



An
Bord
Pleanála

Inspector's Report ABP 306281-19

Development	(a) Construct 4 Duplex houses and all associated site works and (b) Retain and complete existing steps from Muckross View
Location	Dromhale, Flesk Road/Woodlawn Road, Killarney, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	18/1095
Applicant	Ted McCarthy
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	William Murphy
Observers	None
Date of Site Inspection	16 th March 2020
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.1. The site is located on the N71 Muckcross Road (also known as Flesk Road at this location), approx. 250m to the south of the junction with Countess Road, and adjacent to the junction with Woodlawn Road. The N71 forms part of the Ring of Kerry and the section on which the appeal site is located is within the built-up area of the town. This is a vacant backland site which is located to the rear of an Applegreen petrol station, which fronts onto Muckcross Road. The land uses in the area are mixed with a substantial number of residential properties, commercial properties and B and Bs. The site is located just to the north of the junction of Muckcross Road and Woodlawn Road, which is largely a residential road providing access to a number of housing estates.
- 1.1.2. There is a small bungalow immediately to the west of the site (to the rear of the petrol station), and pedestrian access to the appeal site is available from Muckcross Road immediately to the south of the bungalow. There is a steep embankment to the east of the site, the gradient of which rises steeply towards a cul-de-sac residential development known as Muckcross View. The eastern boundary of the site abuts three of these properties, Nos. 15, 16 and 17 Muckcross View, which are two-storey detached dwellings. Stepped access is available from a pedestrian pathway between Nos. 14 and 15 Muckcross View, which is in very poor condition and is currently blocked off at the entrance from Muckcross View.
- 1.1.3. The site, which is roughly rectangular in shape, has a stated area of 0.0926 hectares. The site is in the same ownership as the site to the south (on the corner with Woodlawn Road) which is currently under construction as 2 dwellings (granted under 16/884). Access to this site is from Woodlawn Road which also provides for vehicular access to the appeal site, (granted under 16/884).

2.0 Proposed Development

- 2.1.1. The proposal is in two parts. The first element entails the construction of a terrace of four duplex dwellings. The four dwellings would be three storeys in height comprising two storeys over a ground floor garage, with two parking spaces per unit. There would be three bedrooms per unit. The design is contemporary with a curved roof and large glazing panels. The building is tiered so that it integrates into the slope and

there are proposed balconies at first and second floor levels on the western elevation. Access to the development is proposed from Woodlawn Road to the south via the newly created access through the adjacent site to the southwest. It should be noted that Unsolicited Further Information was submitted on 6th December 2018. This consisted of a revised Site Layout and Cross Section K1135-A015-B, which showed Section XX revised with a reduction in proposed FFLs and Roof ridge levels by approx. 2 metres.

- 2.1.2. The second element of the proposed development is for retention and completion of the existing steps from Muckross View. However, this element was proposed as further information received by the P.A. on 8th October 2019. Following the receipt of these details, the application was re-advertised as significant further information.
- 2.1.3. The Further information submitted on 8/10/19 also included a Structural Engineering Report, a Road Safety Audit Report, a set of Photomontages and Revised/Additional Drainage details. The original proposal was revised in a number of ways including a significant reduction in ground and floor levels within the site.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The P.A. decided to grant planning permission for Schedule A (proposed duplex development) subject to 22 conditions including:

Condition 2: Development contribution of €13,728.00.

Condition 3: Special contribution condition of €5,000 in respect of safety improvement works and traffic calming on the L3907, which reflects the increase in traffic volume generated by this development

Condition 6: No overnight commercial guest accommodation.

Condition 7: Requirements to enter connection agreement with IW and no development to commence until connection agreement signed.

Condition 16: The site shall be accessed via the vehicular access granted under planning permission ref. 16/884. This roadway shall be fully completed prior to the first occupation of any of the proposed duplex dwellings.

Condition 17: The existing steps leading to Muckross View and the footpath to the front of the proposed duplex dwellings shall be upgraded in accordance with the best practices and principles of Building for Everyone: A Universal Design Approach and the Building Regulations, prior to the first occupation of the duplex dwellings. – Details to be agreed with P.A. - This footpath shall link up with the proposed footpath located to the south of the “Applegreen” petrol service station as required under planning permission ref. 16/884 prior to the first occupation of the duplex dwellings.

Condition 19: the existing 225mm stormwater pipeline from where it traverses the site to its new proposed connection on the public road (L3907) will be replaced with a 450mm stormwater pipeline. Precise details to be agreed with P.A.

Condition 22: Certification by Structural Engineer of the quality of the works undertaken once completed.

3.1.2. The planning authority decided to grant permission for Schedule B (retention and completion of steps to Muckross View) subject to two further conditions as follows:

23. The existing steps leading to Muckross View to be retained and completed in accordance with plans and details submitted on 7/11/18 and 8/10/19.
24. As condition 17.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner’s initial report noted that the site is zoned residential and is fully serviced. However, it was considered that the proposed development had not been adequately portrayed in the submitted drawings and sections. Further information was recommended.

It was requested that **further information** (9th January 2019) be provided in respect of the following

- Additional details regarding the visual impact of the development on the surroundings including photomontages or 3D graphics, with particular reference to views from Woodlawn Road and the bungalow to the west.

