure.
- The special contribution applied for the previous grant of permission for 193 houses was significantly less for the provision of road widening in the Spa Glen/Ballylough Area.
- There are a number of planning precedents where the Board has omitted/reduced special development contributions in circumstances comparable to the appeal. Case nos. PL04.234024, PL04.238720, PL04.232458 referenced.

## 6.2. Applicant Response to 3<sup>rd</sup> Party Appeals

The submission by McCutcheon Halley, accompanied by supporting details, can be summarised as follows:

- The Council commissioned JBA Consulting to carry out an assessment of flooding/drainage issues in the area. The report carried out an assessment of the catchment of the Glaise Stream. It concluded that the new culvert would address existing surface water drainage/flood risk issues and would not give rise to any additional flood risks downstream from the site. The issues in the area will be resolved under the current application.
- The existing 750mm pipe, inlet arrangement and the gate opening in the stone wall to the north of the public road were in place before the development commenced

- The upgrading of the culvert under the public road will be reciprocated by the provision of a new 1.8m x 1.2m culvert through the existing and proposed residential scheme and will connect to a new open drain along the western boundary before discharging to the Spa Glen Stream to the south.
- The culvert has sufficient capacity to cater for the 100 year design flow rate of 4.63m<sup>3</sup>/s which includes a 20% allowance for climate change and has a 95% confidence level. On completion the Glaise Stream will be completely contained within its channel and will no longer overflow its banks. It will result in no flooding of the site or any adjacent dwellings.
- The Flood Risk Assessment concluded that there will only be minor impacts on the Spa Glen Stream which will not result in any flooding of the site or surrounding area. Flood risk will also be reduced and mitigated by attenuating the hardstanding area of the development to greenfield run off rates.
- The Flood Risk Assessment demonstrated that the pre-development and recent flood extent maps are almost identical and that the flood extent along the south eastern boundary remains effectively the same.
- The Courtney property directly abuts the Spa Stream along its southern boundary. The SW CFRAM flood map for the area shows that the garden and driveway are at risk of flooding and this was the case before the Clonmore development commenced. The predicted flood extent along the boundary remains unchanged from the flood extent predicted before the development commenced.
- The Council has levied a special contribution to facilitate culvert upgrade works under the public road and associated works to the north of the proposed development. It will form an integral component of the flood risk mitigation for the area.
- A properly designed trash screen requires very little maintenance. As it will be provided by Cork County Council it will be responsible to ensure its successful design and maintenance.

### 6.3. Section 132 Response

The 2 no. Planning Authority's responses to the request for details of the application of the special development contribution can be summarised as follows:

#### 6.3.1. Upgrade to road crossing culvert

- Works undertaken in the initial phase of the development to the pipe network resulted in issues pertaining to flooding with considerable damage caused to properties as a result of the resultant floods.
- Under planning 16/6963 the developer designed a culvert capable of catering for the water of the Glaise stream in the event of a flood. These works were only within the site boundary. In order to ensure that the full extent of the design as undertaken is provided for the local authority will be required to undertake the works on the road.
- The cost for the works is €130,000 with €45,000 being levied on the application.
- The culvert upgrade will mitigate against any further flooding and subsequent damage to properties that may occur as a result of the Glaise stream flooding.
- The development is the main beneficiary of the culvert works
- No funding has been provided by the state or EU.
- It does not form part of any infrastructure or project under a development contribution scheme or supplementary development contribution scheme.

#### 6.3.2. Pedestrian Facilities

- The area, although served with pedestrian facilities, has a short fall at the junction of the Ballyvinitter Road and Spa Road. The works involve the construction of a connector footpath through the junction incorporating a pedestrian crossing point. The path will serve both the development and any future development in the area and will allow for better access to schools, shops etc. in Mallow.
- The estimated cost of the works is €100,000.
- No funding will be provided by the state or EU.

- It does not form part of any infrastructure or project under a development contribution scheme or supplementary development contribution scheme.

