



An  
Bord  
Pleanála

## Inspector's Report ABP-307187-20

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<b>Development</b>	10 houses
<b>Location</b>	Rathnaneane, Newcastle West, County Limerick
<b>Planning Authority</b>	Limerick City & County Council
<b>Planning Authority Reg. Ref.</b>	19/1148
<b>Applicant(s)</b>	Valerie Dimaulo
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Shane & Sharon Kelly Vincent McCormack
<b>Date of Site Inspection</b>	15 <sup>th</sup> July, 2020
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

1.1. The 0.45 hectare site is approximately 0.5km south-east of the town centre of Newcastle West in County Limerick. It comprises an undeveloped plot bounded to the north, east and south by existing housing. The site slopes from north to south. It is accessed from a cul-de-sac end within The Paddocks housing estate. There are three two-storey, detached houses immediately to the north of the site within The Paddocks, single-storey, terraced houses immediately to the east within Killeline Heights, and open space and two-storey, terraced housing a short distance to the south within Woodfield Green. The site is bounded to the west by open lands. The eastern boundary of the site comprises hedgerow.

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise the construction of 10 houses, an access road and all ancillary site works. The houses would consist of 4 no. three bedroom, two-storey, semi-detached houses, 2 no. three bedroom, two-storey, terraced houses, and 4 no. two bedroom, two-storey, terraced houses. Each house would have parking to the front and a rear garden. Parking would also be provided along the west side of the site opposite the open space. The proposed houses would be laid out north and south of a proposed central open space around which the internal service road would be located. The development would be served by mains water and sewer.
- 2.2. Details submitted with the application included an SSIA Report, a Part 5 Declaration, a Design Statement, Engineering Reports, and CCTV information on the sewers.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 20<sup>th</sup> March 2020, Limerick City & County Council decided to grant permission for the proposed development subject to 27 conditions.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The Planner noted the site's planning history, development plan provisions, reports received and third party submissions made. It was considered that the proposed development would infill and complete this section of The Paddocks estate, ensuring contiguous development of the town. The density, design, layout and parking for the development were considered acceptable. Further information was recommended relating to requests set out in reports and third party submissions.

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

The Fire Authority had no objection to the proposal.

The Mid West National Roads Design Office stated it had no observations to make.

The Environmental Services Section set out a condition that should apply to any grant of planning permission.

The Operations and Maintenance Services Section sought further information in relation to roads, footpaths and driveways, public lighting, and surface water disposal.

## **3.3. Prescribed Bodies**

Irish Water had no objection to the proposal.

Transport Infrastructure Ireland stated it had no observations to make.

## **3.4. Third Party Observations**

Third party objections were received from Shane and Sharon Kelly, Eoin and Patrice Dillane, the Paddocks Residents Association, Lorraine and Patrick Nelligan, Vincent McCormack, Tadhg Reeves, and Cllr Jerome Scanlon. The issues raised included those relating to impact on residential amenity, overdevelopment, traffic concerns, design, effect on property values, drainage, pedestrian access, and landscaping and boundary retention.

- 3.5. Further information was requested in accordance with the Planner's recommendation on 23<sup>rd</sup> January, 2020 and a response from the applicant was received on 25<sup>th</sup> February, 2020. A revised layout plan was submitted to address the issues raised by the Operations and Maintenance Services Section.
- 3.6. Following the receipt of this information the following reports were received:  
The Operations and Maintenance Services Section set out a schedule of condition.  
The Planner noted the further information submitted and recommended that permission is granted subject to a schedule of conditions.

## 4.0 Planning History

### P.A. Ref. 07/1611

Permission was granted for the construction of four houses.

### P.A. Ref. 02/959

Permission was granted for the construction of 15 single-storey, terraced houses.

## 5.0 Policy Context

### 5.1. Newcastle West Local Area Plan 2014-2020

#### Zoning

The site forms part of lands that are zoned 'Residential Development Area Phase 1'.

#### Housing

Objectives include:

#### *Objective H1: New Housing*

It is an objective of the Council, on serviced land that is zoned 'Residential Development Area', to:

- a) Facilitate residential development in accordance with the principles and guidelines of the 'Sustainable Residential Development in Urban Areas' (May 2009), the accompanying Urban Design Manual, 'Quality Housing for Sustainable Communities' (DEHLG, 2007) and the policies, objectives and Development Management Standards contained in the Limerick County

Development Plan, 2010-2016 and any subsequent county development plan...

