



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309996-21

<b>Development</b>	Construction of House
<b>Location</b>	The Moorings, Whitepoint, Ringmeen, Cobh, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	206403
<b>Applicant(s)</b>	Peter Brennan & Caroline McCarthy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission with conditions
<b>Type of Appeals</b>	Third Party
<b>Appellant(s)</b>	Donnchadh Keane, John Reilly
<b>Observer(s)</b>	John McCarthy.
<b>Date of Site Inspection</b>	16 <sup>th</sup> July 2021
<b>Inspector</b>	Bríd Maxwell

## **1.0 Site Location and Description**

- 1.1. The 0.09 hectare site is located at the south-western end of Cobh, at Whitepoint. Residential development in the Whitepoint peninsula consists of mixture of styles and periods. The appeal site comprises the side garden of a two-storey detached house The Moorings which is a modern house designed in the style of the 19<sup>th</sup> Century village. The site has frontage onto the seafront at White Point Road. The boundaries consist of a low stone wall along the roadside with a high stone wall and mature hedge/trees on the southern boundary.
- 1.2. The adjoining property to the south comprises a large residential site with the dwelling located at the southern end at the road's edge while the northern part of the site comprises a side garden. There is a septic tank serving the dwelling which is located immediately to the south of the flank boundary.

## **2.0 Proposed Development**

- 2.1. The proposed development involves the construction of a detached two storey dwellinghouse with associated services, new entrance and boundary wall and new entrance to the adjoining dwelling "The Moorings". The proposed house has a gross floor area of 325 square metres. It would be served by mains water and public sewer.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1 By order dated 26<sup>th</sup> March 2021 Cork County Council decided to grant permission for the proposed development subject to 11 no. conditions including the following of particular note.

Condition 2. The developer shall employ a suitably qualified structural engineer to undertake a pre-development assessment of the impact of the proposed development on the boundary wall along the southern boundary of the site and to monitor the impact of site development works on this wall at construction phase. A

report containing the results of the assessment and detailing the proposed construction methodologies shall be submitted to the planning authority for written agreement prior to commencement of construction works.

Condition 3. Development Contribution €3,192.00 in accordance with the Development Contribution Scheme.

Condition 4. Supplementary Contribution €7,660.80 in respect of the Cobh/Midleton – Blarney Suburban Rail Project.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

3.2.1.1 The Planner referred to the site's planning history, the policy context, reports received, and the third party submissions. The principle of a dwelling had been established with the previous grant of permission for a house on this site. Layout and design considered appropriate. Noting proximity to boundary wall and potential for foundations to impact on wall oversight by structural engineer recommended. Flood Risk Assessment as submitted with previous application is noted. Surface water management to be clarified. In relation to septic tank location the applicant has not addressed the reason for refusal most recent decision of An Bord Pleanála ABP-305586-19.

3.2.2.2 A request for further information was recommended seeking revised drawings to achieve minimum separation distance from septic tank on the adjoining site.

Surface water management proposals were also sought. A second request for clarification of further information invited revised footprint to achieve minimum separation distances in terms of the EPA Wastewater Treatment Manuals.

3.2.2.3 Final report recommends permission subject to conditions.

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

3.1.2.1 The Water Services Section had no objection on environmental grounds.

3.1.2.2 The Area Engineer indicates no objection subject to conditions.

### 3.2 Prescribed Bodies

Irish Water - No objection subject to connection agreement, subject to capacity requirements and in compliance with Irish Water Standards codes and practices.

### 3.3 Third Party Observations

- 3.4.1 Submission from John Reilly, The Cottage, Whitepoint owner of the property immediately south of the proposed development. Concerns regarding proximity to septic tank. Concerns regarding overlooking and flood impact.

Donnchadh & Joy Keane, Jaina, Whitepoint. Object to the proposal on grounds of loss of view from their dwelling to the north west. Application should be invalidated on grounds outdated maps which does not accurately depict neighbouring dwellings.

Dwelling design and elevation is not in keeping. Smooth plaster boundary wall inappropriate where natural masonry stone walls are the norm. Filling of site will disrupt natural drainage. Proximity to septic tank is prejudicial to public health. Loss of trees inappropriate. Flood risk report invalid and inadequate and the development is contrary to flood risk guidelines.

