



An
Bord
Pleanála

Inspector's Report ABP-301636-18

Development	Demolition of existing outhouses and construction of 2 no. new semi-detached storey and a half/two storey dwelling houses and associated site works
Location	Hands Lane, Rush, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F18A/0093
Applicant(s)	D. O'Loughlin and Co. Ltd. SSAP
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	1. John Ennis 2. Roddy Moynihan
Observer(s)	None
Date of Site Inspection	18 th July 2018
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.089 ha, is located on the eastern side of Hands Lane, which runs in a north-south direction between Main Street and South Beach in Rush, Co. Dublin.
- 1.2. The appeal site is located to the rear of existing houses, and is accessed via a laneway from Hands Lane. There is currently a gate across this laneway, and it also provides rear access to a number of other properties to the north and south of the appeal site.
- 1.3. The appeal site is relatively level, and it is currently overgrown. Some outbuildings, which are in a poor state of repair, are located on the western portion of the site. The site is surrounded by existing residential development to all sides, which comprises a mix of single storey and two storey development.

2.0 Proposed Development

- 2.1. The proposed development consists of the demolition of existing outhouses and the construction of 2 No. semi-detached storey and a half/two storey dwelling houses and associated site works.
- 2.2. The existing outbuildings that it is proposed to demolish are located to the west of the appeal site and are single storey with a stated gross floor space of 41 sq m. The proposed semi-detached houses have a combined total stated gross floor space of 304 sq m, and a maximum ridge height of 7.235m. The houses would have their front elevations facing north, and the proposed finishes include zinc-clad bay windows on the front elevations, render and concrete roof tiles. They are three-bedroom units, and I note that a 5 sq m study is also located at first floor level. The windows on the side elevations (i.e. east and west), which serve circulation areas and bathrooms/WCs, are indicated as having obscure glass.
- 2.3. The application was accompanied by, inter alia, a report entitled 'Natura Impact Statement – Stage 1 Screening', surface water percolation test report, a Flood Risk Assessment and information relating to a wastewater pump/sump.

3.0 Planning Authority Decision

3.1 Decision

3.1.1. Fingal County Council decided to grant planning permission and the following summarised conditions are noted:

- C2: The study in each dwelling shall not be used as a bedroom.
- C3: Construction and demolition waste management plan.
- C4: Developer shall ensure unimpeded access to the laneway during the construction phase. The laneway shall not be used for the storage of materials or parking of delivery and service vehicles.
- C5: All window opes at first floor level on the side (east and west) elevations to be fitted with obscure glass.
- C9: Car parking for four cars to be provided within the curtilage of the site with an adequate turning area to allow for vehicles to exit in a forward gear.
- C10: Treated timber post and rail fence, 1.8m in height, shall form the rear boundary between the dwellings. The front of the dwellings shall remain open and devoid of any solid boundary.
- C20: Contribution in lieu of public open space.
- C21: Bond.
- C22: Development contribution.

3.2 Planning Authority Reports

3.2.1. The Planning Officer's report can be summarised as follows:

- Proposed development accords with Objective DMS24 in respect of minimum room areas, widths and storage.
- Easternmost dwelling accords with private amenity space requirement of Objective DMS87. Westernmost dwelling does not, however Objective DMS88 allows for a reduction in circumstances such as small infill sites. Proposal is acceptable.

- Objective DMS58 requires a contribution in lieu of public open space.
- No undue impacts are anticipated on adjoining property. Window opes on side elevations comprise obscure glazing. No undue overlooking is anticipated due to separation distances.
- Site is sufficiently large to cater for two dwellings and for the dwelling type proposed. Proposal does not constitute overdevelopment and it is not considered that it will result in any significant impacts on the amenity of adjoining property.
- Proposed development would not unduly impact on the visual amenity of the area. There is a multiplicity of house types/designs in the area. The site is a centrally located infill site and will integrate into the receiving environment.
- The development will not be overtly visible from Hands Lane or South Shore Road.
- Verbal report from Transportation Planning Section is satisfied that the proposal in the absence of the recommended mitigation measure (works to boundary wall outside site boundary) would not constitute a traffic hazard.
- Condition restricting exempted development which would result in an increase in traffic volumes would be unnecessarily restrictive.
- Search of Land Registry undertaken by Planning Officer indicates that the laneway is a right of way. It is noted that the third parties do not contest the ownership of the laneway. Given the existence of the right of way, it is considered reasonable to use it as an access.
- Given the straight alignment of the laneway, cars would see each other and it is unlikely that situations would arise where cars would have to pass on the laneway.
- Planning condition to ensure unimpeded access during construction should be attached.
- Planning Officer concurs with the finding of the AA Screening.
- Applicant does not appear to have sought a declaration in respect of Part V. Accordingly a planning condition should be attached.

