



An  
Bord  
Pleanála

## Inspector's Report ABP 304145-19

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<b>Development</b>	Construction of a two-storey mews house with off-street car space.
<b>Location</b>	Site at Rear of no. 1, Church Avenue Rathmines, Dublin 6
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2144/19
<b>Applicant(s)</b>	Sarah Ryan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third-Party
<b>Appellant(s)</b>	1. Alan Bluett 2. Robert Madden
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	28 <sup>th</sup> June 2019
<b>Inspector</b>	Irené McCormack

## 1.0 Site Location and Description

- 1.1. The appeal site is located to the south of Rathmines. The site is located at the end of a terrace of four existing mews dwellings fronting a cul de sac lane. The site is accessed via Castlewood Park and is located to the rear of no. 1 Church Avenue, a two storey over basement dwelling which is also a protected structure. No .1 Church Avenue forms the end house of a terrace of similar two storey over basement dwellings with deep front gardens.
- 1.2. The southern site boundary forms a division line of the original rear part of the curtilage of no. 1, Church Avenue. The western site boundary adjoins houses on Church Gardens. The eastern site boundary adjoins a two-storey mews dwelling. The northern site boundary adjoins the laneway. A high wall stands along this site boundary, separating the site from the laneway. The width of the laneway is approx. 6.5 metres, but it narrows to 5 m along the frontage of the site

## 2.0 Proposed Development

- 2.1. The development will comprise a two-storey 3-bedroom mews house with off street car space and all ancillary site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was granted for the development subject to seven conditions, the following of which are of note:

**C3.** Required the design to be amended

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report

The Planner's Report notes that the principle of mews development has been established along the rear laneway. The proposed development provides for a substantial mews with sufficient open space and off-street car parking. The proposed design of the mews is considered acceptable. It is considered that the proposal would not negatively impinge on surrounding residential amenity and is therefore

considered to be acceptable. The planner's report therefore recommended that planning permission be granted subject to seven conditions.

### 3.2.2. **Other Technical Reports**

**Engineering Department – Drainage Division** - No objection subject to standard conditions as set out in report dated 25<sup>th</sup> February 2019.

**Transportation Planning** - No objection subject to conditions as set out in report dated 19<sup>th</sup> March 2019.

### 3.2.3. **Observations**

Two submissions in relation to the application were received. The main planning issues raised were as follows:

- The proposed development would constitute overdevelopment
- Concern regarding the impact of another dwelling on existing car parking on the laneway.
- The laneway is inadequate for additional car access and would be overdeveloped if an additional unit was to be provided.
- Site notice was not adequate.
- Residential amenity (overshadowing) of existing property, No. 1 Church Avenue and of the terraced dwellings on Church Gardens.
- Impact on the Protected Structure and adjoining protected structures.
- Substandard provision of private open space for the existing dwelling, No. 1 Church Avenue.

## 4.0 **Planning History**

### 4.1. Site

ABP PL 29S.217578 (DCC Ref. 1884/06) – Planning permission refused in 2006 for a mews type house.

The reasons for refusal referred to: No. 1) overdevelopment of the site because of the close proximity to adjoining residential properties, incl. no. 1, Church Avenue, which is a protected structure, and No. 2) inadequate information in relation to the

ability of the applicant to access the proposed on-site car parking space from the existing laneway without interfering with on street car parking facilities owned by a third party.

## 5.0 Policy Context

### Development Plan

5.1. Dublin City Council Development Plan 2016-2022.

- 5.1.1. The zoning objective relating to the site is land use zoning objective Z2 “to protect and/or improve the amenities of residential conservation areas”. The house in question is a protected structure.

Chapter 5 of the Development Plan specifically relates to housing. Policy QH5 seeks to promote residential development addressing any shortfall in housing provision to active land management and a coordinated planned approach to developing appropriately zoned land at key locations including regeneration areas, vacant sites and underutilised sites.

Policy QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

- 5.1.2. In terms of Conservation Areas, Dublin City Council seek to ensure the development proposals within all Architectural Conservation Areas and conservation areas complement the character of the area and comply with development standards.

- 5.1.3. Specific policies in relation to mews dwellings are set out below.

(a) Dublin City Council will actively encourage schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. This unified approach framework is the preferred alternative to individual development proposals.

