



An  
Bord  
Pleanála

## Inspector's Report ABP-310159-21

<b>Development</b>	Construction of 3 apartments.
<b>Location</b>	Charleville Road, Scarteen Lower, Newmarket, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	206707
<b>Applicant(s)</b>	DSJ Construction Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Lisa O Donoghue.
<b>Observer(s)</b>	Dan & Jon Donoghue Ellen Lynch Jeremiah O Donoghue
<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. This appeal relates to a site located on the southern side of the Charleville Road to the north of Newmarket, Co Cork. Newmarket is a small market town located in an undulating landscape at the foothills of the Mullaghareirk Mountains in north County Cork. The town is at the junction of the R576 and R578 and is largely concentrated around a long and relatively narrow main street with a number of traditional style buildings. Town centre activity is mainly concentrated on residential and retail usage with a centrally located creamery, a library and garda station. The Duala River runs adjacent to the town and forms part of the Blackwater River Candidate Special Area of Conservation(Site Code 002170).
- 1.2. The appeal site has a stated area of 0.036 hectares and falls generally southward. An area of hardcore is located towards the road frontage while the remainder of the site is under grass. The eastern boundary is defined by a mature treeline / hedgerow. Adjoining to the west is a single storey domestic garage building with a boundary wall to the rear. To the east of the site is a small agricultural field (Appellant's property) which includes a shed and hay barn structure on or adjacent to the common boundary, The adjoining land to the south is currently greenfield but subject to current development proposal by the same applicant for the construction of an 8-unit housing development (Concurrent appeal ABP-310974-21 (Cork Co Co Ref 206272)). The Newmarket Stream occurs within 70m to the south. The Kerry Group Creamery building complex is located to the south and southeast of the site.

## **2.0 Proposed Development**

- 2.1. The application as described in public notices involves permission for the construction of a new 3 storey development consisting of the following: 1 no two-bedroom apartment and 2 no 1 bed apartments, boundary walls, footpaths together with all other ancillary siteworks.
- 2.2. Surface water proposals (clarified in response to request for additional information) incorporate stormwater attenuation tank in conjunction with the adjoining proposed development to the south. A refuse storage area and bike parking and storage area are proposed to the west and east of the building respectively. The building design was modified in response to the request for additional information to include screen

walls rather than railing to balconies provided to the southern / rear elevation and other amendments to the pattern of fenestration.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

By order dated 12<sup>th</sup> April 2021 Cork County Council issued notification of its decision to grant permission subject to conditions including the following of note:

Condition 10 Landscaping plan to be revised replacing *buddleja davidii* with a native shrub species. All planting shall utilise native species of local origin.

Condition 11. Treelines and hedgerows to be protected.

Condition 13. Surface water shall not be permitted to enter the foul sewer.

Condition 21. The proposed development shall not be occupied until the vehicular access and storm water connection is provided via the adjacent property.

Condition 22. Construction Waste Management Plan to be submitted.

Condition 24. Construction wastewater management.

Condition 25. Noise limits during construction.

Condition 25. Bunding in respect of hydrocarbons.

Condition 28 Invasive species control measures.

Condition 29 In the event of pollution of waters or leachate discharge Remedial measures.

Condition 35. Bond in respect of roads footpaths sewers road lighting open spaces and other relevant services.

Condition 36. Cash security to cover investigative surveys, as constructed drawings, security fencing, boundary fencing and landscaping.

Condition 38. No car parking or vehicle access from R579 Charleville Line.

Condition 39. Development Contribution €4,017.44 in accordance with the development contribution scheme.

Condition 40. Special Contribution €7,200 in respect of the extension of footpath and widening of footpath.

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

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

Planners initial report recommended deferral pending submission of further information with regard to a number of items including

- Surface water disposal arrangements – Connection to sewer not feasible
- Invasive species survey.
- Boundary protection measures and landscaping plan.
- Cross sections showing levels relative to established adjacent development.
- Layout to be revised to enable refuse collection from Charleville road. Refuse area screening, bike parking and storage.
- Side elevations to be indented to break up elevation. Floor areas to be clarified. Railing to first floor balcony to be replaced with screen wall.
- Construction Waste and Environmental Management Plan.
- Parking provision, footpath and sightline details to be clarified.