3.3. Other Technical Reports

3.3.1. Transportation Planning: No objection, subject to conditions.

3.3.2. Water Services: No objection, subject to conditions.

3.4. Prescribed Bodies

3.4.1. Irish Water: No objection.

3.5. Third Party Observations

3.5.1. Six third party observations were made. The issues raised were generally as per the appeals, as well as the following:

- Positioning of soakaways relative to site boundaries.
- Concern regarding source of services connections, as site was formerly associated with house known as Loretto.
- Overlooking of houses to the south, south east and west of appeal site.
- Location of bin storage without obstructing the lane.
- Upstairs windows to rear and side should use frosted glass.
- Properties should not be used for any trade or business, including the renting of rooms. Occupation should be restricted to applicant and family for 7 years.
- Uncertainty regarding maintenance and lighting of laneway.

4.0 Planning History

4.1. Appeal Site

4.1.1. **92A/0675:** Permission granted for a bungalow at rear of Loretto.

4.2. Surrounding Area

4.2.1. I am not aware of any recent relevant planning history in the surrounding area.

5.0 Policy Context

5.1. Fingal Development Plan 2017-2023

- 5.1.1. The appeal site is located within the Rush development boundary, in an area zoned 'RS', to provide for residential development and protect and improve residential amenity.
- 5.1.2. The site is also within the designated 'Highly Sensitive Landscape' area indicated on the Green Infrastructure Map associated with the Development Plan.
- 5.1.3. The following policies and objectives are noted:
- **Objective PM44:** Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected.
 - **Objective RUSH 1:** Facilitate the development of Rush as a vibrant town and retain its market gardening tradition.
 - **Objective RUSH 3:** Prepare an Urban Framework Plan to guide and inform future development to include promoting permeability and accessibility within the town centre; provide design guidance for addressing potential infill development sites; and provide measures to assist with the regeneration of the Harbour.
 - **Objective DMS39:** New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

5.2. Natural Heritage Designations

- 5.2.1. The boundaries of Rogerstown Estuary SAC and SPA (Site Codes 000208 and 004015, respectively) are located c. 55m to the south of the appeal site. Rogerstown Estuary is also a pNHA.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Two third party appeals were submitted by John Ennis and Roddy Moynihan, respectively. The issues raised can be summarised as follows:

- The only entrance/exit to the site is by way of a 13 foot laneway. Appellant and neighbour have a legal right of way to cross over it to access their garages and back gardens. Delivery vehicles use the laneway. Two vehicles cannot pass, and adding more traffic would have a terrible effect on the right of way.
- Hands Lane is very busy, has no footpaths, and there is a very limited line of sight exiting the laneway. Hands Lane is used as the main access to South Beach.
- Emergency vehicles will be unable to access the houses.
- Some years ago, planning was granted for a one-family bungalow with more acceptable roof height. That was acceptable to local residents.
- History of anti-social behaviour at rented house adjoining the site which was owned by a Director of the applicant company.
- History of surface water flooding from Hands Lane along laneway.
- Security gate is fitted to laneway, agreed to by a Circuit Court Judge.
- Mr Moynihan's house to the east of the site is located further north than is shown on the application drawings.
- Mr Moynihan is a full-time home-based artist who uses his studio throughout the day, including for teaching and as a pop-up gallery. His cottage enjoys good natural light and tranquillity.
- Proposed development by reason of its height and proximity will overshadow and visually overpower his property, detract from the amenities of his home and impact negatively on his livelihood as an artist. Separation distance is 6m and two storey height will result in afternoon and early evening overshadowing of his studio, living space and open space.