(b) Development will generally be confined to two-storey buildings. In certain circumstances three-storey mews developments incorporating apartments will be acceptable where the proposed mews is subordinate in height and scale to the main building and where there is sufficient depth between the main building and the

proposed mews building to ensure privacy, where an acceptable level of open space is provided and where the laneway is suitable for resulting traffic conditions and where the apartment units are a sufficient size to provide a high quality residential environment. This is in line with national policy to promote increased residential densities in proximity to the city centre.

(c) Mews buildings may be permitted in the form of terraces, but flat blocks are not generally considered suitable in mews laneway locations.

(d) New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The design of such proposals should represent an innovative architectural response to the site and should be informed by the established building lines and plot width.

(e) The amalgamation or subdivision of plots on mews lanes will generally not be encouraged. The provision of rear access to the main frontage premises shall be sought where possible. All parking provision in mews lanes will be in off-street garages, forecourts or courtyards. One-off street car parking space should be provided for each mews building subject to conservation and access criteria.

(f) New mews development should not inhibit vehicular access to car parking space at the rear for the benefit of the main frontage premises, where this space exists at present. The provision will not apply where the objective to eliminate existing unauthorised and excessive off-street car parking is being sought.

(g) The potential mews laneways must have a minimum carriageway of 4.8 metres in width and 5.5 metres where no verges or footprints are provided. All mews lanes will be considered to be shared surfaces and footpaths need not necessarily be provided.

(h) In terms of private open space such space shall be provided to the rear of a mews building and shall be landscaped so as to provide a quality residential environment. The depth of the open space for the full width of the site will not generally be less than 7.5 metres unless it is demonstrably impractical to achieve and shall not be obstructed by off-street parking. Where the 7.5 metres standard is provided, the 10 square metre of private open space per bedspace standard may be relaxed.

(i) If the main house is in multiple occupancy, the amount of private space remaining after the subdivision of the garden for mews development shall meet both the private open space requirements for multiple dwellings and for mews developments.

(j) The distance between opposing windows of mews dwellings and the main house shall generally be a minimum of 22 metres. This requirement may be relaxed due to site constraints. In such cases innovative and high quality design will be required to ensure privacy and to provide an adequate setting, including amenity space for both the main building and the mews dwelling.

5.1.4. Chapter 16 of the development plan sets out details of development standards. Standards are contained for minimum floor areas for dwellings, requirements for natural lighting and ventilation, private open space standards, safety and security and acoustic privacy. These standards will be referred to where relevant in my assessment below.

### **National Legalisation**

Architectural Heritage Protection Guidelines (2004)

## **5.2. Natural Heritage Designations**

There are two designed sites within 4km of the site.

- South Dublin Bay SAC (Site code: 000210)
- South Dublin Bay & River Tolka Estuary SPA (Site code: 004024)

## **5.3. EIA Screening**

Having regard to the nature and scale of the proposed development, the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Two no. third party appeal submission were received .

1. *Alan Bluett, No. 3 Belgrave Road, Dublin 6.* The principle grounds of appeal can be summarised as follows:
  - It is set out the additional dwelling will represent overdevelopment of the lane and that planning permission was previously refused for a dwelling on this site under ABP PL 29S.217578 (DCC Ref. 1884/06).
  - The bulk of the development due to overshadowing and loss of light would be detrimental to the residential amenity of no. 1 Church Avenue, a protected structure and adjoining houses to the west fronting Church Gardens.
  - The rear garden remains part of the “attendant ground” of a protected structure (No. 1 Church Avenue). It is noted that an architectural impact assessment report did not accompany the planning application.
  - It is set out that no.1 Church Avenue has a large rear return and the development will result in reduction in the garden/yard area and set back left for no. 1. There will be inappropriate overlooking and lack of privacy due to the limited set back.
  - The layout fails to comply with Section 16.10.16 (j) *Mews Dwellings* Plan and Section 16.10.16 (i) 22m separation distance of the Development Plan.
  - The additional car parking and vehicular movement would be detrimental to the existing residents.
  - It is set out that the house plan is limited in “day space” with very small rooms.
  - The development is not consistent with the Z2 zoning objectives.
  - It is set out hat no. 1 Church Avenue may have a right of way form the existing pedestrian gate across the laneway , this does not give automatic right for the construction of an additional residential unit on the laneway.
  - It is noted that no site notice was erected at mo. 1 Church Avenue.

