



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309883-21

|                                     |  |
|-------------------------------------|--|
| <b>Development</b>                  | Retention permission for demolition and reconstruction of the original house and extensions permitted under planning reference number F19A/0232. |
| <b>Location</b>                     | Villa Maria, Corballis, Donabate, Co Dublin.   |
| <b>Planning Authority</b>           | Fingal County Council  |
| <b>Planning Authority Reg. Ref.</b> | F21A/0014  |
| <b>Applicant(s)</b>                 | Vas and Joe Vasiliou   |
| <b>Type of Application</b>          | Retention Permission   |
| <b>Planning Authority Decision</b>  | Grant  |
| <b>Type of Appeal</b>               | First Party against Development Contributions  |
| <b>Appellant(s)</b>                 | Vas and Joe Vasiliou   |
| <b>Observer(s)</b>                  | None   |
| <b>Date of Site Inspection</b>      | 20 <sup>th</sup> of July 2021  |
| <b>Inspector</b>                    | Angela Brereton  |

## 1.0 Site Location and Description

- 1.1. The subject site (stated area of 0.27ha) is located east of Donabate, beside the beach at Corballis. It contains a detached dwelling and has recently been reconstructed and extended to include dormer elements. The site is elevated and the dwelling is visible in the landscape especially as seen from Donabate strand. While it is visually prominent it is seen in the context of other dwellings, particularly the proximate 2 storey flat roofed dwelling.
- 1.2. The site is accessed via an existing right of way across Corballis Golf Club. There is pedestrian access to the beach. Surrounding residential development is characterised by detached rural dwellings. The property is serviced by a wastewater treatment system. The site is on difference levels and external works, including relative to the entrance to the site were ongoing on the day of the site visit.

## 2.0 Proposed Development

- 2.1. This proposal is to consist of Retention Permission at Villa Maria, Corballis, Donabate for the following:
  - The Demolition and Reconstruction of the Original Dwelling House Footprint along with Extensions permitted under F19A/0232.
  - The conversion of the attic space including a dormer window on the south elevation and roof windows on the north and west roof faces.
- 2.2. A Site Layout Plan, Floor Plans, Sections and Elevations have been submitted, showing the existing and works proposed for retention.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 10<sup>th</sup> of March, 2021 Fingal County Council granted retention permission for the proposed development subject to 9no. conditions. These include regard to design issues and external finishes, landscaping, the entire premises to be used as a

single dwelling unit, wastewater treatment system, measures to prevent spillage onto public roads, construction works/hours of operation, development contributions.

Condition no.9 relative to development contributions is the subject of the current appeal and is referred to further in the Assessment below.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The Planner had regard to the locational context, planning history and policy. It is noted that no submissions were made. Their Assessment included the following:

- The main issues for consideration are impact on the visual and residential amenity of the area, vehicular access and car parking, landscaping, services and drainage, impact on Natura 2000 sites and EIA screening.
- The development for retention is not foreseen to have a negative impact on the visual and residential amenity of the area and would be considered acceptable to the PA, subject to conditions.
- As the development consisted of the demolition and rebuild of an existing dwelling, there is no intensification of traffic activity associated with the site, consequently the Transport Section has no objection to the works carried out.
- They consider it appropriate that a Landscape Plan be submitted for the written agreement of the Parks Section of the Council.
- The Water Services Section and Irish Water state no objection subject to conditions.
- Given the nature and scale of the development a Stage 2 AA is not required. An EIA is also not required.
- In conclusion they consider that the development for retention by virtue of its scale and design would not detract from the amenity of the surrounding coastal area. It is therefore considered to be in accordance with the proper planning and sustainable development of the area. They recommend retention permission subject to conditions.

### 3.3. Other Technical Reports

#### Transportation Planning Section

They conclude that as the development consisted of the demolition and rebuild of an existing dwelling, there is no intensification of traffic activity associated with the site. Consequently, they have no objection to the works carried out.

#### Water Services Department

They have no objections subject to conditions.

#### Parks and Green Infrastructure Division

They have no comments to make on this retention application.

### 3.4. Prescribed Bodies

#### Irish Water

No objections subject to conditions.