- Traffic noise will detract from the peace and tranquillity of his house and detract from the value of his home and workplace.
- Two car parking spaces are proposed for each house. If houses are rented, it could result in a much greater number of cars on the site.
- Proposed development is out of scale, visually obtrusive and overpowering in relation to the appellant's cottage.
- Average density in the area is c. 4 houses per hectare. While this is low, it is an important aspect of the established character of the area, as a seaside residential location.
- While the site area is stated to be 0.089 ha, the access roadway is half of that amount, leaving the developable area of the site at c. 0.04 ha. The resulting density is 50 houses per ha, c. 10 times greater than the established pattern of development. Density is excessive and constitutes overdevelopment.
- Traffic safety issues on Hands Lane due to cars waiting to enter the site while cars are exiting the site.
- Proposal does not protect residential amenity and is contrary to the RS zoning objective.
- Planning permission was granted in 1992 for a bungalow on the site (Reg. Ref. 92A/0675). This would be a far more appropriate form of development.

6.2. Applicant Response

6.2.1. None.

6.3. Planning Authority Response

6.3.1. The Planning Authority's responses to the appeals can be summarised as follows:

- Issues raised were addressed in Planner's report.
- The issue of access and the laneway was addressed by Condition 4.
- Regarding the issue of the siting of the adjoining property to the east, notwithstanding the discrepancy referred to in the appeal submission, the

Planning Officer does not consider that the proposal will give rise to any significant impacts on adjoining property.

- The Board is asked to uphold the Planning Authority's decision and include Conditions 20, 21 and 22.

6.4. **Observations**

6.4.1. None.

6.5. **Further Responses**

6.5.1. None.

7.0 **Assessment**

7.1. **Key Issues**

7.1.1. I consider that the key issues in determining the appeals are as follows:

- Design and layout.
- Residential amenity.
- Access and traffic.
- Other issues.
- Appropriate Assessment.

7.2. **Design and Layout**

7.2.1. The appellants contend that the proposed development fails to protect existing residential amenities and that it constitutes overdevelopment of the appeal site, due to having an excessive density compared to the established pattern of development in the area, once the area of the laneway is subtracted from the overall site area.

7.2.2. Objective PM44 of the Fingal Development Plan 2017-2023 is to encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being

protected. Similarly, Section 12.4 states that “the development of underutilised infill and corner sites in existing residential areas is generally encouraged. However, it is recognised that a balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill. The use of contemporary and innovative design solutions will be encouraged for this type of development”. This is supported by Objective DMS39, which states that “new infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings”.

- 7.2.3. Having inspected the site and surrounding area, I consider that the existing residential character of the area is defined by its widely varied mix of house types, sizes and designs, ranging from traditional single storey cottages to large two storey contemporary dwellings. There is no particular uniformity to existing residential development in the area in terms of materials, boundary treatments, fenestration detailing, heights or plot sizes.
- 7.2.4. The proposed dwellings are relatively contemporary in design, with large windows to front and back. They are described in the public notices as ‘storey and a half/two storey’, although I consider that they can be more accurately described as two storey given their height of c. 7.2m and the positioning of the first floor windows primarily within the wall, rather than in the roof structure. While the surrounding development is primarily detached, rather than semi-detached, I consider that the proposed development will contribute to the eclectic residential character of the area, and that due to its backland location it will not be readily visible within the streetscape and will not impact on the visual amenities of the area.
- 7.2.5. While the density of the proposed development is higher than the surrounding residential development, I do not consider that it is excessive. Rather, I consider that it makes more efficient use of valuable serviced and residentially zoned lands which are in close proximity to Rush Town Centre and to the various community facilities and recreational amenities of the area. I am therefore satisfied that the proposed development does not constitute overdevelopment of the appeal site.

7.2.6. With regard to the Development Plan standards for houses, I note that the proposed houses are generally compliant with the quantitative standards for room sizes etc. set out in Section 12.4 of the Development Plan. The amount of private open space allocated for the proposed dwellings 1 and 2 is 53.7 sq m and 62 sq m, respectively and the provision for dwelling 1 is below the minimum requirement of 60 sq m set out in Objective DMS87. However, having regard to the infill nature of the proposed development and the provisions of Objective DMS88 which allow for a relaxation for such development, I consider the design and layout of the proposed development to be acceptable.

