



An
Bord
Pleanála

Inspector's Report ABP 304378-19.

Development	4 no. houses, connection to services and associated site works.
Location	Newtownmountkennedy, Co. Wicklow.
Planning Authority	Wicklow Co. Council
Planning Authority Reg. Ref.	18/839
Applicants	Aideen Cardiff & Ciaran O'Connor
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellants	(1) Sean O'Shea (2) James & Brenda Mahon
Observers	Newtownmountkennedy Town Team
Date of Site Inspection	22/8/19
Inspector	Siobhan Carroll

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	3
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Project Ireland 2040 - National Planning Framework.....	5
5.2. Section 28 Ministerial Guidelines	6
5.4. Newtownmountkennedy Local Area Plan 2008-2018.....	6
5.5. Natural Heritage Designations	6
5.6. EIA Screening	7
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	9
6.3. Planning Authority Response.....	11
6.4. Observations.....	11
6.5. Further Responses.....	12
7.0 Assessment.....	13
8.0 Recommendation.....	17
9.0 Reasons and Considerations.....	17
10.0 Conditions	17

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.1776 hectares is located within the town of Newtownmountkennedy, Co. Wicklow. It is situated to the south-western side of the town and circa 200m from the Main Street. The site has road frontage of 43m along the Regional Road the R765.
- 1.2. There is a mix of residential development in the vicinity. To the north there a number of large detached properties with separate vehicular accesses off the road. Springfield Heights housing estate is located to the south of the appeal site. The recently constructed housing scheme of Monalin is situated to west of the appeal.
- 1.3. The site level falls from the western roadside boundary to east and has a gradient of 1:7. There is a footpath which runs through the site linking the public road with Springfield Heights.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a terrace of 4 no. two-storey dwellings.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission subject to 23 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was sought in relation to the following;

1. Irish Water raised the matter of impact of the proposed development on an Irish Water asset, the applicant may wish to contact Irish Water to discuss the matter. The Planning Authority would consider the proposed separation

distance to be acceptable where such distances are sufficient to avoid unacceptable risks to asset and public health.

2. Submit revised drawings showing the revised roadside and entrance design, adequate sightlines available to access the site in compliance with DMURS. If sightline provision involves alterations to property not in the applicant's control, the applicant should submit written evidence of consent from the relevant landowners. Provide a longitudinal section of the proposed access showing the first 6m from the public road at a gradient of 1:40 and thereafter a maximum of 1:10.
3. The site forms part of a large green area which has no established boundaries or fences. Illustrate how it is proposed to delineate the site and the public open space to serve the development and that the adjacent open field which contains the existing Right of Way.
4. Regarding the lands to the rear of the site, clarify if a private Right of Way or if third party rights exist to access these lands. If third party rights exist, revised proposals are required to provide access arrangements to these lands. Also ensure appropriate access is available to ensure future access to other lands can be facilitated.
5. Provide a revised site layout plan using spot ground levels at regular intervals.

Planning Section: Report dated 3/4/19 – Following the submission of further information, the Planning Authority were satisfied with the revised details and proposals and permission was recommended.

3.2.2. Other Technical Reports

Municipal District Engineer – Additional information required. The alignment and gradient of the footpath traversing the site requires careful analysis the level differences from entry/exit are approximately 2m. This requires clarification. A comment from the designers regarding the location of the road entrance is required. This is a busy junction with the Wicklow Hills development and the site entrance should be cognisant of this.

3.3. **Prescribed Bodies**

Irish Water – No objections

3.4. **Third Party Observations**

- 3.4.1. The Planning Authority received 8 no. submissions/observations to the application. The main issues raised are similar to those set out in the third party appeals and observation on the appeals.

4.0 **Planning History**

ABP 304384-19 – Leave to appeal was granted to James and Brenda Mahon.

PA Reg. Ref. 06/6089 – Permission was granted for the construction of 4 no. dwellings including connection of services to public mains all together with associated site works. The development was not carried out.

PA Reg. Ref. 03/8911 – Permission was granted for the development of a florist shop, sign, connection to services and associated works. The development was not carried out.