### 3.5. Third Party Observations

None

## 4.0 Planning History

As noted in the Planner's Report, there is an extensive planning history relevant to the subject site. This includes the following:

- Reg.Ref. F19A/0232 – Permission granted subject to conditions, to Vasos & Jo Vasiliou, by the Council for the Demolition of existing conservatory and single storey extension and removal of existing chimney and to construct a new single storey extension to the rear of house and a new conservatory to front of house. Also, to convert and extend the existing garage into a bedroom with en-suite. New roof lights on the south, and east elevation with the construction of a new chimney to west elevation. Forming of new structural openings to existing walls and refurbishment and upgrading of the main secondary wastewater treatment plant with percolation area with ancillary

works all accessed as existing via right of way across Corballis Links Golf Club.

Condition no. 7 of this permission provided for a development contribution of €2,027.

- Reg.Ref. F18A/0453 – Permission refused by the Council for modification and extension of an existing single storey three bed detached dwelling and garage. This was refused for 4no. reasons in summary: being seriously injurious to the amenity of this ‘HA’ zoned lands, seriously injurious to the visual amenities of the area and of property in the vicinity, inadequate information to determine whether the proposed development would result in a negative impact on designated site, undesirable precedent for other similar developments.
- Reg.Ref. F16A/0255 – Permission granted subject to conditions by the Council for the Demolition of the existing house and outbuildings and replacement with new part two storey, part dormer, three bed detached dwelling and garage with first floor balconies to the south and east elevations, storage building, on-site wwts, landscaping, drainage and ancillary works, accessed via an existing right of way across Corballis Links Golf Club.

This permission was not enacted.

## 5.0 Policy Context

### 5.1. Fingal Development Plan 2017-2023

#### Zoning Objectives

Sheet No.7 Donabate/Portrane

The site is within the ‘HA’ – High Amenity zoning where the objective is to: *Protect and enhance high amenity areas.*

#### Development Contributions

Chapter 7 refers to Movement and Infrastructure. This includes regard to Section 48 and 49 Levies: *Financial contributions will be sought as part of the development management process for certain development under the provisions of Section 48 and*

*Section 49 of the Planning and Development Act, 2000 (as amended). Section 48 (general) schemes relate to proposed provision of public infrastructure and facilities which benefit development within the area of the Planning Authority and are applied as a general levy on development. A 'special' contribution under Section 48(2)(c) may be required where specific exceptional costs not covered by the general scheme are incurred by a Local Authority due to a specific development.*

*Objective MT44 - Utilise, where appropriate, the provisions of Section 48 and 49 of the Planning and Development Act, 2000 (as amended) to generate financial contributions towards the capital costs of providing local and strategic transport infrastructure, services or projects in the County. This will be done in conjunction with adjoining Local Authorities where appropriate.*

## **5.2. Fingal County Council Development Contributions Scheme 2021 – 2025**

This is the pertinent scheme. Section 5(i) notes that Section 48 of the Planning and Development Act 2000, as amended gives meaning to “public infrastructure and facilities”- (a) – (h) and of is of note.

(ii) “scheme” means a development contribution scheme made under Section 48 of the Act.

Section 6 provides the Basis for Determination of Contribution.

Section 9 provides the Level of Contribution.

Section 10 refers to Retention Permissions

Section 11 provides for Exemptions and Reductions – further reference is had in the context of the Assessment below.

Section 12 – Payment of Contribution i.e: *Conditions requiring payment of contribution provided for in the Scheme will be imposed on all decisions to grant permissions made following the making of the Scheme by the Council. The operative date of the scheme is from 1<sup>st</sup> of January 2021.*

Section 16 – *An appeal may be brought to the Board where the applicant for planning permission under Section 34 of the Act considers that the terms of the Scheme have not been properly applied in respect of any conditions laid down by the Council.*

### **5.3. Development Contributions - Guidelines for Planning Authorities 2013**

The Minister for the Environment, Community and Local Government has issued these guidelines under section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines in performance of their functions under the Planning Acts.

The primary objective of the development contribution mechanism is to partly fund the provision of essential public infrastructure, without which development could not proceed. Development contributions have enabled much essential public infrastructure to be funded since 2000 in combination with other sources of, mainly exchequer, funding. Discussion is made of the concept of the General Development Scheme, Special Contributions and Supplementary Contributions Schemes. This also provides that Planning authorities should ensure that the necessary monitoring and control procedures are in place to prevent double charging.