- Site sections with FFLs and roof ridge levels for the proposed development relative to the existing buildings to the east and west of the site.
- Clarification on the status and proposals for the pedestrian footpath linking the site with Muckross View. A cross section of the footpath was also requested.
- Comprehensive landscaping scheme to be submitted.
- Clarification of the intended use of the area between Units 2 and 3 at ground and first floor levels. Concern was expressed regarding the potential for overlooking from the balconies of the property to the west.
- A Road Safety Audit.
- Details of the proposed drainage of the site including the means by which it is proposed to connect to the public sewer and to the public water mains. Details of stormwater drainage also required.
- Structural details of all retaining walls, with particular reference to the need for a retaining wall with the property to the west. The Structural Engineering report should address the impact of excavations, surface water, slippage and the proposed mitigation measures during construction for the retaining walls. A construction method statement was also requested.
- Revised site layout plan showing the layout of the foul sewer, watermains and stormwater and all boundary treatment details. A cross section of the access road was also requested.

The **Further Information Response (8th October 2019)** was considered to constitute significant additional information and republication was required. The re-advertisement took place on 31st October 2019 and letters were issued to observers on 8/11/19. Further submissions were received from TII (23/10/19) which stated no further observations. A submission was made by the third-party appellant, Mr Murphy (first submission) in response to the advert.

The FI was considered to be satisfactory by the Area Planner. The FI included the following

- 3D graphic images and photomontages.
- Revised site layout including cross sections, floor levels and roof levels.

- It was advised (Engineer's Report) that the laneway between Nos. 14 and 15 has been closed off by the L.A. due to danger of a collapse in the wall, but that illegal steps have been erected to facilitate alternative access from 14/15 Muckross View to the pathway through the site. The applicant's legal advice is to close these steps immediately as he cannot get insurance on the site. It was also advised that there is a right of way leading to the rear wall of No.18 Muckross View which will be maintained. However, in the interests of maintaining connectivity, the applicant has proposed a footpath linking the existing steps (NW corner of site) to the existing path (SW corner of site) which is shown on the revised site layout plan. This will provide pedestrian access between Muckross View and Muckross Road.
- Further clarification regarding right of way between site and Muckross View from applicant's Solicitor. It was confirmed that there is no legal pedestrian right of way between Muckross View Estate and Muckross Road and that the existing steps (to rear of Nos. 14/15) are being removed.
- Revised cross section shows ground levels reduced by up to 2 metres. Confirmation that wall will be assessed in respect of need for reinforcement when dropping the level. This will ensure no risk of falls to the public.
- Revised Services drawings showing proposal to divert services (foul and surface water sewers) down the access roadway with a new connection proposed at Woodlawn Road. It is also proposed to bring the water main up the access road. A wayleave will be provided for the foul sewers serving Nos. 15, 16 and 17 Muckross View which currently run through the application site without the benefit of a way-leave.
- Clarification of use of area between units 2 and 3 as Public Amenity Space. Revised drawings were submitted showing the balconies set back by 400mm to reduce the sightline to the bungalow to the west.
- Structural report from Reeks Engineers and drawings.
- Landscaping proposals and drawings
- Road Safety Audit.

The following points were made in the Second Area Planner's Report

- **Visual amenity** – overall levels have been reduced and the location of the site below the houses in Muckcross View and behind the new house being built to the south as well as the Applegreen filling station, means that the proposed development will only be seen intermittently as you travel along Flesk/Muckcross Road and Woodlawn Road. The photomontage shows that the proposed development will not be visually obtrusive and will integrate well with the existing development on adjacent sites.
- **Overlooking from balconies** – of Murphy’s property will be minimal due to the difference in levels and the proximity of this property to the high eastern/rear boundary of its own site.
- **Landscaping** – submitted scheme acceptable.
- **Steps leading to Muckcross View** – these steps are now to be upgraded. Town engineer requests condition to this effect in order to improve pedestrian connectivity in the area.
- **Objection from adjoining owner** – some of objection relates to stability of the boundary wall between the two sites, which is a civil matter between the parties. This property is located on the very busy Muckcross Road, beside the Dromhall Hotel and the Applegreen Petrol Station, and it is considered that the proposed development would have less of an impact on the residential amenities of this property than either of the adjoining commercial uses or from the proximity of the property to Muckcross Road.

A **grant of permission** subject to conditions was recommended.

3.3. Other Technical Reports

- 3.3.1. **Estates Engineer’s Report** (19/11/18) – Additional details were required in relation to matters such as footpath surfaces, turning bays, access road finish and cross section, location of services, visitor parking and a bond to be conditioned if permission is granted. It was recommended that the application be referred to the Roads Engineer. Concern was also expressed regarding the lateral clearance to the estate road which should be a minimum of 1.0m and that the entrance gate is only 3.0m wide. This should be widened by recessing the boundary wall immediately to

the south of the gate. It was stated that retaining walls should be sufficiently high or fenced to protect pedestrians from falling.

3.4. Prescribed Bodies

3.4.1. **Irish Water** (7/11/18) stated that further information would be required in respect of the means by which it is proposed to connect to both public water mains and sewer. It was pointed out that the public water mains and the public sewer run through the site and that these may need to be relocated. It was stated that the developer would need to enter into a connection agreement with IW.

3.4.2. **Transport Infrastructure Ireland** (23/11/18) – No observations to make.

3.4.3. **Inland Fisheries Ireland** (28/11/18) – required the following in relation to pollution control and the protection of surface waters –

- Good construction site management practices to prevent discharges to surface waters or storm drainage.
- Foul and clean surface water drainage to be separated. No foul overflow connections to surface water drainage from any part of the foul sewer pipeline.
- Surface/storm water discharge volumes to be minimised by use of SUDS.
- Certification of correct connections to foul and surface water drainage.

