



An
Bord
Pleanála

Inspector's Report ABP-302864-18

Development	Single-storey side, front and rear extensions to house, outbuilding to the rear and widening of vehicular access
Location	32b Willow Park Crescent, Finglas East, Dublin 11
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3676/18
Applicant(s)	Orla Fitzpatrick
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	1.) Denis Sinnott 2.) Cathal O'Connell 3.) Letty Byrne & Others
Observer(s)	Noel Rock TD
Date of Site Inspection	8 th January 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located on the eastern side of Willow Park Crescent, a residential street that is accessed from the south off Glasnevin Avenue (R103 regional road) and is located approximately 460m northeast of Finglas east village centre and 5.2km northwest of Dublin city centre.
- 1.2. The site contains a two-storey two-bedroom dormer-style dwelling set back from the road by approximately 9m and with a vehicular access off Willow Park Crescent onto a hardstanding to the front. The house features a single-storey side projection accommodating a garage and a side dormer roof projection. To the rear of the house is an extensive garden area stated to measure 688sq.m, containing a small timber panel shed, enclosed by timber panel fences and block walls of varying heights flanking the rear of neighbouring residential properties.
- 1.3. The subject house and adjacent dormer-style house to the south, No.32a Willow Park Crescent, differ in style to the predominant neighbouring single-storey semi-detached housing along Willow Park Crescent and the two-storey semi-detached houses in Cedarwood Grove. Ground levels in the vicinity drop gradually moving southeast towards Glasnevin Avenue.

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - demolition of a single-storey side garage projection with a stated gross floor area (GFA) of 13sq.m;
 - construction of single-storey front, side and rear extensions, with a stated GFA of 57sq.m, providing for an additional third bedroom and living areas, with walls to be finished in render and zinc cladding to the roof and the existing side dormer;
 - construction of a single-storey outbuilding in the rear garden, with an approximate GFA of 77sq.m, accommodating games room, gym and shed;
 - widening of the existing vehicular access and dished kerb to the footpath by approximately 0.8m to a stated width of 3.2m;

- revised site boundaries to include lands to the rear measuring approximately 688sq.m, landscaping and all associated works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission subject to 12 conditions of a standard nature, including the following:

Condition 3 – submit and agree details of the proposed fence along the southern boundary, which should have a maximum height of 2m;

Conditions 4 & 5 – restrictions on the use of the outbuilding.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (October 2018) reflects the decision of the Planning Authority. The Planning Officer noted the following:

- the proposed front extension would respect the established building line and the side and rear extensions can be absorbed without undue impact on neighbouring residential amenities;
- there are some inconsistencies in the boundary treatment details submitted and there is a need to protect the privacy of residents on both sides of the boundary, while also avoiding any overbearing impact;
- the proposed outbuilding would be 39m from the public road, but would be acceptable having regard to the roof-ridge height (3.15m) and the separation distance (c.2.2m to 3.2m) from the shared boundaries;
- the site is not within Flood Zones A or B;
- ownership of the additional rear garden area is a civil matter and a permission does not solely entitle a person to carry out development.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - no objection subject to conditions.

3.3. Prescribed Bodies

- Irish Water – no response.

3.4. Third-Party Observations

- 3.4.1. A total of ten third-party observations were submitted during consideration of the application by the Planning Authority, nine from local residents and one from a local-elected representative. The issues raised are covered within the grounds of appeal below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. I am not aware of any recent planning applications relating to the appeal site.

4.2. Surrounding Sites

- 4.2.1. Reflective of the residential character of the area, there have been numerous planning applications for domestic extensions and infill housing on neighbouring sites, including the following:
- No.32 Willow Park Crescent (DCC Ref. 4481/18) – Application lodged in November 2018 for a rear dormer window extension and an attic conversion to this house located approximately 10m to the south of the appeal site;
 - No.32a Willow Park Crescent (DCC Ref. 1188/08) - Permission granted in April 2008 for an attic conversion and a single-storey rear extension to the house immediately adjacent to the south of the appeal site;
 - No.23 Cedarwood Grove (DCC Ref. 4128/03) - Permission granted in January 2004 for a two-bedroom bungalow on the site immediately adjacent to the north of the appeal site.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. The appeal site is situated in an area identified within the Dublin City Development Plan 2016-2022 as having a land-use zoning objective 'Z1 - Sustainable Residential Neighbourhoods', with a stated objective 'to protect, provide and improve residential amenities'.
- 5.1.2. Under Section 16.10.12 of Volume 1 to the Development Plan, it is stated that applications for planning permission to extend dwellings will only be granted where the Planning Authority is satisfied that the proposal would:
- 'not have an adverse impact on the scale and character of the dwelling;
 - have no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight'.
- 5.1.3. Appendix 17 (Volume 2) of the Development Plan provides guidance specifically relating to residential extensions. Section 17.7 outlines requirements for the 'appearance' of extensions, including the need to resist 'extensions to the front, which significantly break the building line'. Section 17.8 of this appendix provides specific requirements with regard to the 'subordinate approach' when proposing to extend dwellings, including the need for extensions to perform a 'supporting role' in scale and design to the original dwelling.
- 5.1.4. Under Policy QH1 of the Development Plan, the Planning Authority will have regard to Ministerial Guidelines, including the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (2009).