#### 6.3.3. Acquisition of Lands to Improve Sightlines

- The development accesses directly onto the local Ballyvinitter Road. The majority of traffic travelling to Mallow or further will access the N72 at Ballylough Cross which has a T-junction type layout. Improvements works will require the provision of a right hand turn lane or a roundabout as shown in the Mallow Traffic and Transportation Plan. At this time the works required entail the acquisition of lands to allow for site clearance works around the bend to improve forward visibility for vehicles on the main line.
- The estimated cost is in the region of €120,000.
- With the increase in volumes of traffic being generated by this development these works will allow for better, safer access to the N72 which is the main junction for traffic from this estate travelling towards Mallow.
- The development and the wider area will benefit from the proposal.
- No funding will be provided by the state or EU.
- It does not form part of any infrastructure or project under a development contribution scheme or supplementary development contribution scheme.

6.3.4. A report titled Boardwalk on Mallow Bridge dated January 2018 submitted. The cost of the works is estimated to be €2,174,312

#### 6.4. Further Responses

Cork County Council's response to the Section 132 request concerning the special financial contribution as summarised above was circulated for comment.

##### 6.4.1. 3<sup>rd</sup> Party Responses

Individual responses on behalf of each of the 3<sup>rd</sup> Parties was made by Sean R. McCarthy Consulting Engineers Ltd which can be summarised as follows:

- It is essential that adequately designed pipework should be provided for the Glaise Stream from a point immediately north west of the public road serving the proposed development across the public road and through Clonmore Estate to the southern end of Clonmore Estate.
- Improvement of pedestrian access from the site to Mallow town and the improvement of infrastructure to take vehicular traffic between the site and Mallow town is also essential.

#### 6.4.2. 1<sup>st</sup> Party response

The submission by McCutcheon Halley refers. In addition to reiterating a number of points made in the appeal submission the following are noted:

- Neither of the reports in the PA's response deal with or provide a full itemised breakdown of the special contribution.
- The culvert under the public road predates the development at Clonmore. The applicant was required to size the culvert through their development to match the Council's existing culvert. The size and deficiencies of the Council's existing culvert pre-date and are completely separate from the development. Therefore, the development has not been the cause of any flooding in the area.
- The report relating to the Boardwalk on Mallow bridge is a general structural report which predates and does not deal with any of the issues raised in the 1<sup>st</sup> party appeal.
- The Mallow boardwalk had previously been granted Part 8 Planning in 2012. The works are not exceptional or specific to the development.
- A special development contribution of €120,000 was previously levied on the site under the original permission re. 04/591 (PL04.211534) for 193 units on the site which is equivalent to a special contribution of just over €600 per dwelling whereas the special contribution sought on the current proposal equates to €2889 per dwelling.



## 6.5. Section 131 Notice

Certain prescribed bodies were invited to make a submission/observation on the appeal. No responses received.

## 7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings.

1. Principle of Development
2. Drainage and Flooding
3. 1<sup>st</sup> Party Appeal against Condition 71 - Special Financial Contribution
4. Appropriate Assessment

### 7.1. Principle of Development

- 7.1.1. The proposal before the Board essentially constitutes the completion of a residential development which secured permission under ref. PL04.211534 in 2005. The said permission provided for 193 dwellings units of which 90 have been constructed. the current proposal, as amended, entails the provision of 106 dwellings bringing the overall number to 199 units.
- 7.1.2. As per the Kanturk Mallow Municipal District Local Area Plan 2017 the site is within an area zoned residential where objective MW-R-03 applies which provides for medium A density residential development. Objective HOU 4-1 in the County Development Plan states that Medium A housing density is between 20 – 50 units per hectare. With an overall site area stated to be 10.86 hectares the residential scheme, in totality, would equate to approx.19 units per hectare. Whilst lower than the specified parameters I consider that the density as proposed is acceptable when taken in the context of the nature and character of development in the vicinity.
- 7.1.3. The proposed house designs to be used are reflective of the development undertaken to date. The scheme would be considered acceptable in the context of the relevant guidelines for sustainable residential development and the policies of the local area plan and the County Development Plan. The location of the proposed

crèche, fronting onto the Ballyvinitter Road to the north immediately adjoining one of the entrances to the estate, is considered to be an appropriate location and is reflective of the location as permitted under the earlier permission. Condition 2 attached to the said permission required the provision of the creche in phase 1 of the development (consisting of 83 dwellings). Obviously, this was not complied with. I submit that a condition comparable to condition 4(b) attached to the planning authority's notification of decision to grant permission be attached to ensure for the timely provision of the facility.