2. *Robert Madden, 27 Terenure Road East, Dublin 6.* The principle grounds of appeal can be summarised as follows:

- There is currently no wall separating the site from no. 1 Church Avenue, a protected structure and the development description does not refer to the site location with the “attendant grounds” of a protected structure.
- The laneway which the applicant proposes to access the site is not in the ownership of the applicants. There is no evidence of a right of way to access the site or the associated sewer and surface water sewer which traverse the laneway.
- It is set out the adequate private open space will not be provided for no. 1 Church Avenue or the proposed Mews.
- The layout fails to comply with Section 16.10.16 (j) Mews Dwellings Plan and Section 16.10.16 (i) 22m separation distance of the Development Plan.
- The layout does not comply with the minimum room width requirements for a 3-bedroom house as set out in the Quality Housing for Sustainable Communities: Best Practice Guidelines (2007).
- It is set out the development is not materially different to the previously refused planning application for a dwelling on this site under ABP PL 29S.217578 (DCC Ref. 1884/06).

## 6.2. Applicant Response

- The previous planning application on the site was assessed under the 2005-2011 Dublin City Development Plan which has been superseded. The current development plan and current national policy support and encourage infill development and increased residential density. These are material changes to planning considerations since the previous ABP decision in 2006 (ABP PL 29S.217578 (DCC Ref. 1884/06)).
- ABP PL 29S.217578 was assessed as a subdivision of No. 1 Church Avenue. The applicant sets out that this subdivision took place 25 years ago and since then the subject site has not been part of the curtilage of no. 1 Church Avenue.



- Land registry documentation has been submitted to include ‘right of way’ details.
- It is set out that the on-site car parking has been provided set back from the carriageway and the layout is reflective of the existing adjoining 4 Mews dwellings on the lane. The development will not interfere with the existing carriageway and any current parking of vehicles in front of the site is not regulated. It is noted the Transportation Planning Division raised no objection of the development.
- The subject site cannot be considered part of the “attendant grounds” of the protected structure, no. 1 Church Avenue as the site is now unrelated physically, visually or by usage to no. 1 Church Avenue. No heritage assessment was required by the planning authority.
- In relation to overshadowing, loss of light and overlooking, the development is the same separation distance as the existing Mews dwellings along the lane. Similarly, the proposed Mews will be 7-8m from the rear elevation of the three-storey terrace of apartments to the west. It is difficult to envisage how this small two-storey Mews house could cause overshadowing. There is no overlooking associated with the development.
- It is set out that the applicant proposes to construct a boundary wall between the site and no. 1 Church Avenue to define the rear private open spaces associated with each.

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

The Planning Authority did not respond to the grounds of appeal.

### **6.4. Observations**

None received.

## **7.0 Assessment**

### **7.1. Introduction**

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Design, layout and Residential Amenity
- Architectural Heritage
- Other Matters
- Appropriate Assessment

## **7.2. Principle of Development**

7.2.1. The site is zoned Z2 -Residential Neighbourhoods (Conservation Areas) with the following objective; '*To protect and/or improve the amenities of residential conservation areas.*'. Residential is a permissible use within this zoning category. As such the proposal is acceptable in principle, subject to the detailed considerations below.

7.2.2. I further consider that the proposal generally complies with the requirements for mews developments as set out in the development plan in that the site is of sufficient size to accommodate a mews dwelling. The laneway serving the mews dwelling is of sufficient width to cater for traffic associated and the provision of off-street car parking etc. in accordance with the requirements of the development plan.

## **7.3. Design, layout and Residential Amenity**

7.3.1. The proposed Mews is a two-storey detached dwelling located to the rear of no. 1 Church Avenue, a protected structure and at the end of a terrace of four existing Mews dwellings located to the rear of no's 2- 4 Church Avenue, also protected structures. The site is accessed via a rear lane which serves the four existing Mews dwellings.

7.3.2. With respect to the proposed infill dwelling Policy 16.2.2.2 *Infill Development* of the Dublin City Development Plan 2016-2022 deals with Infill development– allowing for houses that respect and complement the prevailing scale, architectural quality and the degree of uniformity in the surrounding townscape. Such development shall have regard to the building plot widths, architectural form and the materials and detailing

of existing buildings, where these contribute positively to the character and appearance of the area. Section 16.10.16 *Mews Dwellings* of the Development Plan actively encourages Mews dwellings which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed.