5.2. National Guidelines

- 5.2.1. The following national guidelines are considered relevant:
- The Planning System & Flood Risk Management - Guidelines for Planning Authorities (2009)
 - Development Management - Guidelines for Planning Authorities (2007)

5.3. Environmental Impact Assessment - Preliminary Examination

- 5.3.1. Having regard to the nature and scale of the proposed development and the location of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Three third-party appeals have been lodged by neighbouring residents, and the grounds of appeal can be summarised as follows:

Legal Interest

- the applicant does not own or have entitlement to the land to the rear stated to form part of the site, which is considered suitable for green amenity space by local residents. Consequently, proposals would be contrary to planning policy in the Development Plan, with respect to the resultant site coverage, plot ratio, scale of development and the provision of private amenity space. Land registry documents and maps are included;
- the previous owner of the lands to the rear was a company that has gone into liquidation, the lands were subsequently handed over to Dublin City Council and local residents have campaigned to use the land for community amenities;
- the applicant purchased the house in December 2012 and an application relating to the lands to the rear was closed by the Property Registration Authority (PRA) in 2016, as they could not find grounds for the claim;
- the lands have recently been maintained by the applicant, including the erection of a perimeter fence, and the application is an attempt to land grab in the absence of ownership details within Dublin City Council;

Residential Amenities

- undue impacts would arise on the amenities of neighbouring residents, including young children and the elderly;
- development is not in keeping with the style, layout, scale or height of neighbouring properties, including the established front building line;
- boundary treatments need to provide for the privacy of neighbouring residents, while also not being excessively overbearing;
- overlooking of the rear gardens in Cedarwood Grove to the north would arise as a result of the additional provision of six ground-floor north-facing windows;
- proposals would restrict light to No.23 Cedarwood Grove and have potential to result in increased noise;

Other Matters

- the application should have been declared invalid in the absence of a letter of consent from the relevant landowner to lodge the application;
- public safety concerns would arise given the separation distance between the proposed outbuilding and the public road (c.80m) and the potential fire risk to trees;
- an increased security risk would arise as a result of increased accessibility to neighbouring properties;
- the rear of the site and the adjoining gardens were previously subject of flooding and the outbuilding is extremely close to or over an existing public sewer;
- inaccurate and difficult to interpret drawings have been submitted, while a southern elevation drawing is omitted;
- there was a delay and inaccuracies in the online display of application documents and drawings by the Planning Authority;
- redaction by the Planning Authority of comments made in submissions including references to a conflict of interest;
- the outbuilding would be turned into a new dwelling;

- unauthorised development has taken place on site, including the demolition of a boundary directly to the rear of the house, in order to extend the site.

6.2. Applicant's Response

6.2.1. The applicant's response to the grounds of appeal can be summarised as follows:

Legal Interest

- ownership of the lands are a civil matter and legal title to the site is set out in an attached letter from the applicant's legal representatives;
- the applicant obtained beneficial interest in the rear parcel of land on site by virtue of a Statutory Declaration provided by the previous owner upon purchase of No.32b Willow Park Crescent;
- possessory ownership was transferred to the applicant with the property in a Deed of Assignment dated the 18th of December 2012;
- aerial photographic imagery stated to date from 2015 and 2018 is included, as evidence that the lands to the rear were part of the house site and do not form part of another adjoining property;

Residential Amenities

- boundary treatment details can be forwarded to the Planning Authority;
- additional impacts on neighbouring residences are not envisaged;
- conditions restricting the use of the outbuilding are acceptable to the applicant;
- the proposed extensions complement the host house and the streetscape;
- the positioning of ground-floor windows would not result in overlooking of properties to the north;

Other Matters

- the area has not been subject of flooding and surface water drainage proposals have been designed to address the additional run-off arising;

- based on a provisional survey, the outbuilding location is not anticipated to come within 2m of the existing public sewer and the outbuilding can be relocated slightly, if necessary;
- drawings and documentation submitted with the application are compliant with all relevant Planning Regulations.