3.5. Third Party Observations

Objections received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the 3rd Party appeal received and summarised in section 6 below. The concerns raised related to the following issues

- Visual amenity and overdevelopment of site. Scale and mass of structure similar to an apartment block. Massive building, including roof, is of excessive scale, mass, bulk and height. Will be obtrusive on skyline.
- Concern regarding overlooking and overshadowing. Glass balconies unacceptable.

- Inadequate private amenity space for duplex units.
- No. 15 Muckross View has a ground floor apartment (separate unit), the entrance to which is from west. It is single aspect with all windows facing west and the garden is only 7 m long (also to the west). Concern is expressed regarding overshadowing and loss of direct sunlight. Similar apartments exist at Nos. 16 and 17 Muckross View.
- Clarification required regarding height of retaining wall (eastern boundary) and whether it includes the garden wall on top of the retaining wall.
- Serious concern regarding structural stability and impacts of the construction of the proposed development, particularly on the adjoining property to the west (Murphy), including the random rubble wall on the boundary. Contradictions in terms of height of wall and works proposed in vicinity of wall. Random rubble wall should not be classed as a retaining wall and there are pressure points where there are bulges, cracks and poor-quality pointing. There has been a landslide previously whereby part of the rubble wall collapsed at the Dromhall Hotel side of the wall.
- Vehicular access to the site and within the proposed development is inadequate. The open nature of the parking will create noise nuisance.
- The public footpath through the site does not appear to be included in the plans.

4.0 Planning History

- 4.1.1. **04/204172** – planning permission refused for construction of 6 no. dwellings and access road on the basis of traffic hazard.
- 4.1.2. **04/204176** – planning permission refused for retention of existing passageway steps on the basis that it would be a danger to public health and safety due to deficient design, inadequate drainage and lack of public lighting. In addition, overlooking of the adjoining property would result in serious injury to the residential amenities of that property.
- 4.1.3. **PL63.215756 (P.A. 05/204430)** – permission granted by Board to retain and complete existing passage way steps. It was noted that the design and materials

were substantially improved compared with the previous refusal. The Inspector considered the provision of an improved pathway to be desirable in terms of improving access and permeability for residents to major transport routes and service facilities, and given that the existing situation was considered to be dangerous and undesirable. The Board granted permission (May 2006) subject to 6no. conditions, one of which required a security bond, and another required adequate collection and disposal of surface water. A further condition (No. 3) required a programme of works to be agreed with the P.A.

5.0 Policy Context

5.1. National Planning Framework 2018

The NPF seeks to focus growth in cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date.

NP 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.

NP Objective 35 seeks to increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of old buildings, infill development schemes, area or site-based regeneration and increased heights.

5.2. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

In order for small towns and villages to thrive and succeed, it is stated that their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past. New development should contribute to compact towns and villages and offer alternatives to urban generated housing in unserviced rural areas. The scale should be in proportion to the pattern and grain of existing development. In terms of densities, centrally located development in small towns and villages could achieve densities of up to 30-40 dw/ha., whereas edge of centre sites should achieve 20-35 dw/ha.

5.3. Kerry County Development Plan 2014

Chapter 3 – Housing – sets out the housing policies and objectives including the following:

HS-2 - Facilitate the housing needs of people in their local communities through actively providing/assisting the provision of housing in settlements.

HS-4 - Have regard to and promote increased residential densities in the towns and other appropriate locations in accordance with the ‘Sustainable Residential Development in Urban Areas’ Guidelines 2009 (DoEHLG).

US-1 – Ensure that future housing in urban areas in the County is located on lands zoned for residential use. In towns and villages residential development shall be located in town/village centres or immediately adjacent to town/village centres, on serviced lands, and in accordance with the Development Guidance of this document.

US-3 – Ensure that all new development within the County supports the achievement of sustainable residential communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual.

US-4 – Promote development which prioritises walking, cycling and public transport use in a sustainable manner, both within individual developments and in the wider context of linking developments together and providing connections to the wider area, existing facilities and public transport nodes.

US-7 – Ensure that all new urban development is of a high design quality and supports the achievement of successful urban spaces and sustainable communities.

Chapter 13 – Development Management Standards includes the following:-

Infill Sites – Infill development must have regard to the main adjoining existing uses, design features, building lines and heights, as well as the existence of any features such as trees, built and natural heritage and open spaces on the site or on adjoining sites. Proposals for infill development must demonstrate how they will integrate satisfactorily with the adjoining developments, without any loss of amenity.

Apartments – must comply with minimum size as set out in Sustainable Urban housing Design of apartments 2007. Private open space to be provided at 5sq.m per

apartment. Public/shared open space to be provided as 10sq.m per bedroom. Adequate space to be provided for communal and bin storage.

Building lines and private open space – A minimum of 22 metres shall generally be provided between directly opposing first floor habitable rooms. This may be reduced subject to good design and the individual design requirements of the site where it can be demonstrated that residential amenity and adequate light is not compromised.

Parking requirement - apartments – one space per bedroom.

5.4. Killarney Town Development Plan 2009 – 2015 (as extended)

Killarney Town Development Plan was extended by Variation 4, which was adopted in December 2018. This Variation replaces the zoning maps and many of the other maps of the original Development Plan. It also includes the population allocation and housing land requirement as contained in the Core Strategy of the Kerry County Development Plan 2014. It also addresses the Killarney Municipal District LAP 2018-2024, which was adopted at the same time, and several other planning issues.

In respect of residentially zoned lands, Variation 4 redesignates lands in Killarney from Residential Phase 1 & 2 to 'Residential' and is based on the sequential approach and lands with extant permissions. Revision 1 of this Variation designated lands as 'Residential' which relates to all lands which are centrally located within walking distance of the town centre.