## 4 Planning History

**ABP-305586 (PA Ref 19/04332)** On 11 February 2020 the Board overturned the decision of Cork County Council and refused permission for construction of a 2.5 storey dwellinghouse, garden shed and covered passage. with associated site services. new entrance and road boundary wall and (b) new entrance to adjoining dwelling known as the Mororings. Reason for refusal was as follows:

*Having regard to the position of the proposed dwelling on the subject site, in close proximity to an existing wastewater treatment plant on a separate adjoining property not within the applicant's control, it is considered that the proposed development would be prejudicial to public health. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area*

*In deciding not to accept the Inspector's recommendation to grant permission, the Board noted the commentary within the application and appeal documentation that the proposed dwelling itself would be served by public sewerage infrastructure, subsequent to the completion of the Lower Harbour Main Drainage Scheme. However, on the basis of the documentation submitted with the application and appeal, it has not been demonstrated that the existing wastewater treatment plant on the adjoining property and not within the applicant's control, will not continue in use. In this regard, the Board considered the potential continued presence of a wastewater treatment plant, in close proximity to the proposed dwelling, to be a material consideration in making a determination on this appeal.*

**ABP Ref. PL 53.237842** On 2 March 2011 Permission was granted by the Board for the construction of a house. 2/3/2011.

**ABP Ref. PL 53.206792 (A Ref 08/04) On 13<sup>th</sup> August 2004** Permission was refused by the Board for the construction of two detached houses and installation of waste water treatment systems for the following reason:

“Having regard to the size of the site and the limited area available for disposal of effluent, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the proposed development of two houses can be drained satisfactorily by means of septic tanks, notwithstanding the proposed use of proprietary wastewater treatment systems. The proposed development would, therefore, be prejudicial to public health.”

## **5 Policy Context**

### **5.1 Development Plan**

Cobh Town Development Plan 2013

The site is zoned ‘Existing Built Up Area’. Residential Infill. Proposals for development involving the intensification of residential uses within existing residential

areas such as houses in side gardens will need to clearly demonstrate that the proposal respects the existing character of the area and would not harm the amenity value of adjoining properties.

HOU-08 – Infill Development It is an objective, normally in residential areas, to ensure that proposals for ‘infill’ development preserve or enhance or both the character of the area as a whole and the setting of any original buildings on the site.

## **5.2 Natural Heritage Designations**

The site is not within a designated area. The nearest such site is Cork Harbour SPA which occurs within 1.5km to the southwest.

## **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**

6.1.1 There are two third party appeals. The appeal by John Reilly, The Cottage, Whitepoint Cobh is based on the following grounds:

- Application is speculative and would result in disorderly development.
- Board’s previous decision that the proposal would be prejudicial to public health has not been overcome.
- Applicant failed to consider a revised footprint to achieve minimum separation distances.
- Agent made no effort to confirm proximity to the septic tank.

- Surface water drainage issue needs to be investigated as recent road resurfacing by sewerage contractor to the rear of the site will have resulted in faster run off. Issue has been raised in correspondence with the local authority.
- Appellant is not required to connect to the public sewer.
- Question the relevance of condition 10 reference to department of Agriculture specifications which relate to farm buildings. Condition 11 refers to effluent holding tanks.
- Documentation not available on Council's website as of 18/4/21 when decision was made on 26/3/21.
- Terms of condition 2 relating to structural engineer's assessment of boundary wall and construction methodology should have been required as further information.
- Flow of surface water during heavy rainfall demonstrated.

6.1.2 The second third party appeal submitted by Donnchadh Keane, Jaina, Whitepoint (Owner of a dwelling to the northwest of the appeal site). Grounds of appeal are summarised as follows:

- Proposal is prejudicial to public health due to proximity to existing septic tank.
- Soak pit proposed within 5m of the percolation area.
- Notably no condition requires that development should not commence pending commissioning of the lower harbour drainage works.
- Area Engineer's report notes that a storm pipe traverses the site. Proposal to redirect storm pipe away from the proposed new dwelling across the back of the existing house and connecting back into the road to the north end of the existing house will require doubling the length of the existing storm pipe run. Feasibility has not been demonstrated and inadequate detail provided with regard to the location of the sewer pipe. Works to realign the existing storm sewer relate to work outside the red line boundary.