7.3. Residential Amenity

7.3.1. The appellants contend that the proposed development will negatively impact on their residential amenity due to overshadowing, overbearing and noise impacts.

7.3.2. Having regard to the orientation of the existing and proposed houses, the separation distances and the proposed provision of obscure glass on the side (east and west) elevations, I do not consider that any significant overlooking or loss of privacy impacts will arise.

7.3.3. With regard to overshadowing, I consider that only the houses to the east and west have the potential to experience any overshadowing due to orientation. With regard to the houses to the west, I consider that the separation distance of c. 24m is sufficient to ensure that no significant overshadowing will occur. With regard to the house to the east, which is owned by one of the appellants, I note that the Proposed Site Plan does not accurately show his existing house. It appears that the drawing shows the original structure on the site, which has been replaced with a new, larger, dwelling. The appellant, Mr Moynihan, is stated to be full-time home-based artist, who requires a good level of light and tranquillity throughout the day. The proposed houses would be located due west of Moynihan's house, with a separation distance of c. 6m between them. As noted above, the proposed houses have a height of c. 7.2m, while Mr Moynihan's house has a height of c. 4.5m. Having regard to the suburban context of the area surrounding the appeal site, I do not consider that the proposed development would result in an undue level of additional overshadowing to the appellant's property, by virtue of the separation distance and the comparative height difference between the dwellings. On the same basis, neither do I consider

that the proposed development would result in significant overbearing impacts on the appellant's house, or other houses in the vicinity.

- 7.3.4. The appellant also raises the issue of traffic noise. Having regard to the nature of the proposed development, which comprises an infill development within an existing relatively densely developed residential area, I do not consider that the level of noise generated by two additional houses would be so significant as to materially affect existing residential amenities. I do, however, recommend that conditions be included to address hours of construction and to ensure that the houses are used as single dwelling units. This will also be of benefit in controlling vehicular traffic to the appeal site.

7.4. Access and Traffic

- 7.4.1. The appellants contend that the proposed development will result in additional traffic congestion and the creation of a traffic hazard, due to additional movements on the laneway and on Hands Lane.
- 7.4.2. Hands Lane, as with many of the public roads to the south of Rush Main Street, is a relatively narrow road with no footpaths and a considerable number of direct access points to the primarily detached houses along its length. The speed limit in the area is 50km/hr. The roads in this part of Rush appear to operate as informal shared surfaces, and I noted a considerable number of pedestrians on the roadways in the vicinity of the appeal site on the date of my site inspection. Due to the lack of a footpath, the laneway access to the appeal site would also operate as a shared surface, similarly to the current operation of Hands Lane and other roads in the area. Given the cul-de-sac nature of the laneway and the fact that it will only serve an additional two houses, I consider this approach to be acceptable. Having regard to the established character of the area and the limited number of additional traffic movements that will arise from two additional residential units, I do not consider that the proposed infill development would result in any significant traffic congestion at this location.
- 7.4.3. With regard to the width of the laneway and the potential for the creation of a traffic hazard due to conflicts between entering and existing vehicles, I would concur with the appellants that the laneway will not facilitate passing vehicles. However, I

consider that its straight alignment and short length will allow opposing vehicles to see each other and avoid a situation where they are trying to pass on the laneway.

- 7.4.4. With regard to emergency vehicle access, I note that the minimum width of the laneway is c. 3.75m, which would be sufficient for fire tender access in my opinion. While such a vehicle would be unlikely to be able to turn within the appeal site, the distance it would have to reverse to exit the site is c. 45m. Having regard to the very infrequent requirement for such access, I do not consider that permission should be refused on this basis.
- 7.4.5. The car parking requirement under the Development Plan is two spaces per house. These are not indicated on the Proposed Site Plan, although I note that Figure 1 in the Surface Water Report shows two spaces per house, and illustrates how cars can turn in order to exit the site in forward gear. I consider these car parking arrangements to be acceptable, however if the Board is minded to grant permission, I recommend that a Condition be included to ensure that the area to the front (north) of the proposed houses be maintained as an unenclosed open area to facilitate the turning of vehicles within the site, allowing them to exit in forward gear.
- 7.4.6. Finally, with regard to the construction phase, I would concur with the Planning Authority that a Condition should be included in any grant of permission to ensure that the laneway is not used for the storage of materials, and that unimpeded access is maintained for other users of the laneway.