The site is shown on the New Killarney Zoning Map C (Variation 4) as being located in an area zoned as 'Existing Residential' (R2). Revision 6 replaced HSG-03-D with a revised HSG-03-C, which states –

Ensure that residential densities reflect the density of appropriate adjoining development. Higher densities will be considered in the town centre or within close proximity to the town centre.

The objective for Existing/Developed/Residential Areas is to protect and improve these areas and to provide facilities and amenities incidental to those areas.

Development Management Policy 12.20 addresses Apartment Development. It is noted that Variation No. 4 omitted 12.20.1 which had stated that apartment

development would only be acceptable in the town centre and not in established residential areas. The remainder of the policy 12.20 (subsections 2-6) remains unaltered. Policy 12.21 addresses Apartment Open Space.

5.5. Natural Heritage Designations

Killarney National Park, Macgillicuddy Reeks and Caragh River Catchment SAC (site code 000365) and Killarney National Park SPA (Site code 004038) approx. 100m to the north.

6.0 The Appeal

6.1. Grounds of Appeal

A Third-Party Appeal has been received from William Murphy, the owner of the bungalow to the immediate west of the site. The submission can be summarised as follows:

- **Scale, height, mass and bulk of development** – The scale, mass and bulk of the building is excessive for this site and would result in overdevelopment of a restricted backland site. The four duplex units extend over three storeys to 8.5m in height. It is disputed that the cross sections accurately reflect the true site levels and proposed FFLs and roof levels, as these vary within the site. The height differential also varies across the common boundary with a difference of 5.4m at the upper end and 2.6m at the centre.
- **Height of proposed building relative to appellant's house** – It is submitted that the height of the block is not uniform as it rises in a northerly direction, with the floor level at the southern end being 29.0m OD (with a roof height of 37.4m), and rising to 38.3m at the northern end. There is also a discrepancy in the drawings submitted by the Architect and the those submitted by the Structural Engineer. If planning permission was to be granted, it is considered that the floor levels should be required to match those of the appellant's residence.
- **Reduction in privacy** – the extent and siting of the proposed balconies will have a detrimental impact on the appellant's property. Amenity areas should

not be provided in this form where they overlook adjoining properties. The view of the planner is disputed as there would be serious levels of overlooking from the large glass balconies.

- **Visual amenity** – the proposed development would result in an obtrusive feature on the landscape and would dominate the skyline and would detract from the character and amenity of the area.
- **Layout substandard for turning and manoeuvring of vehicles** – the roadway width reduces from 6.2m to 4m within the site and there is no provision for vehicles to turn on site. There is also an excessively steep gradient within the site.
- **Retaining wall on boundary needs to be replaced** – Serious concerns are expressed regarding the condition and structural stability of the random rubble wall along the common boundary and its ability to retain the new roadway and/or footpath. This wall was not designed as a retaining wall. Material has been added incrementally, raising the ground level above that of the appellant's rear yard. The wall height on the western side is 3.8m over yard level, 2 metres of which is acting as a retaining wall. There are signs of cracking and poor-quality pointing. It needs to be replaced by a new retaining wall.
- **Inadequate provision of private amenity space** – the proposal provides balconies and the area provided is considerably below the required standards. There is no other open space or shared areas for the use of the future occupants.
- **Management of roads, footpaths and services** – there is no reference to a Management company and concern is expressed regarding who would be responsible for roads and services as well as sewerage, water supply, electrical supply. Condition 21 assigns responsibility for the payment of public lighting bills but there is no further condition requiring the establishment of such a management company.

6.2. Applicant Response

The submission from the applicant (28/01/20) is mainly in the form of a rebuttal of the grounds of appeal. The submission can be summarised as follows:

(1) Planning policy - The site is located within the town boundaries and the site is open to consideration

(2) Scale and bulk of development

- The floor levels have been reduced substantially and no objection was raised on this issue until after the site levels were dropped.
- In addition to reducing the site levels to 2 metres below existing ground levels, the proposed development has been 'stepped' to reduce the amount of cut and fill.
- The variation in floor levels across the site ranges from 28.2m to 30.0m with the floor levels of the existing houses being 28.45m.
- The levels of roads and paths reduced in line with requirements of Recommendations for Site Development Works to Housing Areas (i.e. 1%).

(3) Retaining wall

- This means that the ground levels along the length of the wall will be reduced by 2m, (i.e. from 29.5-32.2m to 27.5-30.2m).
- It is agreed that it is not a retaining structure but the removal of 2m height of soil behind it will reduce the pressure on the wall. The stability of the structure will be continually assessed throughout the construction project and will be stabilised as necessary.

(4) Right of way

- The existence of a ROW from Muckross View is disputed. Access to the steps is currently closed due to safety concerns, but it is still used by local residents. However, it is very dangerous and gives rise to anti-social behaviour.
- The developer claims that it is a wayleave and that there is no public lighting. If the L.A. does not own the lands, it is queried how it would be possible to

make the pathway safe by means of public lighting and how the safety issues would be addressed.

(5) Reduction of privacy

- The impact of the proposed balconies has been addressed by the significant reduction in floor levels.
- The appellant's property is very close to the boundary wall which ensures that no overlooking can take place

(6) Traffic safety – a Road Safety Audit has been carried out and the recommendations will be implemented in full.