- 7.1.4. I note that by way of condition 8 amendments to the creche building including additional windows to the north western elevation (as presented to the public road) are required by the planning authority. I consider that the amendments as detailed to be reasonable and recommend that same be sought should the Board be disposed to a favourable decision.
- 7.1.5. The application is accompanied by a Traffic Modelling Report and Stage 1 Road Safety Audit. The adjoining road network can accommodate the proposed development and does not pose any significant impacts on the operation of the surrounding junctions.

## 7.2. **Drainage and Flooding**

This constitutes the substantive issue of the 3<sup>rd</sup> Party appeals.

- 7.2.1. The Glaise (also known as Glaisc) Stream rises to the north of the site and is piped across the public road at the western entrance to the existing development. As part of the earlier permission under ref. PL04.211534, part of which has been constructed, an arrangement of 750mm and 450mm/600mm pipework was used to collect the runoff from the pre-existing 750mm road crossing to carry the watercourse through the development to the Spa Stream. The pipework route runs through the rear and side of four existing houses and then along the western boundary of the proposed site. From the detail on file both the culvert under the road and the drainage provisions within the site are unsatisfactory and have resulted in localised drainage issues including flooding. The applicant states that these issues arose when debris from the inlet pipe to the north of the public road caused obstructions in the manholes on the public road immediately north of the Clonmore

entrance causing lifting of manhole covers and overflowing of water along estate roads.

- 7.2.2. As amended by way of further information a culvert 1.8 metres wide x 1.2 metres high is proposed to be laid from the existing manhole at the public road at the northern edge of the existing estate, through the existing estate and then in a southerly and westerly direction through the appeal site to connect to what will be an open watercourse along the western boundary of the new development. The existing 450/600mm pipework along the western boundary of the appeal site will be removed and replaced by this open watercourse. The existing 450/600mm pipework along the western boundary of the existing estate will be left in place but will no longer be functional. The new, open Glaise Stream watercourse will discharge to the Spa Stream at the south-west corner of the overall estate as would have been the case before any development took place on the site. These works within the existing development were subject of a separate application under ref. 16/6953 and which was granted permission by Cork County Council in February 2018. These works have due regard to the report commissioned by the Council from JBA Consulting to assess the issues of drainage including the Glaise Stream. Although requested a copy of the said report has not been forwarded for the Board's information.
- 7.2.3. As noted by the agent for the applicant the existing public road crossing immediately north of the site and the inlet of the existing 750mm road-crossing were laid before the original development was commenced and are in the ownership and control of Cork County Council. It is acknowledged by both the Council's technical reports and the applicant that work will be required to be undertaken by the Council for the upsizing of the existing crossing to tie into the proposals put forward in the application. The Council has sought a special contribution towards same which I will address in further detail below.
- 7.2.4. Effectively the existing provision both in terms of the road crossing and that installed on the site to date is undersized. I submit that sufficient detail has been provided to support the view that the proposed works to be undertaken will be adequate and will have sufficient capacity to cater for the 100-year design flow rate of 4.62m<sup>3</sup>/s which includes a 20% allowance for climate change and has a 95% confidence level. The

works, coupled with the works to the north and under the public road, will address the shortcomings of the existing arrangements.

- 7.2.5. The works will be subject to a Section 50 approval from the OPW and as per the report from Barry & Partners accompanying the applicant's response to the 3<sup>rd</sup> Party appeals the process is underway. A condition comparable to that attached by the planning authority (condition 2) is appropriate in this regard.
- 7.2.6. The Spa Stream (also referred to as Ballyvinitter Stream and Spa Glen Stream) at the southern end of the site is liable to flooding. As extrapolated from the details available on [www.floodinfo.ie](http://www.floodinfo.ie) and the South-Western CFRAM Study the southern portion of the site is subject to medium probability of flooding, namely an annual exceedance probability (AEP) of 1%. The lands in the immediate vicinity of the stream are delineated as having a high probability of flooding, namely an annual exceedance probability (AEP) of 10%. This is further reflected by a number of flood events stated to be recurring at the Spa Stream on the N72 at Parkadallane Junction.
- 7.2.7. A Flood Study was carried out as part of the original planning application (04/5912 PI04.211534) and has been updated by way of further information in this current case. It concludes that there will be only minor impacts on the Spa Stream due to the culverting of the Glaise Stream and that these minor impacts will not result in any flooding of the development site or surrounding areas. A small amount of stockpiled material was located in the 100-year floor extent in the southern part of the site. The material has now been removed and stored above (to the north) of the floodplain.
- 7.2.8. Mr and Mrs. Courtney's property bounds the site in the south-eastern corner. They contend that the flooding of the front garden of their property has been caused by the construction of the existing portion of the Clonmore estate. The said flood assessment which accompanies the application takes account of increased flows estimated from the Glaise stream to be culverted. In addition, it notes that the pre-development and recent flood extent maps are almost identical and that the flood extent area along the south-east boundary of the site including, the appellants' property, remains the same. As noted their property directly adjoins the Spa Stream