*Objective H2: Residential density, design, mix and phasing*

It is an objective of the Council to:

- a) Ensure that proposals for residential development are planned coherently through the use of design briefs, master plans for larger landholdings where proposals involve the partial development of landholdings if appropriate, sustainability statements and social infrastructure assessments and any other supplementary documents deemed necessary by the Council.
- b) Promote the concept of a 'compact district' by encouraging appropriate densities in suitable locations and by resisting sporadic isolated developments.
- c) Require an average gross density of 35 units to the hectare on 'New Residential' zoned sites within the plan area.
- d) Ensure that the density of housing in any one location is appropriate to the housing type.
- e) Ensure a wide range of house types, sizes and tenures are provided to meet varying population requirements and needs...

Community and Recreation

Objectives include:

*Objective C 3: New amenity areas and walkways/ cycleways*

It is the objective of the Council to:

- a) Continue to facilitate the development of walkways/cycleways as indicated on the Amenity Map, in co-operation with local interested parties including the private, voluntary and public sector. Any proposed development adjacent to such walkways must incorporate connecting pathways into the designated walkway in their design. Developments shall be designed to ensure that properties overlook proposed walkways.
- b) Co-operate with other agencies to enhance, promote and provide recreational and amenity facilities in the town.
- c) Future development proposals shall incorporate the relevant

recommendations of the Walking and Cycling Strategy for Newcastle West.

Map 2 of the Plan comprises Newcastle West Amenity Map. This shows existing and proposed pathways/cycleways and proposed new footpaths. Part of the proposed pathway/cycleway network is routed along the east side of the proposed site from The Paddocks to the north to the open space at Woodfield Green adjoining the southern end of the site and it also runs across the centre of the site and onwards through lands to the west.

### Transport

Objectives include:

#### *Objective T1: Network of pedestrian and cycle facilities*

It is an objective of the Council to encourage walking and cycling as more convenient, popular and safe methods of movement in Newcastle West through supporting the recommendations of the Walking and Cycling Strategy for Newcastle West (2013).

## **5.2. Appropriate Assessment**

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

## **5.3. EIA Screening**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal from Sharon and Shane Kelly

The appellants Shane and Sharon Kelly reside at 84 The Paddocks to the north of the site and west of the proposed entrance to the scheme. The grounds of the appeal may be synthesised as follows:

- The proposed water services connections are through existing services that have not been taken in charge and there is no consent in the application from the owners of the existing sewers and water mains.
- Reference is made to deficiencies in drawings relating to fire and building regulations, dimensions not shown, the lack of a topographical survey, and the site location map not showing a junction at the public road.
- Reference is made to inadequate separation between proposed houses and existing dwellings and the consequence of overlooking.
- Inadequacies of layout details are referenced and proposed revisions are given in relation to the right of way for storm water and a footpath and the landscape plan is seen to be inadequate.
- Comment is made on the Planner's report on water services, objections received, design and parking.
- The proposed development is part of the existing estate and cannot be treated as a standalone estate. Proof that the site is serviced by a legal right of way should be submitted.
- Houses 4, 5 and 10 should be omitted to resolve overlooking and to provide an adequate right of way for storm water.

The appeal includes the appellants' submission to the planning authority and a submission by The Paddocks Residents Association.

## 6.2. Grounds of Appeal from Vincent McCormack

The appellant Vincent McCormack resides at 38 Killeline Heights to the north-east of the site and east of the proposed entrance into the scheme. The grounds of the appeal may be synthesised as follows:

- The design and layout would lead to a sub-optimal outcome for the site having regard to the zoning provisions and neighbouring residential units. The proposed development must have regard to adjoining undeveloped lands such that access is not restricted in the future. The development has also been planned with no regard to the open space to the south. While a pedestrian link is proposed to meet with policies in the LAP, the linkage is not well integrated within the proposal.
- The development contravenes national guidance and specifically SPPR 4 of the Urban Development & Building Heights – Guidelines for Planning Authorities 2018, particularly when assessed in the context of existing housing typologies in the area.
- The proposal is premature pending the provision of additional capacity in the Newcastle West wastewater treatment system. Reference is made to minutes of a meeting of the Municipal District of Newcastle West this year (details attached), to the lack of capacity in the existing treatment plant, and the proposals for the treatment plant only being at planning and business case stage.
- There is insufficient information available to support an informed decision on the capacity of the existing surface water system to accommodate additional discharge without the potential for further flooding in the area. At further information stage, survey simulation modelling, a CCTV survey, and a surface water disposal layout plan were requested and were not replied to. This information is essential to the determination of the application. The storm water system proposed to serve the scheme via Woodfield discharges to an open stream which has become overgrown and blocked with silt. It does not have the capacity to discharge the storm water entering it and local flooding occurs.



### 6.3. Applicant Response

6.3.1 The response to the appeal by Shane and Sharon Kelly may be summarised as follows:

- The introduction of 10 dwellings on a vacant plot should have a net positive effect.
- It is the applicant's understanding that The Paddocks and Woodfield estates have or are in the process of being taken in charge by the local authority. The developer notes that the development can only proceed where there is a legal entitlement to do so.
- The density of development permitted is lower than what is expected but the local authority considered the context.
- The drawings submitted are planning drawings only.
- Houses 9 and 10 do not overlook Killeline Heights and there are no separation issues.
- In the context of the terraced houses it is acceptable to provide bin storage within discreetly screened pens at the front.
- Levels were taken on site at design stage and are illustrated in the site layout and in the engineering drawings.
- Houses 4 and 5 address the open space.
- The footpath adjoining house 10 is essential to allow pedestrian permeability and accessibility within the overall built up area. It is at least 2m wide and will accommodate the foul and storm water drains.
- All mature trees along the western boundary shall be retained where possible and every effort will be made to replant where possible where some trees are removed.
- There is ample scope for parking for houses 6 and 8.
- The site is not within an area at risk of flooding.

6.3.2 The response to the appeal by Vincent McCormack may be summarised as follows:

- The quantum of development proposed did not form part of the appellant's initial submission. The neighbouring submissions favoured a lower density. The proposal has a density of 22 units per hectare when the LAP seeks a density of 35 units per hectare. The local authority considered the context of the development and the pattern of existing development.
- Irish Water is the national utility responsible for foul and potable water infrastructure. Newcastle West treatment plant likely has a load of 7,600-7,700 pe with a stated capacity of 9,000 pe down from 12,500 pe. The Plant is operating comfortably within capacity.
- The residentially zoned land to the west will be accessible from the south-west where road infrastructure is being delivered under planning reference 17/375 and there is also an option of vehicular access from the north via Beechwood Avenue.
- The storm water system was designed to the satisfaction of the planning authority, with an attenuation system located in the open space to ensure green field runoff rates.
- SPPR 4 of the Urban Development & Building Heights Guidelines is irrelevant in the context of the small-scale development.

#### 6.4. **Planning Authority Response**

I have no record of any response to the appeals by the planning authority.

### 7.0 **Assessment**

#### 7.1. Introduction

- 7.1.1. I consider that the principal planning issues relate to the development in the context of development plan provisions, impact on residential amenity, recreation and amenity, and servicing of the site. A number of miscellaneous issues raised by the third parties will also be addressed.

## 7.2. The Proposal in the Context of Development Plan Provisions

- 7.2.1. The site of the proposed housing development is located within the settlement boundary of Newcastle West as set out in the current Newcastle West Local Area Plan. It forms part of lands that are zoned for residential development. It is noted that this site has been subject to previous planning applications and permissions associated with housing developments. The principle of residential development on these zoned lands is accepted.

With regard to Objective H1 of the Plan, which relates to new housing, residential development is facilitated in accordance with the principles and guidelines of the 'Sustainable Residential Development in Urban Areas', the accompanying Urban Design Manual, 'Quality Housing for Sustainable Communities' (DEHLG, 2007) and the policies, objectives and Development Management Standards contained in the Limerick County Development Plan, 2010-2016 and any subsequent county development plan. The design and layout of the proposed development sits comfortably with the provisions of the Sustainable Residential Development Guidelines and its companion document the Urban Design Manual in terms of addressing the 12 criteria relating to the neighbourhood, the site and the home. Due consideration has been given to the site's context, connectivity, the public realm, privacy, amenity, parking etc. It is also pertinent to note that the planning authority did not raise any concerns in relation to how the development meets with provisions of the Development Plan and did not highlight any deficiencies in relation to meeting development management standards.