### **5.4. Development Management Guidelines for Planning Authorities 2007**

Section 7.12 has regard to development contribution conditions (sections 48 and 49 of the Planning Act). This also provides details relative to appeal of the three categories of conditions for development contributions i.e General as covered by the Section 48 Development Contributions Scheme, Special Contribution as covered by Section 48(2)(c) and Supplementary as covered by Section 49.

### **5.5. Natural Heritage Designations**

The subject site is located approx. 0.03m from the Malahide Estuary SAC (000205).

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

Michael Halligan Planning Consultants have submitted a First Party Appeal on behalf of the applicants Vas and Joe Vasilou. This is an appeal against Condition no.9 of the Council's permission (Reg.Ref.F21A/0014) relative to the payment of a development contribution of €18,660. They are appealing against the quantum

stipulated in that contribution on the grounds that the Scheme has not been properly applied to the said development. They are requesting that the appeal be considered and determined by the Board as an appeal against this condition only. They note that there were no objectors to the said development. Their Grounds of Appeal are summarised under the following headings:

#### Planning History

- They provide details (as noted in the Planning History Section above) and note that the permission granted in Reg.Ref. F16A/0255 was not acted on. Condition no. 7 of Reg.Ref. F19A/0232 has been paid. A commencement Notice has been served.

#### Grounds of Appeal

- The Scheme has been improperly applied by the Planning Authority in either or both of two respects:
  1. Failure to apply the exemptions allowed for in the Scheme.
  2. Incorrect calculation of applicable floor areas.

#### Previously Permitted Ground Floor Area

- They consider that there has been some confusion on behalf of the Planning Authority on the assessment of the reckonable floor area for development contribution purposes and the relevant areas for this calculation were not put before the contribution section.
- They note details of the overcalculation as per Condition no.9.
- They submit that this fails to take into account permission F19A/0232 which was being implemented at the time construction commenced and for which the contribution assessment as set out in condition no.7 was paid.
- The chargeable area therefore is correctly the difference in assessable floor areas between F19A/0232 and the 'as constructed' dwelling. They provide details of the relevant floor areas and have regard to the floor plans.
- The current ground floor area permitted for retention in the current application is effectively the same as permitted with the exception of c.9sqm additional



area in the now permitted sauna area (previously en-suite). They provide that the contribution payable should be €1,104.86.

- They refer to the Manager's Order CN 14492 which held that a contribution Scheme "should only apply to any additions to development and not to existing development".
- Although set in a different context they consider, this is a reasonable interpretation of the Scheme as applying to the instant development backed by Managerial Order and they request the Board to amend condition no.9 accordingly.

#### Development Contributions Scheme 2021 – 2025

- They refer to this Scheme (Section 11(i)(q)) which includes - *Where a contribution has been previously paid – the contribution will be levied on the increased floor area of the new build over the old.*
- The Scheme under para 11(i)(d) specifically provides for an Exemption for attic conversions and hence the converted attic floor area of 63sq.m is not assessable.
- The fundamental principle that contributions should only be assessed on "additions to development" is not negated by a retention application as to do so would result in double taxation on the same development which would be inequitable.

## 6.2. Planning Authority Response

Fingal County Council's response includes the following:

- They provide details of their development contribution calculation of €18,660 as per Condition no.9 of the Council's permission.
- Due to an administrative error at the time of assessment the full exemptions applicable under the current Fingal County Council Development Contribution 2021-2025 were not applied.
- They provide details of a re-assessment that has been carried out and that the amended calculation is €6,261.

- The Planning Authority requests that the terms of Condition no. 9 be amended to €6,261 in the Board's determination.

### 6.3. Applicant's Response

Michael Halligan's response on behalf of the Applicants includes the following:

- While they note that the Council has re-assessed the area to be levied as 51sq.m with a charge of €6,261, they consider that as per their Appeal submission that the area chargeable is 9sq.m as no allowance has been made for the development permitted under F19A/0232 for which the assessed levy was paid (condition no.7 refers) to Fingal County Council.
- They refer to the Manager's Order (copy included) which held that a contribution Scheme "should only apply to any additions to development and not to existing development.
- They refer to Exemptions and Reductions Section in the Development Contributions Scheme 2021 -2025 – to the Section *Demolition and Rebuild*.
- The chargeable area therefore is correctly the difference in assessable floor areas between F19A/0232 and the "as constructed" dwelling. The GFA permitted amounted to 185sq.m.
- The current ground floor area permitted for retention in the instant application is effectively the same as that permitted with the exception of c. 9sq.m additional area in the now permitted sauna area (previously en-suite). They include a copy of the Floor Plans showing the extended sauna area.
- They consider the contribution now payable to be €1,104.86. That the Development Contributions Scheme has not been properly applied.