- Provision of a soakpit on the non-retained side of the retaining wall is not feasible and would be detrimental to the retaining wall structure.
- Proposal will result in removal of appellant's view of sea, quay wall, Cobh town and Whitepoint Marina. Recent works to the dwelling were designed to maximise such views.
- Proposal to fill site and raise levels is detrimental to amenity value of the harbour.
- Significant number of mature trees which add amenity value to the area will be removed.
- Design is out of character. Smooth render boundary inappropriate where stone walls the norm. Site within a historical area adjacent to lime kiln and the American Pier.
- Design and layout not in keeping with County Development Plan Objectives regarding landscape protection.
- Application should have been invalidated on grounds of outdated site layout maps, inadequate details in terms of heights and levels.
- Flood Risk Assessment report inaccurate with respect to topography. Disruption of the natural drainage will create flood risk to the adjoining properties and is contrary to the Planning System and Flood Risk Guidelines.

## **6.2 Applicant Response**

6.2.1 The response of Paul O'Neill, Planning Development and Property Consultant on behalf of the first party is summarised as follows:

- With reference to the matter of minimum distances further to the Board's previous decision to refuse ABP-305586 the proposed dwelling was totally redesigned and relocated on the site for the present application. Location of the dwelling now compliant with the previous permission of the Board ABP 53.237842 (10/52003)
- Notably the Board previously accepted deliberations of Inspector 237842 (Refer to sub sections 9.5.8 to 9.5.12 of the report) with regard to non-compliance arising on the appellant's side of the property and noting the ability to connect to the public sewer.



- In Planning application 01/52042 Mr Reilly successfully got planning permission to construct a dwelling in his own garden approximately 3m from the southern boundary wall of the Moorings Site and approximately 2m from his own septic tank and percolation area. Proposal provided for decommissioning of the septic tank and installation of bio filtration system to serve both dwellings.
- The existing septic tank / percolation area is within 50m of the foreshore.
- Application clearly states that occupation of the dwelling would and could not take place until a connection could be made to the Lower Harbour Main Drainage Scheme (due to be completed by end 2021)
- Regarding reference to wayleave these are on the northern side of the Moorings site and have no relevance to the current application.
- Attachment 5 email from Area Engineer confirms that upon further investigation further to the council's decision it has been confirmed that there is no storm pipe traversing the site.
- Reject the claim that the site and garden serves as a natural drain for heavy rainfall/ Hydrological Consultants report addresses this issue.
- Regarding soak pit location a filter drain with a perforated pipe the length of the dwelling discharging to soak pit was an addition to the proposal in response to the further information request to address concerns relating to back filling and water lodging issues. If required the soakway location can be moved to the northern side of the front garden.
- No change is proposed to the grounds levels adjacent to the southern boundary wall. Apart from the immediate footprint of the dwelling all grounds levels are remaining generally unchanged.
- No right to view and in any case Mr Keane does not have a view of the sea as claimed. Claims that recent changes to dwelling was designed to maximise views questioned as on close examination of the plans the rear elevation drawings illustrate high level windows a minimum 2.5m above floor level. (18/4987.)
- Design considered appropriate to the site and replacement of the disintegrated stone wall will enhance visual amenity.

- Trees are not protected. A number of trees in the existing garden at Moorings will be retained and or pruned as required.
- Confirmation of location of septic tank provided by the appellant in previous submissions 237842.
- Regarding requirement for structural engineer to undertake an assessment of the southern boundary wall this was recommended in respect of the previous proposal which was 1.3m from the boundary wall. Dwelling now set back 7m at the front and 3.3m at the rear.
- Enclosure from *ie consulting* Water Environmental and Civil Engineers addresses the issues of coastal and pluvial flood risk.
- Regarding levels on the site, at Section 6.2 of the Site specific flood risk assessment a digital terrain model was used incorporating all existing site levels within the site and supplemented by 2m horizontal grid ordnance survey Ireland Lidar data for the site and surrounding areas, therefore the topography over the full extent of the site has been incorporated into the site specific flood risk assessment.
- In regard to the contention that disruption of the current drainage regime will put existing surrounding properties at risk of flooding, no technical assessment or evidence provided.
- Responsibility to provide a means of surface water discharge and disposal for adjacent properties does not rest with this property owner.
- SSFRA provides a detailed flood depth and volume analysis. This concluded that the volume of coastal flood waters potentially displaced by the development would be imperceptible.
- SSFRA has been undertaken with specific regard to the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities” and in accordance with the requirements of the Development Plan. Justification Test has been addressed.