6.3. Planning Authority Response

The P.A. responded to the grounds of appeal on the 28th January 2020. The following points were made:

1. **Balconies** – the issue of whether these should be provided on the western or eastern elevation was considered in the request for FI. The drawings submitted as part of FI show that the balconies will not impact on the residential amenities of the appellant. The difference in levels and the proximity of the appellants dwelling to the eastern boundary will result in minimal overlooking.
2. **Overdevelopment and dominance of skyline** – the development of 4 town houses on a site with an area of 0.092ha is an appropriate level of development in an urban area.
3. **Visual amenity** – the 3D graphic and photomontage images show the development within its site surroundings. The overall levels on the site have been reduced and the proposed development will not be visually obtrusive. The building would be well below the level of the houses in Muckross View and behind the new houses being built to the west and south, as well being behind Applegreen Service Station. Thus, the proposed development would only be visible intermittently as you travel along Muckross/Flesk Road and Woodlawn Road.

7.0 Assessment

I consider that the issues arising can be assessed under the following headings:

- Appropriateness of density and scale of development
- Adequacy of design and layout
- Residential amenity of adjoining properties
- Retaining wall
- Retention and completion of steps from Muckross View
- Environmental Impact Assessment
- Appropriate Assessment

7.1. Appropriateness of density and scale

- 7.1.1. The site is located in an established residential area with a recently permitted (and partially developed) housing scheme on the adjoining site to the west and south-west. It is situated within walking distance of the town centre (500m) and the wide range of facilities on offer. National policy, as expressed in the National Planning Framework (2018) and Sustainable Residential Development in Urban Areas Guidelines (2009) emphasises the need to make the most efficient use of zoned and serviced lands, which are close to towns and villages, with a good range of services and facilities. In such circumstances, there is strong support for increased densities. It is considered that the appeal site is one which could support increased densities in principle, in accordance with national policy.
- 7.1.2. It is further noted that the Guidelines on Design Standards for New Apartments (2018) regards locations that are within reasonable walking distance of town centres (Intermediate Urban Locations within 800-1000m) as ones that are generally considered suitable for medium-high density residential development of any scale but broadly >45 dwellings/ha. It is noted that Variation 4 of the Killarney Town Development Plan (adopted Dec. 2018) has zoned the site as 'Established Residential' in the Zoning Map C, which relates to residential lands within walking distance of the town centre. It is considered that the density of the proposed development at an estimated 43 dwellings/ha at this location, is in accordance with the objectives of the National Planning Framework, the Design Standards for New

Apartments Guidelines (2018) and the Sustainable Residential Development in Urban Areas Guidelines (2009), and would facilitate the achievement of the objectives of the Development Plan for the area. The proposed development is, therefore, considered to be acceptable in principle.

- 7.1.3. The prevailing density and character of the lands in the vicinity is mixed. The lands to the east and south (Muckross View, Woodlawn Road, etc.) are generally more consistent with an edge of town location, (20-35dw/ha) but the lands to the west and north are of a mixed use character with commercial uses, hotels, large B & Bs fronting onto Flesk Road/Muckross Road. The proposed density of 43dw/ha. would still be well within the recommended density for more centrally located sites of 35-50dw/ha, such as this one, which is considered to be a medium density.

7.2. **Adequacy of design and layout**

- 7.2.1. The site is a backland, infill site which is located to the rear of a petrol filling station and a bungalow with an associated outbuilding (to the west), and adjacent to a large hotel (to the north), an established suburban development (to the east), and to a recently commenced development of two detached houses of contemporary design (to the south and south-west). It is sited on a steep embankment where the ground levels rise from west to east in sharp inclines with benches, and more gradually from south to north. The ground levels are c.4-5 metres above the level of the public roads and the difference in levels between the site and Muckross View to the east is in excess of 10 metres. There is a high concrete retaining wall along the boundary with Muckross View.
- 7.2.2. The appellant's bungalow is located to the rear of the petrol station, but to the south-east of the forecourt area, and has a floor level that is c. 4m higher than that of the forecourt. It is a modest single-storey dwelling unit with a pitched roof and is set back from the rear boundary wall by approx. 2.5m. This is a random rubble wall which is partially a retaining structure and runs along the entire length of the boundary with the appeal site. The associated outbuilding has a lower floor level and is built into the retaining wall to the east and south. The existing ground levels on the appeal site are generally around 2 metres higher than the corresponding levels on the appellant's site. The site to the immediate southwest has recently been developed with a part two-storey, part three-storey detached dwelling, which is at a lower level. The site to

the immediate south has not yet been developed but a house similar to the recently constructed one has been permitted under 16/884. There are pedestrian footpaths (existing and proposed) running along the northern, western and southern boundaries of the site.

- 7.2.3. Thus, the site is particularly constrained in terms of levels, the nature, design and layout of the surrounding established development, and pedestrian paths running through the site. As such, it is considered that the proposed design and layout optimises the development potential of this restricted site. This is achieved by siting the building footprint approx. 1.1 metre from both the eastern retaining wall and the southern boundary, providing the car parking as undercroft spaces, providing private amenity space principally in the form of balconies, by stepping the building back from the western boundary and in the revised proposals, keeping the height of the building below the top of the garden walls along the eastern boundaries. The revised drawings also provide for a lowering of the proposed Finished Floor Levels and ground levels on the appeal site by c.2m, which means that the differential in levels with the appellant's site/bungalow would be minimised.
- 7.2.4. The appellant has, however, raised concerns regarding the differences in ridge heights and in FFLs between the existing bungalow and the proposed duplex units and pointed out that these factors vary across the site. The submitted drawings (as revised and dated 8/10/19), include several cross sections and a long section which show the differentials in height and FFL between the proposed development and the adjoining lands. Section ZZ relates to the area at the southern end of the site (to the south of the bungalow) and Sections CC, BB and AA respectively relate to the southern part of the bungalow, the northern part of the bungalow and the northern part of the site (to the north of the bungalow).
- 7.2.5. It is noted that the FFL of the bungalow is given as 28.45m OD and the ridge height measures at c.5m. Thus, it is estimated that the ridge height is 33.45m. On this basis, the differential in FFLs between the two buildings would vary from south to north as follows - 0.65m (CC), 1.05m (BB) and 1.55m (AA). The differential in ridge height would vary as follows – 3.95m (CC), 4.4m (BB) and 4.85m (AA). It is noted that the setback between the proposed building and common boundary wall also varies from 7.49m at the southern end to 5.326m at the northern end, with the setback opposite the bungalow at approx. 6.3-7.0m. The height of the boundary wall