and that the CFRAM flood map shows that the garden and driveway are at risk of flooding (medium probability).

- 7.2.9. As previously permitted and proposed in this application the southern part of the site is designated for open space use to facilitate the potential flood extent. However, following an assessment of the layout relative to the CFRAM map it appears that House Nos. 195 and 196 in the south-western most corner of the site are within the 1% AEP Flood Extent. I note that the planning authority, by way of condition 5, sought mitigation measures to address same. At this juncture I would consider it more appropriate to seek their omission and the retention of the area as open space. A revised plan detailing these amendments should be submitted prior to commencement of development.
- 7.2.10. 100-year flood levels of 60.04m and 59.40 m OD at the upstream and downstream end of the site respectively have been identified. The lowest proposed finished floor level will be 61.8m OD. The as built storm water attenuation tank is outside the 100-year flood extent area. Storm water will discharge to the said attenuation holding tank and which discharges to the Spa Stream immediately to the south of the development. This discharge point is downstream of the existing properties to the south-east of the site. The flow from the attenuation tank is restricted as approved by the original permission and in accordance with SUDS.
- 7.2.11. Thus, on the basis of the information on file I consider that the existing shortcomings on site with regard to drainage have been adequately addressed and subject to their implementation that the proposed development would not give rise to risk of flooding.

### 7.3. **1<sup>st</sup> Party Appeal against Condition 71 – Special Financial Contribution**

- 7.3.1. The applicant has appealed condition 71 which requires a special contribution of €312,000 towards works at Mallow bridge, upgrade works to the footpath network, upgrade works to the junction of the N72 and Ballyviniter Road and upgrade works to the culvert including a trash screen.
- 7.3.2. As to when a planning authority may require the payment of a Special Contribution is covered in Section 48(2)I of the Planning and Development Act 2000, as amended, with Section 7.12 of the Development Management Guidelines, 2007 providing guidance with respect to same. It is clear that such a request should only be made

in respect of a particular development whereby demands likely to be placed on public services and facilities are deemed to be exceptional thereby incurring costs not covered by the General Development Contribution Scheme of the Council. Any condition imposed under this section must '*specify the particular works carried out or proposed to be carried out by the local authority to which the condition relates*'. This requirement to identify the nature / scope of the works, the expenditure involved and the basis for its calculation, including how it is apportioned to the particular development, is of relevance and includes a mechanism whereby special contributions can be refunded to the applicant in the event that the works in question are not commenced or are not completed within the required timescales.

- 7.3.3. The question in this appeal is whether the stipulated works can be taken to fall within the category for which a special contribution might be sought.

#### *Footpath Facilities*

- 7.3.4. As per the planning authority's submission in response to the appeal it is stated that the contribution sought is towards facilities at the junction of the Ballyvinitter Road and Spa Road which involves the construction of a connector footpath through the junction incorporating a pedestrian crossing point. It is stated that the path will serve both the development and any future development in the area and will allow for better access to the schools, shops etc. in Mallow.
- 7.3.5. As noted the site and adjoining lands along Ballyvinitter Road in the vicinity of the site are served by footpaths with the road characterised by a mix of recently developed housing estates and older housing stock. The lands subject of the appeal have been zoned for residential purposes for a period of time dating back to at least 2005 when permission was granted under ref. PL04.211534 and prior to the drawing up of the current Development Contribution Scheme. I note that the proposed footpath works would not be specific to the current scheme nor exceptional and will benefit both other recent residential development in the immediate vicinity and the wider community. I consider that such financial requirements would be better incorporated into the general contribution scheme and adopted in accordance with the procedures set out in Section 48 of the Act. In this regard I also note that there is provision for the adoption of further schemes in respect of different parts of the functional area of the Planning Authority under Section 48(2)a of the Act. I therefore

do not consider that this element of the contribution meets the parameters in terms of specific exceptional costs and I recommend its omission.