5.0 **Policy Context**

5.1. **Project Ireland 2040 - National Planning Framework**

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to "prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location".
- 5.1.2. National Policy Objective 35 seeks "to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights".

5.2. Section 28 Ministerial Guidelines

5.2.1. The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- 'Urban Development and Building Heights' Guidelines for Planning Authorities
- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- 'Design Manual for Urban Roads and Streets' (DMURS)
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')

5.3. Wicklow County Development Plan 2016 – 2022

5.3.1. Newtownmountkennedy is a Level 4 – Moderate Growth Town in the settlement strategy set out in Chapter 3.

5.3.2. Appendix 1 – refers to Development Design Standards

5.4. Newtownmountkennedy Local Area Plan 2008-2018

5.4.1. The site is zoned 'TC' – Town Centre: To provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic use, and to provide for 'Living Over the Shop' residential accommodation, or other ancillary residential accommodation. To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and promote urban design concepts and linkages between town centre activity areas.

5.5. Natural Heritage Designations

5.5.1. The nearest Natura 2000 sites are;

- Carriggower Bog SAC (Site Code 000716) is located 3.4m to the north-west of the site.
- The Murrough SPA (Site Code 004186) is located 4.4km to the east of the site.

- The Murrough Wetlands SAC (Site Code 002249) is located 5km to the east of the site.
- Glen of the Downs SAC (Site Code 000719) is located 4.4km to the north.
- Wicklow Mountains SAC (Site Code 002122) is located 7.7km to the west of the site.
- Wicklow Mountains SPA (Site Code 004040) is located 7.7km to the west of the site.

5.6. EIA Screening

- 5.6.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, 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

(1) Sean O'Shea

- The history of the site is outlined. The site was held in trust for the people of Newtownmountkennedy since 5th of November 1926. The land previously contained a community hall which was destroyed by fire in the 1960's. There has been public access to the lands since 1926.
- The property owned by Sean O'Shea enjoys a Right of Way from the across the site to the gate of the rear garden/field. Mr. O'Shea has used this access on an ongoing basis since purchasing the property in August 1997. The previous owner Mr. Brendan Egan previously used this access.

Mr. O'Shea did not register his Right of Way as the lands were previously in public ownership.

- As part of the further information the Planning Authority advised the applicant that "it is the policy of the Planning Authority to ensure that where development is adjoining future development lands, appropriate access will be required to be designed to serve the area so that future access to other lands can be facilitated.
- In response to the matter the applicant indicates a reservation of 2m width to facilitate a potential future pedestrian route such should a legal claim be established by the adjoining owner. The appellants consider this is inadequate and that a 4m minimum width would be required to access to O'Shea lands.
- Dublin City Council requires a wayleave of 15m be kept each side of both services pipes.
- It is submitted that adequate sightlines are not achievable on lands within the applicant's control. The sightline to the north is across the neighbouring properties Clanmahon and Eastwood. The front boundary of Eastwood is a high stone wall located at the edge of the roadway. Therefore, the sightline shown cannot be achieved and the owners of the properties have not consented to the sightline provision.
- The relocation of the entrance to the south to achieve sightlines within the curtilage of the subject site would result in too steep a slope to the access road.
- The proposed site entrance would represent a traffic hazard as it is directly opposite the entrance of the Wicklow Hills housing estate.
- The matter of surface water drainage on the site is raised.
- It is requested that the Board refuse permission.

(2) James & Breda Mahon

- As proposed under the revised plans the existing mature hedgerow boundaries and trees will be replaced with a block wall and fencing. The appellants request that the trees and hedgerow be retained. Conditions no. 1, 18 and 19 refer to boundary treatment the appellants are not satisfied that the conditions would not protect the existing boundary.
- The appellants state that the sightlines at the proposed entrance are across their property and that they did not provide consent for this. The sightlines are shown across the front garden of the neighbouring house to the north. The front boundary of this property is a high stone wall located at the edge of the roadway, the appellants therefore consider that the proposed sightlines cannot be achieved.
- The plans submitted with the further information indicate additional levels which differ from the levels indicated on the original proposal. The revised drawings show higher levels to the proposed house. It is submitted that the proposed height of the dwellings would negatively impact upon the appellants residential amenity.
- The report of the Roads Engineer, raised the matter of the gradients of the estate road and also the proximity of the site entrance to the busy T-junction serving the Wicklow Hills housing estate. The appellants consider that the estate road, rerouted right of way and the proposed entrance have not been adequately considered.
- The appellants request that the Board refuse permission for the proposed development.