6.3. Observations

6.3.1. One observation was received from a local-elected representative, with the issues raised largely covered in the grounds of appeal above, but also raising the following:

- the lands are under the domain of Dublin City Council, who have mislaid the ownership documents;
- there is no adverse possession of the rear portion of the site and maintenance of this area by the applicant did not take place until recent months.

6.4. Planning Authority Response

6.4.1. The Planning Authority responded by stating that they consider the Planner's Report on the file to comprehensively address issues raised. They also state that the lands forming the rear of the site are not in the charge or ownership of Dublin City Council.

6.5. Further Submissions

6.5.1. In response to the submission of the Planning Authority and the applicant, the comments from the appellant at No.27 Cedarwood Grove can be summarised as follows:

- reaffirms their grounds of appeal, including concerns relating to flooding and redaction of information and provides additional commentary regarding the history of ownership of the rear parcel of land on site, including the failed attempt to register the parcel with the PRA, with correspondence and related affidavit enclosed;
- the subject rear parcel of land is held in title by Grafton Construction Ltd.

6.5.2. In response to the submission of the Planning Authority and the applicant, the comments in both submissions from the appellant at No.32a Willow Park Crescent can be summarised as follows:

- reaffirms their grounds of appeal, including concerns relating to development standards, boundary treatment and application details, the accuracy of drawings submitted, the front extension proposals, redaction of information by the Planning Authority and water supply routes. They also provide additional commentary and correspondence regarding the attempt of the applicant to register the parcel with the PRA and the involvement of the applicant and residents in this process;
- attached to the submission in response to the submission of the Planning Authority is an affidavit dating from 2016, referring to claims relating to the disputed ground on the appeal site. Correspondence from staff within the Planning Authority is also attached specifically addressing queries raised by a local representative with regard to ownership and a drainage reports for the subject planning application. This correspondence refers to the likely owner of the disputed ground as the Office of Public Works (OPW), as property manager for the State.

6.5.3. In response to the submission of the Planning Authority, the comments from the applicant can be summarised as follows:

- reference is made to matters raise in the submission of the Planning Authority and reaffirms their comments with regard to their legal interest in the site, stating that the previous owners of the site were a limited company, Grafton Construction Company Ltd., that were formally dissolved in 2010.

7.0 Assessment

7.1. Introduction

7.1.1. The Dublin City Development Plan 2016-2022 sets out general principles for consideration in extending dwellings, such as residential amenity issues, privacy, relationship between dwellings and extensions, daylight and sunlight, appearance, the subordinate approach and materials. For the city to achieve compact, quality,

accessible and affordable residential neighbourhoods, the Plan sets out, amongst other criteria, that dwellings should be adaptable and flexible to cater for changing needs over time. I am satisfied that the proposed widening of the vehicular entrance and the dropped kerb would not lead to concerns regarding traffic and pedestrian safety. Consequently, I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal relate to the following:

- Legal Interest;
- Impact on Local Amenities;
- Drainage & Flood Risk.

7.2. Legal Interest

- 7.2.1. Section 7 of the planning application form states that the applicant is the owner of the site. The grounds of appeal assert that the applicant does not own or have legal entitlement to use an area measuring 688sq.m to the rear of the house, which is currently used as private amenity space serving the house and would also accommodate an outbuilding under the subject proposals. Land registry documents, maps and correspondence relating to an attempt to register the disputed piece of ground with the PRA have been submitted by the appellants. Based on Land Registry details, the rear parcel of land on site either forms or formed part of a larger land portfolio that included the Cedarwood Grove area to the north. It is asserted in the grounds of appeal that this rear parcel of land, which is not directly accessible from public roads, was handed over to Dublin City Council and local residents have campaigned for it to be used as a community amenity area. It is further asserted in the grounds of appeal that the applicant's attempts to register the rear parcel in their name with the PRA failed and that following purchase of the house, only recently has the applicant commenced maintaining this disputed ground to the rear of No.32b. Correspondence between parties in the Planning Authority and submitted by an appellant, refers to the likely owner of the disputed ground as being the OPW, as property manager for the State.
- 7.2.2. In response to the grounds of appeal the Planning Authority clarifies that Dublin City Council does not have charge over or own the subject rear parcel. It is asserted in the grounds of appeal that the site is in control of a company, Grafton Construction

Company Ltd., which the applicant states was dissolved in 2010. The applicant's response to the grounds of appeal outlines via correspondence from their legal representative that they obtained beneficial interest in the land by virtue of a Statutory Declaration provided by the previous owner upon purchase of No.32b Willow Park Crescent and that possessory ownership was transferred to the applicant with the property in a Deed of Assignment dated the 18th of December 2012.