3.2.2 Planner's subsequent report recommends permission subject to conditions.

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

3.2.2.1 Ecologist report concurs with Appropriate Assessment screening report and concludes that the development does not pose a risk of significant effects on the Blackwater River SAC. Further information required in relation to a number of items including clarification with regard to surface water disposal, invasive species preconstruction survey, measures to protect established hedgerows and trees. Final report recommends permission subject to conditions.

- 3.2.2.2 Environment Report. Further information required regarding construction waste management plan, noise and dust mitigation measures; surface water run off control measures. Subsequent report recommends conditions in the event of permission
- 3.2.2.3 Area Engineer. Special contribution recommended in respect of extension of the footpath to the development. Surface water measures should be addressed in conjunction with the adjoining site. Further information required with regard to access and car parking. Second report indicates no objection subject to conditions.
- 3.2.2.4 Estates report. – No objection subject to conditions.
- 3.2.2.5 Water Services Report. -No objection. Newmarket Wastewater Treatment Plant can cater for the development subject to no surface water being discharged to foul sewer.

### **3.3. Prescribed Bodies**

Irish Water submission – No objection subject to connection agreement and subject to capacity requirements and in compliance with code of practice.

### **3.4. Third Party Observations**

3.4.1 Submissions were received by Cork County Council from the following third-party local residents

- Anna and Michael Lynch, Charleville Road.
- Jeremiah O Donoghue, Charleville Road.
- Ellen Lynch, Charleville Road.
- Lisa O Donoghue, Charleville Road.
- Dan O Donoghue and Joan O Donoghue, Charleville Road.

3.4.2 Submissions raise common concerns which in the interest of brevity I have summarised as follows;

- Parking and traffic hazard.
- Height out of character. Negative impact on streetscape.

- Construction disruption.
- No archaeological assessment carried out.
- Negative impact on adjacent properties.
- Overlooking.
- Japanese Knotweed on site.
- Lack of clarity regarding site owner.
- Unauthorised works previously carried out on site.
- Landscaping proposals unclear.
- Boundary issues in dispute.
- Adequacy of soakpits. Questioned.

#### 4.0 Planning History

**PL04.310974 (Cork Co Council Ref 20/06272)** Concurrent application to the south Subject to third party appeal of decision to grant permission subject to conditions for an 8-unit housing development.

**19/06835** Permission granted 8/7/2020 for retention of demolition of derelict sheds and outhouses.

**135153.** Extension of duration Demolition of existing structure and construction of residential development of 9 no dwellinghouses comprising of 2 no detached dwellings 5 no terraced dwellings and 2 no semi-detached dwellings and all ancillary site works, extension of duration of permission granted under planning ref 08/5737. Permission expired 17/03/2019

**PL04.230605 08/5737** Permission granted for demolition of existing structures and construction of 9 houses with all ancillary site works.

## **5.0 Policy Context**

### **5.1. Development Plan**

The Cork County Development Plan and Kanturk Municipal District Local Area Plan 2017 refer.

The site is zoned “Existing Built-Up Area” within the development plan.

### **5.2. Natural Heritage Designations**

The site is not within a designated area.

The River Blackwater (Cork / Waterford) SAC Site Code 002170 occurs within 880m west of the site.

The Lower River Shannon SAC (Sited Code 002165) occurs within 10.4km northwest of the site.

The Stack’s to Mullaghareirk Mountains West Limerick Hills and Mount Eagle SPA 4.6km west.

### **5.3. EIA Screening**

5.3.1 An Environmental Impact Assessment Screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.3.2 It is proposed to construct 3 apartments. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.036 ha in a business district is therefore well below the applicable threshold of



2ha. The site is located within an established residential area. The introduction of infill residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site and there is no hydrological connection present such as would give rise to significant impact on nearby water courses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Cork County Council, upon which its effects would be marginal.