6.2. Applicant Response

A response to the third party appeals was submitted by PACC Architecture & Town Planning on behalf of the applicants Aideen Cardiff & Ciaran O'Connor. The issues raised are as follows;

- In relation to the ownership of the site it is noted that the 1926 ownership was cancelled in November 2005. The applicants Aideen Cardiff & Ciaran

O'Connor are the full and legal owners of the lands since 16th August 2006. Permission was granted under PA Reg. Ref. 03/8911 for a florist shop. Condition no. 3 of the permission specified that a Right of Way should be maintained through the site. The permission granted under PA Reg. Ref. 06/6089 as provided for this.

- The drawings submitted as part of the application make provision for public access through the site.
- In relation to the appellant Sean O'Shea's claim to a Right of Way the first party note that the appellant did not make a submission to Wicklow Co. Council in respect of Reg. Ref. 03/8911 while a submission was made in relation to Reg. Ref. 06/6089 the decision to grant permission was not appealed.
- It is considered that Mr. O'Shea has not provided any details to the Board of his land ownership or requirement to access his land through the appeal site. It is submitted that the only regular access through the site is the route from the rear of Springfield Heights to Trudder Lane. This access will be maintained if permission is granted.
- As stated in the further information response 'Ciaran O'Connor and Aideen Cardiff are full and legal owners of the subject site, no Right of Way is acknowledged to Mr. Sean O'Shea.
- As per PA Reg. Ref. 06/6089 and PA Reg. Ref. 18/839 a separation provision has been left off the northern boundary to facilitate a potential pedestrian route such a legal claim be established by the adjoining owner. Ciaran O'Connor and Aideen Cardiff became the full and legal owners of the subject site in August 2006 and no claim has been made in the past 13 years. No Right of Way is acknowledged to Mr. Sean O'Shea.
- The applicants were informed by the Council that the lands contained within Folio WW4297 were under consideration to be included in the vacant site register. The applicants gave an understanding to lodge a planning application.

- Regarding the mature trees and hedgerow boundary the majority of trees which Mr. O'Shea reference are on lands contained within Folio WW4297. The first party state that they do not require the permission of Mr. O'Shea to remove hedgerow and trees within their landholding.
- To address the concerns of Dublin City Council and Irish Water, it is proposed to cover the watermain with a 200mm concrete slab during and after construction. The report of the Irish Water dated 3rd of April state that there is no objection to the proposals.
- A 6m set back will be maintained from the 600mm watermain and 9.5m from the 33 inch main. This separation distance was acceptable under Reg. Ref. 06/6089.
- In relation to the provision of sightlines a report was prepared by Dr Martin Rogers Transport Planner, Chartered Civil Engineer and Chartered Town Planner. It was concluded in this report that, "...report demonstrates that DMURS is the relevant standard for the subject site, and given the prevailing speed limit of 50kph, a sight distance of 45m to the left and right from a 2m setback is required. This report confirms that these sightlines are available."
- It is requested that the Board uphold the Council's decision to grant permission.

6.3. Planning Authority Response

- None received

6.4. Observations

An Observation was received from Newtown Town Team. The issues raised are as follows;

- The Observers query the adequacy of the soakaway proposals.
- They raise the matter of footpath width, kerb height and the height of the proposed retaining wall relative to the path and potential safety issues for pedestrians.