7.2.3. In addressing 'issues relating to title to land', Section 5.13 of the Development Management Guidelines (2007) outlines that the planning system is not designed to resolve disputes about title to land. The Guidelines also advise that where there is doubt in relation to the legal title of an applicant, and following the clarification sought in additional information, some doubt still remains, the Planning Authority may still decide to grant permission. However a grant of permission is the subject to the terms of Section 34(13) of the Planning and Development Act 2000, as amended, which states that 'a person shall not be entitled solely by reason of permission under this section to carry out any development'. Clarification on legal ownership has been provided by the applicant as part of their response to the grounds of appeal. The Statutory Declaration referenced by the applicant as providing the legal entitlement to use the disputed rear land parcel has not been provided. Grafton Construction Company Ltd., a disputed owner of the ground, is stated to have been dissolved in 2010 and Dublin City Council have stated that they are not the owner of the disputed ground and that the owner is likely to be the OPW. A party to the appeal has provided correspondence from the PRA stating that an application to register the land by the applicant was abandoned in October 2016. Neighbouring parties to the appeal have not asserted in their submissions that they are the legal owners of the subject rear parcel of land.

7.2.4. In conclusion, it is not clear who the disputed ground is registered with, including whether or not the land is registered with the applicant, but this is not a matter that needs to be resolved as part of this appeal. While some doubt remains regarding the legal owner of the disputed ground on site, I am satisfied that, as per the Development Management Guidelines, it would not be reasonable to withhold planning permission in this case for reasons relating to the legal interest of the applicant in the site. Should the Board decide to grant planning permission, the onus

is on the applicant to ensure that they have adequate legal interest to carry out the proposed development and an advice note to this effect should be attached to any permission arising.

7.3. Impact on Local Amenities

- 7.3.1. The site and surrounding area is not provided with any conservation status. It is proposed to extend the house to the front at ground floor by a stated 2.5m. Section 17.7 of the Dublin City Development Plan 2016-2022 outlines requirements for the 'appearance' of extensions, including the need to resist 'extensions to the front, which significantly break the building line'. The grounds of appeal assert that the proposals would not be in keeping with housing and the established front building line. Housing along this part of Willow Park Crescent vary in style and layout, and the front building line is staggered by virtue of infill housing and extensions to properties, including a front garage extension to the adjacent property at No.32a. Consequently, I consider that the proposed front extension, would not significantly break the front building line along Willow Park Crescent, would have an indiscernible impact when viewed in the streetscape and would not have a detrimental impact on the visual amenities of the area.
- 7.3.2. The rear boundaries to seven properties, including Nos.25, 26 & 27 Cedarwood Grove, properties of the appellants, adjoin the northern side boundary to the appeal site and are on a similar ground level. The adjacent house to the south, No.32a Willow Park Crescent, which is also the residence of an appellant, is of a broadly similar dormer-style design and scale as the house on the appeal site, and is constructed on similar ground levels and building lines. This adjacent house features single-storey side and rear extensions.
- 7.3.3. It is proposed to demolish the single-storey side garage extension on the appeal site and construct an extension at ground floor with a height of 3.3m to 4.3m, extending to a depth of c.7.1m from the rear of the house and creating a small internal courtyard space between the older and newer building elements. The adjoining house at No.32a is constructed on a similar rear building line to the house on the appeal site and features a 6m-deep single-storey rear extension, which was permitted in 2008 (DCC Ref. 1188/08) and a single-storey shed structure, which is located along the boundary with the appeal site. The proposed extension would be

directly to the north of No.32a and would not feature side elevation windows. Consequently, significant potential to undermine the residential amenity of No.32a by virtue of excessive overshadowing, overlooking or due to an overbearing impact would not arise.