- 7.3.3. The third-party grounds of appeal assert that the development represents **overdevelopment** of the lane and will result in loss of amenity for the surrounding properties. The appellants argue that development is not materially different to the previously refused planning application for a dwelling on this site under ABP PL 29S.217578 (DCC Ref. 1884/06). I note PL 29S.217578 was assessed under the applicable development plan and national policy guidelines in place at the time. Current policy objectives and national guidance encourage the development of infill sites and increased densities.
- 7.3.4. Site inspection indicated that the general character of the area has been altered over time with the insertion of other infill mews dwellings adjoining the site. In my opinion the **design** of the proposed dwelling reflects the general character of the adjoining mews dwellings in terms of scale and mass, front building line and height. I note the planning authority has included a condition revising the proposed front boundary wall. Site inspection indicated that the adjoining Mews dwellings do not have boundary walls, and I consider the omission of the front boundary wall to be appropriate and consistent with the established character of the existing Mews Lane. I consider the principle of the development is in line with Section 16.10.16 *Mews Dwellings* of the Development Plan.
- 7.3.5. In terms of private open space, the minimum requirement for **private open space** provision as set out in Chapter 16 of the Dublin City Development Plan 2016-2022 is 60-70 sqm of rear garden space. In relation to Mews dwellings Section 16.10.16 (h) states that such space shall be provided to the rear of a mews building and shall be landscaped so as to provide a quality residential environment. The depth of the open space for the full width of the site will not generally be less than 7.5 metres unless it is demonstrably impractical to achieve and shall not be obstructed by off-street parking. The development is in compliance with these standards. The rear garden measures 9.3m x 6.9m respectively and is 63sqm in area. I also note that the rear garden is significantly larger than the rear gardens of the adjoining Mews dwellings.

- 7.3.6. The third-party grounds of appeal also assert that the development will compromise the rear garden of no.1 Church Avenue. I note that no. 1, Church Avenue has a deep two storey height return section to the rear of the main building and that there are windows in this return at both ground floor and first floor level. The rear garden area of no. 1 is 43sqm and this will not be altered by the development. Whilst, I acknowledge that the setting of the house as a protected structure would be somewhat diminished from the removal of such a large portion of the rear garden, the site no longer forms part of the rear garden of no. 1 and as a consequence affords no. 1 no useable amenity value. In this regard, I note the development will be consistent with the adjoining pattern of development and the works will be confined to the site and will not encroach or alter the existing rear garden of no. 1 Church Avenue.
- 7.3.7. The grounds of appeal assert that the proposal will detrimentally impact on the residential amenities of neighbouring properties, as a result of potential **overshadowing, loss of light and overlooking**. The ‘Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities’ and its accompanying ‘Urban Design Manual’ does not set rigid minimum separation distances but does require that habitable rooms and private amenity space should not be directly excessively overlooked by neighbouring residents. The opposing rear building lines are consistent with the adjoining established pattern of development and taken in conjunction with the rear garden depth of 6.9m, I do not consider that there will be significant detrimental overlooking as a result of the development.
- 7.3.8. With regard to the issue of overshadowing and loss of light, having regard to the site aspect facing north, the development will have a negligible impact in terms of reducing daylight and sunlight. The proposed development would not result in any loss of daylight having regard to separation distances to adjoining buildings. However, any reduction in sunlight penetration should be balanced against the reasonable expectation that the applicant be permitted to construct a dwelling of sufficient size to cater for family requirements. Mews developments by their nature are located in built-up urban areas and will undoubtedly give rise to some level of increased overshadowing as a result of site development. The increased levels of overshadowing that would occur in this instance in my view would be negligible and therefore acceptable.

- 7.4. It is asserted in the ground of appeal that the layout does not comply with the 5.3.2 Space Requirements and Room Sizes as set out in the Quality Housing for Sustainable Communities: Best Practice Guidelines (2007). The guidance states that the recommended minimum unobstructed living room widths are 3.8 metres for three-bedroom dwellings, and the minimum room widths for bedrooms are 2.8 metres for double bedrooms and 2.1 metres for single bedrooms. I have reviewed that drawings and consider the development to be in compliance with the recommended standards.
- 7.4.1. In conclusion, the proposed development cannot be considered incongruous or inappropriate in this context and in my opinion does not constitute overdevelopment of the lane.