- They would favour boundary treatment comprising a plastered block wall.
- They consider that a site specific traffic report should be provided.
- It is not clear how the main road is accessed through the proposed perimeter wall of the site via the right of way from housing to the rear of Springfield Heights to the main road. Proposals for adequate safety measures be provided to facilitate pedestrian and cyclist use.
- A sectional drawing showing the opening of the perimeter wall should be provided. The Observers state that bollards should be used to prevent vehicular use and anti-social behaviour. They state they would not be in favour of the use of gates.
- The matter of footpath widths and the provision of a pedestrian crossing at the public road is raised.
- The site was subject to a proposal in the submission to the Development Plan review for a new road to the upper Kilcoole Road. The Observers request that the scheme is revised to accommodate the proposed new road.
- The revised proposals do not include landscape proposals.

6.5. Further Responses

6.5.1. A further response to the observation to appeals was submitted by the first party on the 15th of July 2019. The issues raised concern the following;

- Regarding stormwater the Planning Authority attached a condition that all uncontaminated roof and surface water drainage shall be collected via a separate storm water system and attenuated on site and full design details satisfying the requirements of the Greater Dublin Strategic Drainage Study (GDSDS) shall be submitted for written agreement of the Planning Authority.
- The submitted traffic report erroneously referred to Kilmacanogue Village.
- Regarding sightlines, the applicants do not anticipate that any works are required to the adjoining lands or vegetation to achieve the proposed sightlines.

- Regarding boundary treatment, condition no. 18 as attached by the Planning Authority required that details of all boundary treatments including house curtilage boundaries be submitted for their written agreement. In relation to the lands to the north-west corner of the site the boundary will be made up primarily of landscaping and will not impinge on sightlines. The boundary treatment to all rear gardens will be placed at existing ground levels. The layout provides for a 2.4m boundary setback off the northern boundary and a side garden fence of 2.1m to serve house no. 4 which will protect the residential amenity of the neighbouring property. The front boundary treatment comprises a block wall and galvanised rail which will prevent persons jumping or falling into the site.
- There is no requirement or written objective for a road linkage through the site. The proposed scheme maintains the existing pedestrian route.
- In relation to the watermains on site, a report received from Irish Water confirms that they have no objection to the proposals.

7.0 Assessment

Having regard to the above, and having inspected the site and reviewed all documents on file, the following is my assessment of this case. Issues to be considered in the assessment of this case are as follows:

- Principle of development, design and impact upon amenity
- Access and traffic
- Appropriate Assessment
- Other issues

7.1. Principle of development, design and impact upon amenity

- 7.1.1. The proposal development provides for the construction of 4 no. terrace dwellings. Permission was previously granted for 4 no. dwellings on the site under PA Reg. Ref. 06/6089.

- 7.1.2. The site is located within the town of Newtonmountkennedy and is lands zoned town centre where residential use permitted in principle. Having regard to the location of the site outside of the retail core area of Newtownmountkennedy and the planning history on site, I consider that the subject residential development would be acceptable.
- 7.1.3. Matters raised in the appeals in relation to the design of the scheme include surface water drainage, the setback from the watermain, boundary treatment and overlooking.
- 7.1.4. Surface water drainage proposals include the provision of a soakaway to the western side of the site. I consider that the design details of surface water collection and on-site attenuation can be satisfactorily addressed by condition.
- 7.1.5. The matter of boundary treatment has been raised in the appeals and the observation to the appeals. As detailed in their appeal submission the applicants are proposing a landscaped boundary to the north-west corner of the site which will not impinge on sightlines. The proposed boundary treatment the rear gardens will be placed at the existing ground levels. The layout provides for a 2.4m boundary setback off the northern boundary and a side garden fence of 2.1m is proposed to serve house no. 4 which will protect the residential amenity of the neighbouring property to the north. The front boundary treatment comprises a block wall and galvanised rail which will prevent persons jumping or falling into the site. I consider, that these boundary treatment proposal would be acceptable. Should the Board decide to grant permission I would recommend that attachment of a condition requiring that all details of the proposed landscaping and site boundary treatment be submitted to the Planning Authority for written agreement.
- 7.1.6. In relation to the location of the existing watermain to the north-eastern corner of the site the applicants confirmed in the appeal response that a 6m set back will be maintained from the 600mm watermain and 9.5m from the 33 inch watermain. Furthermore, I note the report from Irish Water which confirms that they have no objection to the proposals.
- 7.1.7. Regarding the issue of overlooking or loss of privacy of the appellants property to the north, having regard to the design and layout of the scheme with the proposed dwellings set forward from the front building line of the neighbouring property and the

proposed boundary treatment, I am satisfied that the proposed scheme would not result in any undue overlooking of the neighbouring residential property to the north.