- 7.3.4. The proposed development would also feature a side extension projecting a maximum of c.1.8m to the north of the house and set back c.1.9m from the front of the house. The extension would be set off the boundary with properties along Cedarwood Grove by on average 1.4m and would feature a 4.3m-high parapet along the elevation closest to these properties. The rear of the adjacent houses along Cedarwood Grove would be a minimum of 8.6m from the proposed extension. Given the separation distance from the proposed extension to adjacent houses and the depth of the adjoining respective gardens (between c.8m to 10m), the proposed single-storey extensions would not have significant potential to impact on the residential amenities of neighbouring residents in Cedarwood Grove, as a result of excessive overshadowing or due to an overbearing impact.
- 7.3.5. I am satisfied that the ground-floor element of the proposed extension would not have a significant impact on the amenities of neighbouring properties and sufficient rear amenity space (c.688sq.m) would be available for future residents of the extended house. Furthermore, the single-storey outbuilding element to the proposed development would have negligible impact on neighbouring amenities given the separation distance of between c.2.2m and 3.2m from the boundaries and its low-profile roof height (c.3.15m). The grounds of appeal assert that the proposed outbuilding could be used for purposes not ancillary to the enjoyment of the house on site and in order to clarify this further the Planning Authority attached conditions restricting use of the outbuilding, which I note the applicant is agreeable to. The grounds of appeal raise concerns regarding boundary treatments along the southern boundary with No.32a, which would include a 2.2m-high fence inside the existing c.1.5m-high wall and serving the proposed internal courtyard space. The Planning Authority recommended attachment of a condition (No.3) to address the potential for an overbearing impact to arise, requesting additional boundary treatment details and restricting the height of the fence to 2m. The applicant has not contested the attachment of this condition, and I consider that such a condition would be

reasonable to attach as it would provide clarity regarding boundary treatments and such a condition should outline all the proposed boundary treatments for the site.

- 7.3.6. In conclusion, the proposed development would not give rise to an unacceptable impact on the residential or visual amenities of the area and, accordingly, permission should not be refused for reasons relating to the impact on local amenities.

7.4. Drainage

- 7.4.1. The grounds of appeal assert that the rear of the site and the adjoining gardens have previously been subject of flooding. The grounds of appeal also refer to the existence of a public sewer running along the site, as indicated in Irish Water maps included within the Drainage Report accompanying the planning application. In response to the appellants' concerns regarding flooding, the applicant states that surface water drainage for the site has been designed as part of the subject proposals to address the additional run-off and that based on provisional surveys, the proposed outbuilding would not be positioned within 2m of the sewer. The applicant has submitted drawings appended to their Drainage Report that illustrate the proposed attenuation measures for surface water drainage.
- 7.4.2. Historic maps of the area reveal that an open drainage channel previously passed through the area, broadly following the existing route of the public sewer. No flood incidents are identifiable from the OPW indicative river and coastal flood maps for the site or the immediately surrounding area (floodinfo.ie). The Catchment Flood Risk Assessment and Management Study (CFRAMS) maps reveal that the proposed development site is not identified as being within Flood Zone A or B for either fluvial or coastal flooding and is therefore located entirely in Flood Zone C, where the probability of flooding is low. For the purposes of flood risk assessment the proposed residential development would be an appropriate development in Flood Zone C based on Tables 3.1 and 3.2 of 'The Planning System & Flood Risk Management - Guidelines for Planning Authorities'. This suggests that the site is suitable for the proposed development from a flood-risk perspective.
- 7.4.3. In conclusion, I am satisfied that the proposed development would not lead to a risk of flooding of lands outside the subject site, would be in an area at low risk from flooding and would be appropriate for this area. Accordingly, the proposed

development should not be refused permission for reasons relating to drainage and flood risk.

8.0 Appropriate Assessment

- 8.1.** Having regard to the minor nature of the proposed development and to the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

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

10.0 Reasons and Considerations

- 10.1.** Having regard to the zoning provisions for the site, to the nature and scale of the proposed development, and to the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be out of character with development in the area, would not seriously injure the residential and visual amenities of the area or of property in the vicinity, would not result in traffic hazard, would be at low risk from flooding and would not lead to a risk of flooding of lands outside the subject site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. A comprehensive boundary treatment including heights, materials and finishes shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The boundary treatment shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

3. The outbuilding shall not be used for human habitation or for the keeping of pigs, poultry or pigeons, ponies or horses or for any other purpose other than a purpose incidental to the enjoyment of the house and shall not be used for commercial purposes without a prior grant of planning permission.

Reason: In the interest of residential amenity.

4. The external finishes of the extensions and outbuilding including roof tiles/slates shall harmonise with those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

6. Site development and building works shall be carried out between the

hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

7. 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.

Note: A person shall not be entitled solely by reason of a grant of planning permission to carry out any development.

Colm McLoughlin

Planning Inspector

24th January 2019