also varies along the length of the boundary being c3.6m at CC, c.2.8m at BB and c.5.2m at AA.

7.2.6. It is considered that the proposed duplex building would not have an overbearing impact on the bungalow due to a combination of the difference in ground levels, the separation distance between the buildings and the presence and proximity of the boundary wall. The design of the building with the gradual stepping back of the western elevation and the curved nature of the roof also help to integrate the building into the site. The proposed building would not be visually obtrusive when viewed from the east as the revised roof height would be below the level of the garden walls to the rear of Muckross View. It is considered that the appellant's request that the floor levels match those of the bungalow to the west would not be justified as the terraced effect is an effective design approach, which assists with the visual integration of the structure as it steps up the hillside. The 3D photomontages show that the proposed building would also be largely hidden from views along Muckross Road and Woodlawn Road due to the presence of existing buildings on adjoining sites, with intermittent views.

7.2.7. It is considered, therefore, that the proposed duplex block, in terms of its scale, bulk, mass, height, design and siting, would be readily absorbed into the existing built form within the overall site and on adjoining lands. It is further considered that the proposal would not result in overdevelopment of the site or in a visually obtrusive element in the streetscape and would not injure the visual amenities of the area.

7.3. Residential amenity

7.3.1. The main provision for private amenity space would be in the form of balconies on the western elevation. It is noted that the dwelling units would be largely single aspect (west facing) although return glazing is provided for each duplex unit at first and second floor levels which would face north or south. The proposed balconies would provide approx. 28sq.m per unit, over two floors. The Killarney Town Development Plan (2009 as extended and varied), requires 20sq.m for 2- and 3-bedroom apartments and the Design Standards for New Apartments Guidelines (2018) requires 7sq.m to 9sq.m for 2- and 3-bedroom apartments (respectively). Thus, it is considered that the proposed duplexes comply with these standards. The appellant had sought revisions to the plans to provide private amenity space either at

ground floor level or to the rear of the block. It is considered, however, that the provision of private amenity space at the rear of the building would be dark and of a poor quality, and would require the building envelope to be moved closer to the appellant's site. It is further considered that the siting of amenity areas at ground floor level would be too far removed from the internal living space within the duplex units and would conflict with the vehicle manoeuvring area within the site.

- 7.3.2. The appellant has expressed concern regarding loss of privacy from the proposed glass balconies. However, the P.A. was of the view that the proximity of the appellant's bungalow to the boundary wall would prevent any overlooking. It is considered that this can be seen from the cross sections (AA/BB/CC) which include sightlines from the proposed balconies. I would agree that the proximity of the existing bungalow to the boundary wall, together with the height of the wall and the siting and design of the proposed building would mitigate any loss of privacy. The proposal would not therefore give rise to any significant degree of overlooking from the balconies. Given the separation distances and relative heights, together with the location and height of the boundary wall, it is considered that the proposed duplex block would not give rise to any significant level of overshadowing of the property to the west. It is considered, therefore, that the residential amenities of adjoining properties would not be unduly affected by the proposed development.

7.4. Retaining wall

- 7.4.1. The appellant has raised concerns, mainly at planning application stage, regarding the structural stability of the party wall. The developer's Structural Engineer has accepted that the wall is not a retaining structure, but pointed out that nevertheless, the proposal (as revised on 8/10/19) to excavate 2m depth from behind the wall would reduce the pressure on the wall. It was further stated that the developer would undertake to assess the stability of the wall throughout the construction phase and that stabilisation measures would be undertaken as necessary.
- 7.4.2. The planning authority considered that the matter is a civil one which needs to be addressed between the parties directly. The appellant disagrees with this stance. I would accept that should the proposed development alter or interfere with the function and/or appearance of the wall, it would be an issue which should be addressed as part of the planning application/appeal. The wall is an old established

random rubble wall which contributes to the character of the site and area and should be retained. As discussed in the previous sections, it would also play a fundamental role in this instance in terms of screening the proposed development from the adjoining house close to the western boundary and would help the duplex block to be successfully integrated into the landscape.

- 7.4.3. Given that it is proposed to remove 2m depth of soil directly adjacent to the wall, it is considered that measures should be taken to ensure that it is retained and stabilised if necessary. Thus, should the Board be minded to grant permission for the proposed development, it is considered that suitably worded conditions should be attached requiring the retention of the wall and the submission of detailed structural drawings and a method statement indicating the means proposed to ensure the structural stability of the wall to the P.A. for its agreement, as well as the payment of a bond.