## 7.0 Assessment

### 7.1. Legislative Context

- 7.1.1. This First Party Appeal is solely against Condition no. 9 of the Council's permission relative to development contributions. Section 48 of the Planning and Development Act 2000, (as amended) details the methodology and guiding principles by which

Development Contributions Schemes should be arrived at. The wording of S.48(10)(b) of the 2000 Act states that “an appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the Planning authority”. The wording of this section is restrictive in so far as it limits consideration of such appeals to the application of the terms of the adopted development contribution scheme and the powers of the Board to consider other matters. Therefore, the application is not considered ‘de novo’ and issue in question in this case is solely whether the Council’s Development Contribution Scheme has been properly applied.

- 7.1.2. The *Development Contributions – Guidelines for Planning Authorities* issued by the DoECLG in January 2013 offers non-statutory guidance for Planning Authorities in preparing Schemes. This provides that a key aim for future development contribution schemes is to promote sustainable development patterns, secure investment in capital infrastructure and encourage economic activity. These Guidelines are referred to by the Appellant and they are issued under section 28 of the Planning and Development Act 2000(as amended). This includes regard to reduced rates in certain cases. Of note: “*However, no exemption or waiver should apply to any applications for retention of development. Planning authorities are encouraged to impose higher rates in respect of such applications.*”

## 7.2. **Regard to Condition no.9**

- 7.2.1. This appeal is made against Condition no. 9 of the decision of Fingal County Council to grant permission, under Reg.Ref. F21A/0014 for the above development.

Condition no. 9 is as follows:

*The developer shall pay to the planning authority a financial contribution of €18,660 in respect of public infrastructure and facilities benefitting the development in the area of the planning that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contributions Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The Contribution shall be paid 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.*

*Reason: It is considered reasonable that the payment of a contribution be required in respect of the public infrastructure and facilities benefitting development in the area of the Planning Authority and which is provided, or which is intended to be provided by, or on behalf of the Local Authority.*

Regard is also had to Note 6 of the Council's Retention Permission i.e.:

*It is noted that in terms of assessment, the application is considered de novo, as the previous F19A/0232 is rendered undevelopable in light of the demolition of the original house which has to be reinstated as part of that planning permission. This has also formed the basis for any contribution calculation.*

7.2.2. The Council's response to the First Party Appeal provides their reasoning as to why this Development Contribution applies. Regard is had to the Fingal County Development Contribution Scheme 2021-2025. Section 9 provides the Level of Contribution. Section 10 refers to Retention Permissions i.e. *All retention permissions will be charged a multiple of 1.25 times the appropriate rates for any development in excess of the exemptions provided for under Section 11 of this Scheme.*

7.2.3. It is of note that the development for retention in summary comprises the demolition and reconstruction of the original house footprint along with extensions permitted under F19A/0232, attic conversion and dormer window on southern roof slope and roof lights, being a new element.

7.2.4. The Council state that the development contribution as per Condition no. 9 was calculated as follows:

|                     |                   |
|---------------------|-------------------|
| Retention area      | 253m <sup>2</sup> |
| Demolition area     | 101m <sup>2</sup> |
| Area to be retained | 152m <sup>2</sup> |

152m<sup>2</sup> x €122.7625 (*domestic retention rate*) = €18,660

It is noted that the Council based this on the levy for Residential Development €98.21 x 1.25 times the appropriate rate for retention development.

### 7.3. Background issues

7.3.1. Details submitted with the application note that the demolition of this dwelling and replacement house was permitted as part of the planning permission Reg.Ref. F16A/0255. Condition no.15 provided for a development contribution of €12,868. The First Party provides that this permission was not acted upon.

7.3.2. Subsequently, alterations and additions were granted permission relative to the dwelling at Villa Maria in planning application Reg.Ref. F19A/0232. The description of that development is noted in the Planning History Section above. A copy is included in the Appendix.

7.3.3. It is noted that the application form submitted (Section 12) with F19A/0232 provided the following:

- GFS of any existing buildings in m<sup>2</sup> 140
- GFS of proposed works in m<sup>2</sup> 62
- GFS of works to be retained NA
- GFS of any demolition in m<sup>2</sup> 17

That permission notes that the submitted floor area was 62sq.m.