- 7.2.2. I note Objective H2 of the Plan which addresses residential density, design, mix and phasing. The objective promotes the concept of a 'compact district' and requires an average gross density of 35 units to the hectare on new residential zoned sites. Housing density in any one location is required to be appropriate to the housing type in an area and a wide range of housing types is encouraged. It is evident that these lands have been the subject of previous planning permissions and form an extension to the established estate of The Paddocks. I note the density of 35 units to the hectare being promoted on new residential zoned sites. While I accept the density of development proposed falls below this, I acknowledge again previous permissions for residential development of significantly lower density development on this site. I

also note the site's context, with the proposed development forming an extension to The Paddocks and the proposal seeking to maintain reasonable building height, to provide some increased density in a balanced manner and introducing a wider variety of house types to this location. On balance, I consider the density of development to be acceptable.

- 7.2.3. It is reasonable to determine that the proposed development meets with the Development Plan provisions as they relate to new housing.
- 7.2.4. Further to this, I acknowledge that the Development Plan has a number of provisions that relate to the development and expansion of walkways and cycleways through the town (Objectives C3 and T1). It is noted that there are objectives to provide such facilities on and through the site of the proposed development. It is reasonable to note at this stage that the proposed scheme seeks to make provisions for these objectives and does not impede the delivery of such provisions within the public realm and beyond the site.
- 7.2.5. In conclusion, I consider that the proposed development is in keeping with the provisions of the Newcastle West LAP as they relate to the development of this site.

### 7.3. Impact on Residential Amenity

- 7.3.1. I first note that the proposed development would be located in an urban area adjoining established residential estates. This site has been subject to previous planning applications for houses. It is reasonable to determine that these lands zoned for residential uses would have been expected to be subject to applications for housing development. The development of housing within residential estates very frequently results in houses being developed back-to-back with rear gardens separating structures. This can frequently result in some degree of overlooking at upper floors between near neighbours. The protection of privacy from within the houses is generally afforded by applying adequate separation distances between the rear elevations of opposing houses, widely accepted as being a distance of 22 metres or more. It is apparent from the layout of the proposed development that

these separation distances are met by the scheme. As a result, there are no concerns arising in relation to undue overlooking or any overbearing impact on neighbouring properties. Further to this, the separation distances proposed and the layout and orientation of structures will ensure that overshadowing of neighbouring properties would not result in any significant manner. The development of appropriate rear boundaries to the proposed houses and boundaries flanking the entrance to the development should maintain the residential amenities presently attained at established properties.

- 7.3.2. Overall, it is considered that the proposed development would not result in any significant adverse impact on the amenities of established residents at this location.

#### 7.4. Recreation and Amenity

- 7.4.1. I return to the issue of the development of pathways through and beyond the proposed development as espoused in the Newcastle West LAP. The proposed development seeks to accommodate a footpath along the east side of the site with onward linkage to the south beyond the site. This is an adequate provision that is in keeping with the Plan's amenity objectives. The Amenity Map of the Plan also shows proposed pedestrian provisions through the centre of this site and linking to lands to the west and beyond. It is apparent that the layout of the proposed development, with the centrally located open space and internal road network, would not impede the provision of future improved pedestrian connectivity and footways across and beyond this site to the west.
- 7.4.2. Finally on the issue of amenity, I note concerns have been raised about the potential impact of the development on established trees on the periphery of the site. The applicant proposes to retain these trees where possible and replanting will result where necessary.