7.5. Retention and completion of steps to Muckross View

- 7.5.1. There is much confusion in the submissions on file regarding the status of the pedestrian pathway through the site. The matter has been the subject of previous planning decisions on the site, one of which resulted in a permission being granted by the Board (215756) for the completion and retention of a pathway in three sections. The description in the Inspector's report states that the first section connects the appeal site with Muckross Road, the second runs alongside the boundary of the appeal site and the appellant's property/petrol station site, and the third section travels alongside the northern boundary of the site (including a series of flights of steps) to connect with Muckross View Housing Estate. The Inspector advised that the steps were of wooden and steel mesh construction, with no lighting and that it was in a dangerous condition. It was further noted that the P.A. had made it clear that it did not propose to take it in charge or to assume any responsibility for maintenance or insurance of the pathway. However, both the landowner (at the time) and the P.A. had agreed that the provision of connectivity through the site was desirable and in accordance with the planning policies for the area.
- 7.5.2. It is clear from the Inspector's Report (215756) that a pathway has been in existence for some time and that it was originally developed, (with the consent of the previous owners of the site), in 2000 in order to provide connectivity between Muckross View and Muckross Road. The pathway had previously been the subject of a refusal, (P.A.

Ref 04/4176), as it had been proposed to retain it more-or-less as it had existed at that time, (which was considered to be substandard and unsafe). The proposal granted by the Board included replacement of the steps with concrete, the provision of handrails, public lighting and new surfaces etc. It is clear, however, that this permission has not been implemented and that the local authority has since blocked the access to the pathway from the laneway between Nos. 14 and 15 Muckross View for public safety reasons.

- 7.5.3. In the meantime, it would appear from correspondence from the developer, (and his agents), that an illegal access from these two properties into the applicant's site has been created without the consent of the landowner. The developer's solicitor, (letter dated 4th October 2019), has clearly stated that there is no pedestrian right-of-way between Muckross View and Muckross Road, and that any access point that is there presently is unauthorised and does not convey any rights of way in favour of a third party. It was further stated that access for House Numbers 15, 16 and 17 Muckross View will not be maintained and that the existing steps will be removed. The Report from the developer's Structural Engineer (Reeks Consulting Engineers), dated 9th October 2019 confirmed that "there is no legal right of way over the steps which have been constructed" and that the applicant has been unable to insure the property due to this illegal access, which will be closed off. It is considered, however, that the 'steps' being referred to here are not the steps described in the Inspector's report, but an additional set of steps that may have since been removed by the developer.
- 7.5.4. Notwithstanding the confirmation that there is no legal right of way over the site, the developer has agreed to provide a pathway linking Muckross View to Muckross Road "in the interests of connectivity". It was pointed out that in the event that planning permission is refused, this proposed pathway would not be developed. It was advised that the pathway could be provided along the line of the existing route, (which would correspond with the route the subject of the permission granted under 215756), or via an alternative route from Muckross Road leading directly to the rear of No. 18 Muckross View, (at which point it is stated there is an existing right-of way). However, it should be noted that there is a solid concrete retaining wall at the rear of No. 18 which would not allow for such a route to be readily implemented.
- 7.5.5. It is considered that the proposal to provide a pedestrian pathway through the site would be acceptable and would enhance pedestrian connectivity between housing

areas and local services, which would be in accordance with national and local planning policy. The route of the established pathway is considered to be the most appropriate, but it is currently in a dangerous and substandard condition and should be upgraded. Few details of how this is to be achieved, however, have been submitted by the applicant. Drawing no. K1135-A016-B (dated 1/10/19) shows a “proposed path to maintain access to the Muckross View Estate, same level as proposed roadway” (coloured yellow) and “proposed steps to link to existing”. There is a longitudinal section (Y-Y) along the route from north to south and an insert showing the proposed surface drainage with associated materials. The Landscape Drawing (Frank Culloty) also shows part of the pedestrian pathway including a series of steps alongside the northern boundary. It should be noted that the revised proposals indicate that the ground levels are to be reduced by up to 2m, which would necessitate a redesign of the pathway, particularly at the northern end.

7.5.6. However, it is not clear how it is proposed to upgrade the steps and the path surface, in terms of the location and design of the steps, the materials and finishes to be used, the nature and siting of the lighting to be provided and whether handrails are to be included or what boundary treatment would be provided. It is noted that the Road Safety Audit recommends that drainage of the pathway and public lighting be adequately addressed (Problems 3.5 and 3.6). It is further noted that Problem 3.8 identified a hazard regarding slips, trips and falls on the section of the pathway linking Muckross Road and the development site (Problem 3.8). It was recommended that it should be provided with a bound pavement material to ensure that the surface is stable and free of ponding and trip hazards and that the footway should extend into the development to support safe pedestrian and cyclist movements.

7.5.7. Condition 15 of the P.A. decision required implementation in full of the recommendations of the RSA, with details to be agreed with the P.A. prior to commencement of development and that a Stage 3 Audit be carried out on completion of the development. In addition, the Conditions 17 and 18 were attached, the main points of which may be summarised as follows:

Requirement to upgrade the existing steps leading to Muckross View and the footpath in front of the proposed duplex dwellings “in accordance with the Best Practices and Principles of Building for Everyone: A Universal Design Approach

and the Building Regulations” – precise details to be agreed with P.A. It also required the proposed footpath to link to the existing footpath to the south of the petrol station prior to first occupation of the units.

- 7.5.8. It is considered that should the Board be minded to grant permission, appropriately worded conditions should be attached which require the upgrading of the pathway along its entire length from Muckcross Road to Muckcross View, including provision of new steps along the route where required, which should be constructed in an appropriate durable material, together with handrails, lighting and drainage. As the P.A. do not intend to take the pathway in charge, it is important that the developer takes responsibility for lighting, maintenance and upkeep of the pathway at least in the short term. It is noted in the response to the grounds of appeal that it is the developer’s intention to provide lighting and to make the access a safe and secure route from Muckcross View to Muckcross Road. As such, it is considered that the development should be managed by a Management Company and that a bond condition would be appropriate in this instance.