7.3.4. Condition no.7 of that permission provided for a development contribution of €2,027 ((updated at date of commencement of development, in accordance with changes in the Tender Price Index). Details are given on that file as to how the breakdown calculation was reached i.e.

- Proposed Works Area m<sup>2</sup> 62
- Retention Area 0
- Demolition Area m<sup>2</sup> 17
- Exempted Area m<sup>2</sup> - Domestic extension 10(a) 23
- Area to be levied m<sup>2</sup> - Garage conversion into habitable area 22

*Standard levy as per the Fingal Development Contributions Scheme 2016-2020*

- *Residential Levy Due - €92.13m<sup>2</sup> i.e 22 x 92.13 = €2,027*

While these calculations are of historic note, relative to the previously permitted floor area and the calculation of that development contribution they were considered prior to the current retention application.

- 7.3.5. Details submitted with the current application provide that works commenced on these alterations and additions in February 2020, and that due to the poor state of the existing dwelling house, it was re-constructed in the same footprint with the additions approved under Reg. Ref. F19A/0232. Additionally, a loft conversion was added which includes a dormer window and additional roof windows to that then approved. They submit that the dormer window and additional roof windows for which retention permission is sought do not overlook the closest neighbour on the Northern side of the site.
- 7.3.6. Retention permission is sought for in summary the demolition and reconstruction of the original dwelling house footprint and for the loft conversion with dormer windows and roof windows. However as noted above this appeal only concerns the development contribution.

#### **7.4. First Party Case**

- 7.4.1. They consider that there has been an incorrect calculation of applicable floor areas relative to Condition no.9 of the current application. That there has been a failure to take into account Condition no.7 of Reg.Ref. F19A/0232 which was being implemented at the time construction commenced. They note that the development contribution relative to Condition no.7 of €2,027 has been paid. They provide that the chargeable area therefore is correctly the difference in assessable floor area between F19A/0232 and the 'as constructed' dwelling for retention in the current application. They state that the GFA permitted under F19A/0232 amounted to 185sq.m (ground floor plans 140sq.m existing and as permitted 185sq.m.).
- 7.4.2. They submit that the current ground floor area permitted for retention in the instant application is effectively the same as that permitted, with the exception of c. 9sq.m additional area in the now permitted sauna area (previously ensuite). That the correct contribution to be levied is: 9m<sup>2</sup> x €98.21 x 1.25 or €1,104.86.

## 7.5. Regard to Re-Assessment of Development Contribution

7.5.1. The Fingal County Council Development Contributions Scheme 2021-2025 is the relevant contribution scheme for the area where the proposed development is located. Section 11 is of note relevant to the subject appeal as it provides for Exemptions and Reductions

Section 11(i)(a) allows for the first 40m<sup>2</sup> of domestic extensions. *This exemption is cumulative and limited to 40 square metres in total per dwelling.*

Section 11(d) exempts Attic Conversions.

Section 11(q) refers to Demolition and Rebuild i.e:

*Where permission is granted to demolish in part or in full an existing building and replace with another, then the development contribution payable is to be calculated as follows:*

- Where a contribution has been previously paid – the contribution will be levied on the increased floor area of the new build over the old.*
- If no contribution was previously paid – reductions in respect of demolition work will be allowed, excluding structures exempt from contributions. Demolition must be necessary to facilitate the proposed development.*

*This Scheme does not provide for any rebate or refund in this regard.*

Section 11(r) exempts - Internal layout alterations where no additional floor area is created and external walls are not being removed.

7.5.2. The Council's response to the appeal provides that due to an administrative error at the time of assessment the full exemptions applicable under the current Fingal County Council Development Contributions Scheme 2021-2025 were not applied. They carried out a reassessment and the amended calculation is as follows:

|   |                    |
|---|--------------------|
| Retention area  | 253m <sup>2</sup>  |
| Demolition/rebuild area 11(q)                                       | -185m <sup>2</sup> |
| Balance of domestic extension exemption 11(a)                       | - 17m <sup>2</sup> |
| (as noted above 23m <sup>2</sup> was allowed relative to F19A/0232) |                    |
| Area to be levied   | 51m <sup>2</sup>   |

Calculated as  $51\text{m}^2 \times \text{€}122.7625$  (*domestic retention rate*) = €6.261

- 7.5.3. It is noted that the First Party response does not accept this figure and considers that the area chargeable is 9sq.m as they submit that no allowance has been made for the development permitted under F19A/0232 for which the assessed levy was paid to Fingal CC.