*Upgrade works to the junction of N72 and Ballyviniter Road*

- 7.3.6. In my opinion much the same difficulty arises with the special contribution towards works the upgrade works to the junction of N72 and Ballyviniter Road. The said junction is known as Ballylough Cross. It has a T-junction layout. From the details provided by the planning authority improvement works required will include the provision of a right hand turn land or a roundabout as shown in the Mallow Traffic and Transportation Plan. At this time the works required entail the acquisition of lands to allow for site clearance works around the bend to improve forward visibility for vehicles on the main line. The estimated costs of the works are €120,000.
- 7.3.7. As noted the lands subject of the appeal have been zoned for residential purposes for a period of time dating back to at least 2005 when permission was granted under ref. PL04.211534 and prior to the drawing up of the current Development Contribution Scheme. I note that the proposed upgrade works would not be specific to the current scheme nor exceptional and will benefit both other recent residential development in the immediate vicinity and the wider community. I consider that such financial requirements would be better incorporated into the general contribution scheme and adopted in accordance with the procedures set out in Section 48 of the Act.
- 7.3.8. Notwithstanding, I note that the Board in its decision for 149 dwelling units on lands to the west under ref. ABP 301429-18 considered it appropriate to attach a financial contribution for the said works at a rate of €277 per unit following details provided in the planning authority's submission. In the interests of consistency the application of such a contribution in this instance would be appropriate. This equates €28,808 (104 units x €277)

*Mallow Bridge*

- 7.3.9. As above a difficulty arises with the special contribution towards works at Mallow Bridge. In response to the Board's request the planning authority has submitted a report entitled Boardwalk on Mallow Bridge dated January 2018. The bridge is to the south of Mallow town centre on the R620. The estimated cost for the project is €2,174,312 with the report recommending that a firm of consulting engineers be

appointed to progress the scheme to detailed design stage. No detail is provided as to the basis for the contribution applied in this case.

- 7.3.10. As above the proposed works would not be specific to the current scheme and whilst exceptional in their own right will benefit the wider community within the town. I consider that such financial requirements would be better incorporated into the general contribution scheme and adopted in accordance with the procedures set out in Section 48 of the Act.

*Upgrade Works to Culvert and Provision of Trash Screen*

- 7.3.11. It is not entirely clear whether the applicant is objecting to the financial contribution being sought for the specified works. Whilst the 1<sup>st</sup> Party appeal and response to the planning authority's section 132 submissions would suggest such an objection this is somewhat contradicted throughout the 1<sup>st</sup> Party response to the 3<sup>rd</sup> party appeals; of note page 2 of the response where it is noted that the *'Council levied a very significant special contribution in relation to facilitate culvert upgrade works including a trash screen and associated works to the north of the proposed development. This will lead to a much improved situation in relation to flood risk and should be supported by the Board.'*
- 7.3.12. As noted above modifications to the culverting of the Glaise Stream within the existing Clonmore development and that proposed are so as to address shortcomings which have arisen. The existing culverting of the stream under the Ballyvinitter Road is also noted to be deficient and works are required to address same. In addition a trash screen is also required
- 7.3.13. Notwithstanding the fact that the existing culvert predates the Clonmore housing scheme and that the drainage provisions within the estate as constructed were dictated by Council requirements, it is evident as detailed above that the existing provisions are inadequate with measures proposed by the applicant to address same within the existing and proposed development. The upgrade works to the north and under the public road are considered necessary to accommodate the applicant's development and, as such, comply with the necessary requirements as set out above for such a special contribution. The costs are estimated as being €45,000. No details are provided by the applicant to counter the estimated costs. I therefore accept its bona fides.



7.3.14. On the basis of the above I recommend that the condition be modified accordingly to provide for a contribution towards the culvert upgrade works only.