## 7.5. Servicing of the Site

- 7.5.1. In considering the servicing of this site in terms of mains water, foul sewerage and surface water, I first acknowledge the reports of the planning authority and the report from Irish Water. The planning authority had no concerns about the layout of services and the connectivity of services. No concerns have been raised by Irish Water in relation to the capacity of the public systems to accommodate the proposed development. In light of this, I do not consider that the proposed development could be viewed to be premature pending any upgrades of services when the agency responsible for maintaining and delivering these services has raised no issues relating to connectivity and supply.
- 7.5.2. With regard to surface water, I note that reference has been made to some localised flooding arising from siltation of an open stream in the wider area. I acknowledge that the site of the proposed development itself is not within any recognised flood plain and is not known to be susceptible to flooding. I further note that the planning authority has raised no concerns relating to surface water after acquiring additional information at the further information stage of the planning application process. This includes no concerns relating to the siting and laying of stormwater pipes and other ancillary provisions. I acknowledge the attenuation provisions being made within the proposed development and the clear intent that greenfield runoff rates would be maintained and sustained. It is reasonable to ascertain that the proposed development should not exacerbate drainage issues that arise beyond this site.
- 7.5.3. Finally with regard to developability and taking-in-charge of development at this location, I note that the proposed development would represent an extension to The Paddocks estate. The applicant recognises that the proposed development can only proceed where there is a legal entitlement to do so. The planning authority has not indicated that there is any legal impediment at this stage, notwithstanding the appeals to the Board. The provisions of section 34(13) of the Planning and Development Act are acknowledged in this instance, whereby a person is not entitled solely by reason of a permission to carry out any development.

## 7.6. Miscellaneous Issues

- 7.6.1. I note that the agent for the appellants Shane and Sharon Kelly has raised a range of issues that relate to Fire and Building Regulations. These are matters to be addressed separate to the planning code and do not impact on the making of a planning decision in this instance. I further note that queries have been raised in relation to the adequacy of details provided on drawings submitted as part of the planning application. The details provided in the application meet with the provisions of Articles 22 and 23 of the Planning and Development Regulations 2001, as amended.
- 7.6.2. Reference has been made in the appeal by Vincent McCormack to the development contravening national guidance and specifically SPPR 4 of the Urban Development & Building Heights – Guidelines for Planning Authorities 2018. These Guidelines address wider and strategic policy considerations as they relate to building heights within urban areas. SPPR 4 relates to a policy requirement in planning the future development of greenfield or edge of city/town locations for housing purposes, referencing minimum densities, a greater mix of building heights and typologies and avoiding mono-type building typologies. It could reasonably be viewed that this national guidance and Specific Planning Policy Requirement (SPPR) is at somewhat of a higher strategic level and does not merit consideration in detail at the level of the current application, which is effectively a small extension to an established residential estate. It could also alternatively be considered that the proposed development forms a minor extension to The Paddocks residential estate, that it seeks to marginally improve upon the low density of development that prevails in this area, and that it does not introduce a greater mix of building height and typologies. The consequence of accepting the latter and seeking to achieve substantially increased density of development, resulting from increased building heights to achieve this density, would indeed likely have greater concerns for the appellant, in my opinion. I am satisfied to conclude that the national guidance on building height does not impinge in any material manner on the small scheme of houses proposed to be added to The Paddocks.

## 8.0 Recommendation

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

## 9.0 Reasons and Considerations

Having regard to the planning history of the site, to the zoning provision for this site, to the established residential development in the immediate vicinity, and to the density, design, character and layout of the proposed development, it is considered that the proposed development would not adversely impact on the residential amenities or the amenities of adjoining properties, would provide for adequate servicing of the proposed housing, and would otherwise be in accordance with the provisions of the Newcastle West Local Area Plan 2014-2020. 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 drawings and details submitted to the planning authority on the 25<sup>th</sup> February, 2020, 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 houses 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. (a) Screen walls shall be provided along the rear, sides and dividing boundaries between houses. Such walls shall be two metres in height above ground level.

(b) Details of the layout, the materials, and external finishes of the screen walls shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of construction of the dwellings.

**Reason:** In the interest of residential and visual amenity

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include trees to be retained, tree protection measures, and a comprehensive site boundary treatment scheme, inclusive of details of the proposed flank boundaries at the entrance to the scheme.

**Reason:** In the interest of residential and visual amenity

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

**Reason:** In the interest of public health.

6. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise and vibration management measures and off-site disposal of construction/demolition waste.

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

8. 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.

9. 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.

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

10. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the

planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

11. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space, landscaping 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 or maintenance 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 and maintenance of the development until taken in charge.

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

in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Kevin Moore  
Senior Planning Inspector

XX July 2020