## 7.5. **Architectural Heritage**

- 7.5.1. It is asserted in the appeal that the proposed development has been incorrectly advertised in so far as there is currently no wall separating the site from no. 1 Church Avenue, a protected structure and the development description does not refer to the site location within the “attendant grounds” of a protected structure as is required under planning legislation.
- 7.5.2. In response the applicant sets out that the site was separated from no.1 Church Avenue 25 years ago and the site is now unrelated physically, visually or by usage to no. 1 Church Avenue. In this regard, I note there is no physical boundary erected between the rear garden of no. 1 Church Avenue and the site and that a new boundary wall is proposed as part of the development.
- 7.5.3. Section 13.1 *Determining the Curtilage of a Protected Structure* of the Architectural Heritage Protection Guidelines (2004) set out that the notion of curtilage is not defined by legislation, but for the purposes of the guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure. The Guidelines set out that the extent of the curtilage will need to be determined on a case-by-case basis and should ideally be identified by the planning authority prior to inclusion of the structure in the RPS. In assessing the current planning application, the planning authority did not determine the site to be within the attendant grounds of the protected structure no. 1 Church Avenue as recorded in the Record of Protected Structures. Furthermore, the principle of providing mews dwellings in the rear gardens of the protected structures,

has already been established. The site in question in terms of impact on protected structures is no different to the other three houses, no.'s 2-4 Church Avenue.

7.5.4. Having regard to the accommodation of mews dwellings in the rear gardens of no.'s 2-4 Church Avenue, I consider the attendant grounds of the protected terrace of 1-4 Church Avenue have evolved and, I am satisfied that the site is not located within the attendant ground of no. 1 Church Avenue by virtue of the established pattern of development. I consider that the development does not have a detrimental impact on the quality and integrity of the main house as a protected structure.

## 7.6. **Other Issues**

7.6.1. The appellants challenge in two ways whether the applicant has sufficient **legal interest** to carry out the proposed development. It is argued that that the proposed development would conflict with two car parking spaces at the end of the laneway and the applicant has insufficient interest in the laneway to carry out necessary infrastructure development. In response, the applicant has submitted land registry deeds establishing 'right of way' over the existing laneway.

7.6.2. In relation to the concerns raised regarding a conflict with two **car parking** spaces at the end of the laneway fronting the site, a site inspection indicated that these are not designated car parking spaces. I note that onsite car parking for the development is to be provided by providing a recessed car parking space adjacent to the front door under a portion of the first floor. The development including car parking is solely confined to the site as outlined in red with no car parking on the lane. Furthermore, I note the planning authority raised no issues with car parking provision on site.

7.6.3. Further to the above I note that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development. Should planning permission be granted and should the appellants or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34 (13) of the Planning and Development Act 2000 is relevant.

## 7.7. **Appropriate Assessment**

- 7.7.1. Having regard to the nature and small scale of the proposed development and 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.

## 8.0 Recommendation

I recommend that planning permission be **GRANTED** for the proposed development having regard to the reasons and considerations and subject to conditions as set out below.

## 9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity, the existing development on site and the policies of the Dublin City Development Plan 2016-2022, 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 and would not detract from the character or setting of the adjacent Protected Structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 30<sup>th</sup> January 2019, 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. The proposed development shall be revised as follows:
  - (a) The front boundary wall shall be omitted in its entirety.

Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of orderly development and the visual amenities of the area

3. Prior to the commencement of development, details of materials, colours and textures of all external finishes to the proposed mews dwellings shall be submitted to the planning authority for written agreement.

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

4. Prior to the commencement of development full details of rear boundary walls shall be submitted to the planning authority for written agreement.

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

5. The mews dwelling shall be used as a single dwelling unit only.

**Reason:** To ensure that the development will not be out of character with the existing residential development in the area.

6. 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.

7. 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:** To protect the residential amenities of property in the vicinity of the site.

8. The naming and numbering of the proposed dwelling unit shall be in accordance with the requirements of the planning authority prior to the occupation of the dwelling.

**Reason:** In the interest of orderly street numbering

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development,



including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Irené McCormack  
Planning Inspector

2<sup>nd</sup> July 2019