#### 7.4. **Appropriate Assessment**

7.4.1. This section of the report considers the likely significant effects of the proposal on the relevant European sites in view of the conservation objectives. A Natura Impact Statement was submitted following a request for same by the planning authority by way of clarification of further information.

##### Project Description and Site Characteristics

7.4.2. The lands of the proposed development and the project are as described in sections 1 and 2 above.

##### Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives

7.4.3. The nearest designated site is the Blackwater River (Cork/Waterford) SAC (site code 002170). The SAC boundary in Mallow follows the floodplain of the Blackwater. The development site is c. 1.6km from the SAC at its nearest point and it c. 3.2km downstream along via the Ballyvinitter Stream. The qualifying interests are as follows:

- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Perennial vegetation of stony banks
- Salicornia and other annuals colonising mud and sand
- Atlantic salt meadows
- Mediterranean salt meadows
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation
- Old sessile oak woods with Ilex and Blechnum in the British Isles
- Alluvial forests with Alnus glutinosa and Fraxinus
- Freshwater Pearl Mussel
- White-clawed Crayfish
- Sea Lamprey

- Brook Lamprey
- River Lamprey
- Twaite Shad
- Salmon
- Otter
- Killarney Fern

7.4.4. Detailed conservation objectives for the site have been drawn up, the overall aim being to maintain or restore the favourable conservation status of the qualifying interests.

7.4.5. Kilcoman Bog SPA (site code 004095) is c. 10 km to the north of the appeal site. The qualifying interests for same are:

- Whooper Swan
- Teal
- Shoveler
- Wetland and Waterbirds

7.4.6. To date generic conservation objectives apply for the site, again the overall aim being to maintain or restore the favourable conservation status of the qualifying interests.

Assessment of likely effects

7.4.7. As the site is not within a designated site no direct impacts will arise.

7.4.8. In view of the separation distance between the SPA and the appeal site and the intervening development it is considered that no indirect impacts will arise.

7.4.9. There is a hydrological connection between the site and the Blackwater River (Cork/Waterford) SAC via the Spa Stream which runs along the southern site boundary. The hydrologic connection is approx. 3.2 km with the stream entering the river in proximity to Bridge Street/R620 in the town centre to the south-west of the appeal site.

- 7.4.10. As a consequence there is potential for indirect effects from emissions to ground and surface water during the construction phase such as silt laden run off, hydrocarbons or other pollutants. Therefore a risk exists.
- 7.4.11. The Board is required to assess the potential (a) likely and (b) significant effects (direct or indirect) of the project alone on the European site(s) solely within the context of the site's conservation objectives in light of best scientific knowledge. I would suggest to the Board that the questions of most importance, in this regard, is whether the potential risk is firstly significant and secondly whether the construction measures intrinsic to the development proposed are measures, which would be implemented with or without an appropriate assessment of the proposal, would negate same
- 7.4.12. I note that a Construction and Waste Management Plan has been prepared for this scheme and accompanies the application. It includes measures to prevent contamination of adjoining watercourses. The measures are part of the application documentation and are not additional measures required to address concerns raised in respect of the potential to cause significant effects on the Natura 2000 site in view of its conservation objectives. The measures are well established standard construction methods to avoid a deterioration in the quality of surface waters arising from ground works. They are fully and properly described in the documentation submitted by the applicant.
- 7.4.13. Their implementation would ensure that the proposed development would not have the potential to have a negative effect on the quality of the surface water on the site of the proposed development, and therefore the waters into which these discharges ultimately flow. They are regarded as best work practices that are an integral part of the proposed development that will be implemented by those carrying out that development at the same time and as part of the same process, as opposed to separate measures that would be conceived and implemented to mitigate potential impact on Natura 2000 sites.
- 7.4.14. The measures set out above would be required by the proper planning and sustainable development of the area, even if no question of an indirect effect on a Natura 2000 site arose. The fact that they will prevent a negative impact on the quality of waters within the SAC means that the proposed development, itself, would

not be likely to have a significant effect on any Natura 2000 site. Therefore, the likelihood of any significant effect can be excluded on the basis of the objective information contained within the application to the nature of the habitats and drainage regime in and around the application site and between it and the Natura 2000 site.