### **6.3 Planning Authority Response**

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

### **6.4 Observations**

6.4.1 Observer John McCarthy, 3 Casement Square, Cobh made a submission which includes a number of enclosures to substantiate or elucidate case made

- Question the bona fides of claim by appellant Mr O Reilly that public sewer connection and septic tank decommissioning costs would be unduly onerous
- Rather than a retired person as depicted in the appeal submission (21 April 2021) Mr O Reilly is declared as builder construction manager and site supervisor in respect of planning permission 49/05204 (ABP Ref 305931-19) (Compliance submission 5<sup>th</sup> May 2021) in relation to planning application 19/05204 ABP Ref 305931-19.
- Appellant is also the landlord of AIB Group PLC premises at 4 West Beach Cobh. and is registered as a company director for a number of companies.
- It is noted that Mr Reilly and his wife proposed decommissioning of the existing septic tank and connection to bio filter system in planning application to Cobh Urban District Council PD42/01.

### **6.5 Further Responses**

6.5.1 I note that the first party made a submission to the Board by email on 27<sup>th</sup> April 2021 questioning the validity of the appeal of Mr John O Reilly as Mr John O Reilly did not make a submission or observation in writing to the Planning Authority.

6.5.2 The submission from the applicant was circulated to Mr O' Reilly The Cottage, Whitepoint under Section 131 of the Planning and Development Act 2000 for clarification who advised that a John O Reilly was written in error and confirming that his name is Mr John Reilly. A copy of this response was circulated to the applicant under Section 131 of the Planning and Development Act 2000.

6.5.3 Response submission by Paul O Neill Designs on behalf of the applicant contends that as John O Reilly did not make a submission of observation in writing in relation to the planning application therefore John O Reilly appeal is invalid in accordance with Section 37(a)(a) of the Planning and Development Act 2000. Purported appeal is not in compliance with Section 127(1)(b). Notably the observation letter to Cork County Council dated 7 October 19 was addressed and titled from John Reilly Whitepoint Cottage Cobh however was electronically signed by a Michael O Riordan. If an agent or someone was acting on behalf of John Reilly this should have been clearly stated as per Section 127(10)(b) of the Planning and Development Act.

## **7 Assessment**

7.1 On the matter of validity of the appeal of Mr John Reilly which was questioned in the submissions on behalf of the first party I note that The Board confirmed in correspondence to Paul O Neill Architect, agent for the first party that the Board is satisfied that the appeal complies with all the requirements of Section 127 of the Planning and Development Act 2000 as amended. On the issue of the level of detail provided within the application I am satisfied that the drawings and plans submitted are sufficient to enable assessment of the proposed development in compliance with the regulations. As regards Planning Authority procedures and the timeline of availability of documents on the electronic file I cannot verify the facts in relation to these matters and I note in any case that such procedural matters are not matters for the Board in terms of the appeal.

7.2 I consider that the principal planning issues arising in this case relate to the matter of the siting of the dwelling in proximity to the existing tank system on the adjoining dwelling site, the design and siting and impact on residential amenity, and flood risk. The matter of appropriate assessment also needs to be addressed.

### **Proximity to existing septic tank.**

- 7.3 The proposed development will be served by public sewer when the Lower Harbour Main Drainage Scheme is completed in this area of Cobh and the issue with regard to proximity to a septic tank arises in respect of the existing septic tank system on the appellant Mr John Reilly's property located immediately south of the boundary wall. I note that the Board previously granted permission for a dwelling on the appeal site under ABP Ref PL53.237842 and subsequently refused permission under ABP305586 on the basis of proximity of the dwelling to the established wastewater system and potential for prejudice to public health. The appellants note that the proposed siting remains non-compliant with regulations in the context of the EPA's current guidance Waste Water Treatment Manual: Treatment Systems for Single Houses which specifies a minimum separation distance from any dwelling is 7m in respect of the septic tank and 10m in relation to percolation area. The appellant's septic tank system is a long-established existing effluent treatment system and as noted by the first party is in itself non-compliant with the guidelines given its proximity to the boundary where the minimum requirement as per the guidelines is 3m.
- 7.4 The Board in its previous decision to grant permission 237482 accepted the recommendation of the reporting inspector that as the non-compliance arises on the appellant's side of the property (within 3m) then proposed siting of the dwelling 7m from the boundary was deemed acceptable on basis that that it would be unreasonable to refuse permission due to the existence of the appellant's septic tank system in such close proximity to the appeal site. The subsequent refused proposal related to a dwelling sited within 1.3m of the boundary.
- 7.5 I note that according to documentation provided to the Board the public sewerage scheme is due to be completed in this area in 2021 and it is reasonable that a permission be premised upon a condition which does not permit occupancy of the proposed house until the development can be connected to the public sewerage system. I acknowledge that as the appellant has submitted there is no obligation for established properties to connect to the new public system. This is correct however the opportunity for the appellant to avail of this new service and to minimise the potential adverse effects arising from an established private treatment system at this coastal location should clearly be encouraged. I consider that the revised layout as proposed which increases the separation distance from 1.3m to 7m has addressed the Board's more recent reason for refusal.