## 7.6. Consideration of Differences in Floor Area

- 7.6.1. The current application as permitted by the Council – Reg.Ref. F21A/0014 relates includes colour coded drawings. The description is given as follows:

- In Blue: - *Original House Footprint Demolished and Reconstructed and Proposed to be Retained Highlighted Blue (Note Demolition of Dwelling Approved under Permission F16A/0255*
- In Red: - *Planning Permission F19A/0232 Highlighted Red. Including Extensions to Original Footprint and Re-Roofing of the Original Footprint.*
- In Yellow: *Attic Space Conversion Including a Dormer Window and Additional Roof Windows Proposed to be Retained Highlighted Yellow.*

The Floor Plans include –

- Ground Floor Proposed to be Retained (shown highlighted blue) = 101m<sup>2</sup>
- First Floor Proposed to be Retained (shown highlighted yellow) = 63m<sup>2</sup>

- 7.6.2. It is noted that the floor plans submitted with Reg.Ref. F19A/0232 were only relevant to the ground floor area and while rooflights were referred to in the description of development they did not include an attic conversion or first floor plan. The ground floor plans now include an additional area described as a ‘sauna’ of 9m<sup>2</sup>. This is the floor area the First Party refers to as the applicable floor area relative to the development contribution of €1,104.

- 7.6.3. The current floor plans show the first floor proposed for retention as 63m<sup>2</sup>. However, having regard to the elevations for R19A/0232 and the plans then submitted this is an addition to the floor area as the original dwelling did not have or would not have allowed for an attic conversion/first floor of this scale. The steeply pitched roof would not have allowed for such a conversion. I would therefore consider this attic



conversion to be a new element i.e it introduces first floor habitable accommodation that is facilitated by a large dormer window.

- 7.6.4. While it is acknowledged that Section 11(i)(d) of the Council's Development Contributions Scheme 2021-2025 allows exemption for attic conversions, the additional floor area has been provided as a new build in the current retention application.

## 7.7. Conclusion on Contribution Calculations

- 7.7.1. Having regard to the issues raised, the planning history and the plans submitted with the retention application, I would have regard to total floor area permitted (185m<sup>2</sup>) in F19A/0232 and floor area proposed for retention (253m<sup>2</sup>) in the current application. There is a difference of 68m<sup>2</sup>. It is however noted that as per the description of development this is an application for Retention Permission for the demolition and reconstruction of the original house. Therefore, the issue of the attic conversion is not a rebuild, as it never originally existed, rather it constitutes a new element, as the dwelling for retention has now been constructed to include such.

- 7.7.2. The Council's revised calculation took into account, the balance of domestic extension exemption 11(a) i.e.17m<sup>2</sup> remaining (23m<sup>2</sup> allowed in F19A/0232). Therefore, taking account of this area relative to the difference of 68m<sup>2</sup> would allow that the development contribution should be based on 51m<sup>2</sup> of floor area. This is as per the Council's amended recommendation. Therefore, the amended calculation would be:

Calculated as 51m<sup>2</sup> x €122.7625 (*domestic retention area*) = €6,261.

- 7.7.3. I would consider that having regard to the details of this case that this figure is applicable for the demolition and reconstruction retention works and would be in compliance with the Exemptions and Reductions in Section 11 of the Fingal County Council Development Contributions Scheme 2021-2025 (under Section 48, Planning & Development Act 2000, as amended).

## 8.0 Recommendation

- 8.1. I recommend that Condition no.9 of Reg. Ref. F21A/0014 be amended.

## 9.0 Reasons and Considerations

The Board considers that the Fingal County Council Development Contributions Scheme 2021-2025 is the applicable contribution scheme and has had regard in particular to Section 11 *Exemptions and Reductions* as they apply to this case. The Board considered that the scheme had not been properly applied and that it is appropriate to amend Condition no.9 of the Council's permission Register Reference: F21A/0014 in this case.

## 10.0 Condition no.9

The developer shall pay to the planning authority a financial contribution of €6,261 (six thousand two hundred and sixty one euro) 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. The application of any 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 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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Angela Brereton  
Planning Inspector

23<sup>rd</sup> of July 2021