### Stage 1 Screening Conclusion

- 7.4.15. Notwithstanding the submission of an NIS in order to facilitate the Board in carrying out an Appropriate Assessment, I consider that the particular characteristics of the project for which permission is being sought in the current application, including its location on a fully serviced and zoned site and the means by which water quality would be protected during its construction, are such that it would **not** be likely to have a significant effect on any Natura 2000 site, either individually or in combination with other projects. This exclusion can be made in view of best scientific knowledge and on the basis of the objective information set out in the application and this report.
- 7.4.16. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Blackwater River (Cork Waterford SAC (site code 002170), Kilcomon Bog SPA (site code 004095) or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

## **8.0 Recommendation**

I recommend that permission for the above described development be granted subject to the following reasons and considerations subject to conditions.

## **9.0 Reasons and Considerations**

Having regard to the residential zoning objective for the site as set out in the current Kanturk Mallow Municipal District Local Area Plan 2017, to the planning history of the site, it is considered that, subject to compliance with the conditions set out below,

the proposed development would not seriously injure the amenities of the area or of property in the vicinity would be acceptable in terms of traffic safety and would not increase the risk of flooding. The proposed development, would, therefore, be in accordance with the proper planning

## 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 7<sup>th</sup> day of December 2016, 25<sup>th</sup> day of January 2017, 31<sup>st</sup> day of October 2017 and 8<sup>th</sup> day of January 2018, 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. House Nos. 195 and 196 in the south-western corner of the site as delineated on Site Plan Drawing Number 1003 Revision 8 received by the planning authority on the 31<sup>st</sup> day of October 2017 shall be omitted and the area shall be developed as open space. A revised site plan with the necessary alterations shown thereon shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** To prevent flooding and in the interest of the proper planning and sustainable development of the area.

3. Prior to the commencement development revised plans and details with the following amendments delineated thereon shall be submitted to the planning authority for written agreement.

- (i) Repositioning of the creche building closer to the public road to the north.
- (ii) Additional window openings on the north elevation fronting onto the public road.

**Reason:** In the interest of the visual amenities of the area.

4. This grant of permission shall not be construed as a grant of permission for the carrying out of works to the Glaise Stream and Spa Stream. Any necessary approval under the Arterial Drainage Act 1945 and subsequent amendments shall be obtained prior to the carrying out of such works.

**Reason:** To prevent flooding and in the interest of the proper planning and sustainable development of the area

5. (a) The development shall be carried out on a phased basis. The first phase shall consist of not more than 50 dwelling units and creche, together with their associated site development works. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority.

(b) Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be as agreed in writing with the planning authority.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

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

7. 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.

8. The internal road network serving the proposed development [including turning bays, junctions, parking areas, footpaths and kerbs] shall comply with the detailed standards of the planning authority for such road works.

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

9. 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 making available for occupation of any house.

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

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. All screen walls shall be two metres in height above ground level, constructed in concrete block, and shall be capped, and rendered on both sides in a finish that matches the external finish of the dwellings.

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

12. All rear gardens shall be bounded with 1.8 metre high concrete block walls, suitably capped and rendered, on both sides, or by 1.8 metre high timber fences with concrete posts.

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

13. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility [and to ensure the use of locally appropriate placenames for new residential areas.

14. Details of proposed fencing to open watercourses within the site shall be submitted to the planning authority for written agreement prior to commencement of development:

**Reason:** In the interest of public safety

15. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 31<sup>st</sup> day of October, 2017. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.



16. 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.

17. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

18. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the

planning authority.

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

19. A final, detailed, site specific Construction and Environmental Management Plan shall be submitted, for the written agreement of the planning authority at least 5 weeks in advance of site clearance and site works commencing.

**Reason:** To protect the environment during the construction phase and also to avoid impacts on water quality, fisheries, sustainable drainage, and flooding.

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

21. 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.

22. The developer shall pay the sum of € 45,000 (forty five thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of upgrade works to the culvert of the Glaise Stream under the Ballyvinitter Road and associated provision of a trash screen to the north of the site. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

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

23. The developer shall pay the sum of €28,808 (twenty eight thousand, eight

hundred and eight euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of Spa Glen /N72 Junction also known locally as Ballylough Cross, for the purpose of the improvement to sightlines. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

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

---

**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**July, 2018**