### **Siting Design and Layout and Impact on Residential Amenity.**

- 7.6 As regards siting, design and layout and impact on residential amenity I note that the proposed design seeks to mitigate overlooking issues. I consider that the design is appropriate and can be accommodated and successfully integrated on the site. On the issues raised within the appeal of Mr Keane with regard to impact on views from his dwelling to which is to the southwest of the site I note that there is no right to view and in any case I consider that based on distance topography and landscaping the impact is not significant in visual terms.
- 7.7 As regards the potential impact on the 2.1m boundary wall along the southern boundary with the adjacent property and concerns with regard to the potential for undermining of the structural stability of the wall I note that the proposed dwelling is set back a minimum of 3.3m from the wall. In light of the proposed filling of the site it is reasonable in my view that oversight of works by a Structural Engineer would alleviate concerns about the potential adverse effects on this wall. Appropriate mitigation measures could be enshrined in an agreed programme of works with the planning authority prior to the commencement of development.

### **Flooding and Surface Water Management**

- 7.8 As regards the issue of flooding I note the site specific flood risk assessment by le Consulting. The report was carried out as part of the previous application on the site 19/04332 ABP305586. The assessment notes location of the site within indicative Flood Zone B in the Cobh Town Development Plan 2013. In order to assess potential flooding the topographical survey information was used to develop a digital terrain model of the site to facilitate analysis of predicted extreme flood levels. The assessment acknowledges that in light of the proposed infilling of ground within the site there is potential to displace certain volumes of tidal coastal flood waters however in consideration of an extreme 0.5% AEP or 1% AEP tidal/coastal event in Cobh harbour the potentially displaced volumes are imperceptible and would not result in an adverse impact to the existing hydrological regime of the area or increase flood risk elsewhere. Base on Lee CFRAMS coastal flood maps for the area the predictive 0.5% AEP (1 in 200 year) current year scenario and mid-range future climate change scenario tidal/coastal flood levels at the site are 2.69m OD and 3.29mOD respectively. The predictive 0.1% AEP (1 in 1000 years) current scenario

and mid range future climate change scenario tidal/coastal flood levels are 2.84m OD and 3.38mOD respectively. The proposed dwelling is to be constructed at a finished floor level of 3.45mOD.

- 7.9 As regards allegations that the proposal will disrupt existing local drainage regime I concur with the argument raised in submissions on behalf of the first party that it is not feasible and is indeed unreasonable to suppose that the site is responsible for surface water disposal for adjacent properties and infrastructure. As noted in response to the appeal the site is not affected by wayleaves in respect of the public storm sewer. I consider that the issue of surface water management and disposal has been appropriately addressed by the applicant. I consider that the applicant has complied with the requirements of the Justification Test as per the Planning System and Flood Risk Management Guidelines for Planning Authorities.

### **Appropriate Assessment**

- 7.10 The proposed development would comprise a fully serviced dwelling within a residential area in the town of Cobh. 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.

### **Recommendation**

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

## **8.0 Reasons and Considerations**

- 8.1 Having regard to the planning history of the site, to the established residential nature of the area, the zoning provisions for the site as set out in the current Cobh Town Development Plan, and to the design, character and layout of the development

proposed, it is considered that the proposed dwelling would not adversely impact on the residential amenities of adjoining properties, would be acceptable in terms of visual impact and traffic safety, and would otherwise be in accordance with the provisions of the current Cobh Town Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **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 26<sup>th</sup> April 2021, 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 dwelling 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. The developer shall employ a suitably qualified Structural Engineer to undertake a pre-development assessment of the impact of the proposed development on the boundary wall along the southern boundary of the site and to monitor the impact of site development works on this wall at construction phase. A report containing the results of the assessment and detailing the proposed construction methodologies



shall be submitted to the planning authority for written agreement prior to commencement of construction works.

Reason: To protect the amenities of property in the vicinity

4. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development. The proposed house shall not be occupied until it is served by the public sewerage system.

Reason: In the interest of public health and orderly development.

5. 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 and to ensure a proper standard of development.

6. 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.

7. The developer shall pay to the planning authority a financial contribution in respect of the Cobh/Midleton – Blarney Suburban Rail Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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Bríd Maxwell  
Planning Inspector

4<sup>th</sup> November 2021