7.2. Access and traffic

- 7.2.1. It is proposed to develop a new vehicular entrance onto the Regional Road the R765. The appellants have raised concern in relation to sightlines at the proposed entrance. They state that the sightlines are located on lands which are not in the ownership of the applicants.
- 7.2.2. In response to the matter the first party refer to the report prepared by Martin Rogers Consulting Ltd. in relation to Traffic issues. Section 5 of the report refers to sightlines. It is set out in the report that 45m sightline distance is available to the left and right for drivers exiting the site from a 2m setback. Sightline provision is indicated on the Site Layout Drawing No: SA17-013. The speed limit along this section of the R765 is 50km/h.
- 7.2.3. As per Table 4.2 of 'Design Manual for Urban Roads and Streets' (DMURS) (2019) 45m of forward visibility is required at junction. On inspection of the site I observed that an unobstructed distance of 45m is available in both directions at the proposed vehicular entrance.
- 7.2.4. The location of the proposed entrance is opposite the entrance to the Wicklow Hills housing development. Having regard to the limited scale of the proposed development I would consider that the level of traffic likely to be generated by the proposed development to be modest in level and in keeping with existing traffic generated at this location and therefore the proposed site entrance can be accommodated at this location.
- 7.2.5. Having inspected the site and having regard to the details set out above I am satisfied that the required sightline distance is available, that the vehicular access arrangements are acceptable.

7.3. Appropriate Assessment

- 7.3.1. Having regard to the nature and 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.

7.4. Other matters

- 7.4.1. In relation to matters raised in the third party appeal lodged by Mr Sean O'Shea concerning Rights of Way, I note that it is confirmed in the first party appeal response that the applicants Aideen Cardiff & Ciaran O'Connor are the full and legal owners of the lands since 16th August 2006.
- 7.4.2. The applicants state that they dispute Mr O'Shea's claim to a Right of Way and that they do not consider that Mr. O'Shea has provided any details to the Board of his land ownership or requirement to access his land through the appeal site.
- 7.4.3. The first party acknowledge that the only regular access through the site is the route from the rear of Springfield Heights to Trudder Lane. This access is a public right of way which will be maintained if permission is granted.
- 7.4.4. In relation to these matters concerning issues relating to title to land, Section 5.13 of the Development Management Guidelines for Planning Authorities, (2007) advises 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." The Planning and Development Act 2000, as amended, requires that applicants have sufficient legal interests in the lands to carry out the development. I note that it is not within the remit of the Board to determine legal interests and/or obligations held by the applicant, in relation to such lands. Section 34(13) of the Planning and Development Act, 2000, as amended, relates as follows: "A person shall not be entitled solely by reason of a permission or approval under this section to carry out a development." This subsection makes it clear that the grant of permission does not relieve the grantee of the necessity of obtaining any other permits or licences which statutes or regulations or common law may necessitate. Having regard to the documentary evidence provided by the applicants in relation the matter of Rights of Way, I conclude this is a civil legal issue between the parties, therefore, I do not consider that issues raised in the appeal are reasonable and substantive grounds for refusal of the proposed development.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

9.1.1. Having regard to the town centre zoning of the site, to the pattern of development in the area, to the planning history of the site and to the design and scale of the proposal, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and 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, as amended by the further plans and particulars submitted on the 13th day of March, 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. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 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.

4. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water prior to the commencement of this development.

Reason: In the interest of public health.

5. Details of the proposed landscaping and site boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

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

Reason: In the interests of amenity and public safety.

7. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the

planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

8. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays, Bank or 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 other to safeguard the residential amenities of property in the vicinity.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual amenity.

10. 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, noise management measures and off-site disposal of construction/demolition waste.

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

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

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

12. 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, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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.

13. 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 phase 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.

Siobhan Carroll
Planning Inspector

11th of October 2019