7.6. Other matters

- 7.6.1. **Turning areas on site** - The appellants consider that the absence of a turning area for vehicles entering/leaving the property or for trucks on site is unacceptable, particularly given the steep gradient of the site is unacceptable. The applicant has responded that the proposed development was subjected to a Road Safety Audit and that it is intended to implement the recommendations in full. I note that the problems identified included a requirement for a swept path analysis (3.4) and that the gradient of the entrance driveway to the site will be substantially reduced due to the proposals to excavate and fill in order to lower the ground levels by 2m. It is required that a swept path analysis is provided for each unit. Problem 3.7 also identified the need to provide measures to prevent large vehicles from entering the site and to provide a more forgiving turning head at the top of the driveway to ensure that delivery trucks can safely turn before travelling back down the driveway towards Woodlawn Road
- 7.6.2. **Need for Management Company** – there is no reference to the ongoing upkeep and maintenance of the four units or how they would be incorporated into a management structure. Neither is there any reference to who would be responsible

for the internal roads and services within the site, such as roads, footpaths, storm water, foul water, water supply, electrical supply, telecom etc. Although Condition 21 requires that public lighting be the responsibility of a management company until taken in charge, there is no requirement to establish such a body. It is considered that a Management Company is therefore required. I would agree that a Management Company should be required to be established to manage the communal areas and that the payment of a bond should be required, as discussed in 7.5 above.

- 7.6.3. **Inaccuracies in drawings** – The appellant considered that there are anomalies between the Structural Engineering Drawing (Sewer Details – REC19-153-01) and the Architectural Drawings (Mosca – K1135-A016-B), both submitted in October 2019. However, it is considered that the levels quoted in the grounds of appeal in respect of the Structural Engineering drawings relate to existing ground levels, whereas the levels shown on the Mosca Architectural drawings relate to proposed levels.

7.7. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development within the development boundary of Killarney town on serviced lands, 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.

7.8. **Appropriate Assessment**

- 7.8.1. The site is located within 350m of two European sites, Killarney National Park, Macgillycuddy Reeks and Caragh River Catchment SAC (site code 000365) and Killarney National Park SPA (Site code 004038), which are situated to the northwest and west. The site is also located c. 500m to the north of the Flesk River which forms part of the SAC. There are no known hydrological links to the protected sites. Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the planning history of the site, to the location of the site within an established housing area in close proximity to Killarney Town Centre, which is zoned 'Established Residential' in the Killarney Town Development Plan (2009-2015, as extended and varied), and to the national and local policy objectives to encourage increased densities in such locations, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area and would be acceptable in terms of traffic safety and convenience. 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 as amended by the further plans and particulars submitted to the planning authority on the 6th day of December 2018 and the 8th day of October 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 random rubble stone wall along the western boundary of the site shall be retained and restored as part of the proposed development. Detailed structural drawings and a construction method statement indicating the

means proposed to ensure the protection of the structural stability of the wall to be retained shall be submitted and agreed with the Planning Authority prior to commencement of works on the site. These details shall include the methods proposed to protect the foundation system including an underpinning, structural bracing and support and the method of construction.

Reason: To ensure that the boundary wall is maintained and protected from any unnecessary damage.

3. The existing pedestrian pathway shall be retained, upgraded and completed for the entire length of the route from Muckcross Road to Muckcross View prior to the first occupation of the duplex dwellings and shall follow the route granted by the Board under PL08.215756. The proposed improvement works shall include the following details:-
 - (a) The location and design of the flights of steps along the route.
 - (b) The materials and finishes of the surface of the path and steps which shall include the use of durable, non-slip and bound pavement materials.
 - (c) The siting and design of the public lighting along the route.
 - (d) The provision of handrails along the route.
 - (e) Boundary treatment and landscaping along the route.
 - (f) Drainage proposals for the footpath.

Detailed drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the residential amenity and connectivity of the area.

4. Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water. No dwelling shall be occupied until water and sewerage services serving the

development have been installed and functioning in accordance with the connection agreements made with Irish Water.

Reason: To ensure that satisfactory water and wastewater arrangements are in place to serve the development.

5. 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.

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

Reason: In the interest of visual amenity.

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

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

8. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

9. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations 2001, or any statutory provision modifying or replacing them, no room in the proposed dwelling units shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission

Reason: In the interest of residential amenity.

10. Access to the development shall be by means of the vehicular access granted under Planning Permission Reference No. 16/884. The gradient of the access roadway shall be minimised and measures shall be provided to ensure that large vehicles can enter the site and leave in forward gear. This roadway shall be fully completed prior to the first occupation of any of the proposed duplex dwelling units.

Reason: In the interests of traffic safety.

11. 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 interest of amenity and public safety.

12. 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 and residential amenity.

13. The landscaping scheme on the drawing entitled Landscape Layout as submitted to the Planning Authority on the 8th day of October 2019, shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established.

Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

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

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

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

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

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

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

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

17. The construction of the development shall be managed in accordance with a Construction and Environmental 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.

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

19. 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.

20. The developer shall pay the sum of €10,000 (ten thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, (as amended), in respect of safety improvement works and traffic calming on the N71 and the L3907, improvement of the footpaths on the L3907 leading to the development and improvements of the public lighting infrastructure and undergrounding of services on the N71 and L3907. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to An Bord Pleanála to determine

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

Mary Kennelly
Senior Planning Inspector

3rd April, 2020