7.5. Other Issues

- 7.5.1. As noted above, the appeal site is accessed via a laneway which currently has a gate across it, which one of the appellant's states was erected on foot of a Court Order. It appears that the laneway is a right-of-way, although it is not coloured yellow on the planning application drawings, and it provides rear access to a number of other properties as well as to the site of the proposed houses. The appellants raise concerns regarding the use of the laneway, and the continued need to use it to access the neighbouring properties. However, I note that neither appellant has queried the applicant's right to utilise the laneway in connection with the proposed development and I am satisfied that, for the purposes of this assessment, there is no need to seek further clarification. In any case, as section 34(13) of the Planning and

Development Act 2000, as amended states, a person shall not be entitled solely by reason of a permission to carry out any development.

7.6. Appropriate Assessment

- 7.6.1. The appeal site is located c. 55m north of Rogerstown Estuary SAC and SPA (Site Codes 000208 and 004015, respectively). A report was submitted with the planning application entitled 'Natura Impact Statement – Stage 1 Screening (To support in the Appropriate Assessment Process)'. Having reviewed the report, I am satisfied that it constitutes an Appropriate Assessment Screening Report, and not a Natura Impact Statement.
- 7.6.2. The Screening Report considers the effects of the proposed development on the Rogerstown Estuary SAC/SPA, as well as other Natura 2000 sites within 10km of the appeal site, including Lambay Island SAC and SPA (Site Codes 000204 and 004069), Malahide Estuary SAC (Site Code 000205) and Broadmeadows/Swords Estuary SPA (Site Code 004025).
- 7.6.3. The Screening Report concludes that the proposed development will not negatively impact on the conservation objectives and/or the integrity of the Rogerstown Estuary SAC/SPA and likewise, that it will not have any significant direct, indirect or cumulative effects on the integrity and conservation status of the other identified Natura 2000 sites, and that an Appropriate Assessment is not required.
- 7.6.4. Having regard to the nature and scale of the proposed development, which relates to a relatively small infill development on a suitably zoned and serviced suburban site that is surrounded by existing residential development, and which is not within or immediately adjacent to any Natura 2000 sites, I would concur with the conclusions of the AA Screening Report.
- 7.6.5. In conclusion, it is 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 Rogerstown Estuary SAC or SPA (Site Codes 000208 and 004015, respectively), or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Fingal Development Plan 2017-2023, 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 property in the vicinity, would be acceptable in terms of traffic impact and would 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. 4 no. car parking spaces (i.e. 2 no. spaces per dwelling) shall be provided for within the site together with an adequate turning area to allow for vehicles to exit in a forward gear. The location and layout of these spaces and the turning area shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure adequate off-street parking provision is available to serve the proposed development.

3. Each premises shall be used as a single dwelling unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations, 2001, as amended.

Reason: To prevent unauthorised development.

4. The rear boundary between the proposed dwellings shall comprise a block wall, 1.8 metres in height, capped, and rendered, on both sides.

Reason: In the interest of residential and visual amenity.

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

Reason: In the interest of visual amenity.

6. All windows on the side (east and west) elevations of the dwellinghouses shall be fitted and permanently maintained with obscure glass. The use of film is not permitted.

Reason: in the interest of residential amenity.

7. The developer shall ensure that unimpeded access to the laneway is maintained during the construction phase of the development hereby permitted. The laneway shall not be used for the storage of construction materials, construction and demolition waste or for the parking of vehicles associated with the construction phase

Reason: In the interests of residential amenity and to ensure access for adjacent dwellings.

8. Proposals for a house numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

9. 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.

10. 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.

11. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

12. 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.

13. The developer shall pay to the planning authority a financial contribution in lieu of the public open space shortfall that arises based on the standards set out in Objectives DMS57 and Objective DMS57B of the Development Plan and 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.

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

Reason: To ensure the satisfactory completion of the development.

15. 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.

Niall Haverty
Planning Inspector

27th July 2018