#### 5.3.3 Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned existing built-up area under the provisions of the Kanturk Municipal District Local Area Plan 2017, and the results of the strategic environmental assessment of the Kanturk Municipal District Local area Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

## **6.0 The Appeal**

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

The appeal is submitted by Lisa O Donoghue, Charleville Road, Newmarket.  
Grounds of appeal are summarised as follows:

- Protracted history of unauthorised development and health and safety incidents in relation to this site since 2007.
- Appellant lives in two storey dwelling opposite the site and owns the agricultural field adjoining to the east.
- Despite significant modifications in response to the Council's further information request including provision for windows to the eastern elevation and increased height from 9.267m to 10.321m to front and 10.279m at the back third parties were not afforded the opportunity to make submission.
- Overbearing oppressive and visually out of character.
- Impact on sunlight. Overshadowing.
- Anti-social behaviour.
- Development is 1.7m from back wall of outhouse / shed. Not boundary wall.
- No sod and stone ditch exists along the eastern boundary rather rubble and stone was thrown in under the trees and amongst the hedgerow. Concerns regarding security.
- Fire safety issues.

- Site is potentially of historic interest. Archaeological assessment should have been carried out.
- Japanese Knotweed on the site.
- Ecological impact on Rampart stream a tributary of the Dalua River and Blackwater SAC. Population of Salmon within Rampart River.
- Newmarket known to be home to 5 species of Bat. Common Pipistrelle, Soprano Pipistrelle, Brown Long Eared, Leisler and Daubenton.
- Common boundary ditch removed by previous owner without necessary consent. Boundary is in dispute.
- Land registry map shows backwall of outhouse as being on the boundary
- Concern regarding future ownership and maintenance car parking area to rear of building.
- New retail properties required in the town centre.
- Photographs appended to elucidate the case made.

## 6.2. Applicant Response

6.2.1 The response on behalf of the first party by Gerald McCarthy Architects responds to the grounds of appeal as follows:

- It is understood that the Local Authority complied with all necessary requirements of the Planning and development Act / Regulations.
- Windows to eastern elevation are obscurely glazed. No overlooking arises.
- Separation distance is such that right to light is not affected. No overshadowing.
- Full maintenance programme will apply in respect of communal areas.
- First Party amenable to construction of boundary wall if deemed necessary.
- Proposed building is 1.7m distant to the boundary.
- Fire Safety Cert and Disability access cert will be submitted to the Council.
- No archaeology on the site.

- No Japanese Knotweed on the site.
- Rampart Stream will be protected during construction.
- Applicant has responsibility in regard to works carried out by previous owner.
- Conditions 19, 20 and 38 in relation to parking and access will be complied with.
- Three new homes will prove a significant asset to the Newmarket Community.
- Site is designated for development in the development plan.

### **6.3. Planning Authority Response**

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

### **6.4. Observations**

6.4.1 Observations are submitted by the following local residents.

- Dan and Joan O Donoghue, Charleville Road.
- Ellen Lynch Charleville Road.
- Jeremiah O Donoghue. Charleville Road.

6.4.2 The observers supports the grounds of appeal reiterating main concerns as follows:

- Significant change to proposal during the course of the application.
- Negative impact on the adjoining properties.
- Overbearing impact.
- Impact on sunlight.
- Noise and disturbance – anti social behaviour.
- Fire safety concerns.
- Archaeological impact assessment

- Japanese Knotweed,
- Ecological impact Rampart stream Dalua River, Blacwater SAC. Salmon. Bats.
- Unauthorised works.
- Adequacy of surface water proposals.
- Building line extending beyond the adjacent dwelling to the west.

## 7.0 **Assessment**

7.1. Having reviewed the proposal in the light of national planning guidelines, the County Development Plan, the Local Area Plan, the submissions of the parties, and my own site visit I consider that this appeal should be assessed under the following broad headings:

Legal & Procedural Matters

Principle of Development and Policy Considerations

Density, design, and site layout

Traffic, parking and servicing and other matters

Screening for Appropriate Assessment.

## 7.2 **Legal & Procedural Matters**

7.2.1 Based on the appellant's submissions it is apparent that there is some ambiguity or dispute with regard to the precise definition of the eastern boundary. This is essentially a civil matter and I would refer the parties to Section 34(13) of the Planning and Development Act 2000, as amended as follows: *"A person shall not be entitled solely by reason of a permission under this section to carry out any development"*.

7.2.2 I note that the third-party appellant and observers have raised concerns with regard to the notification procedures of the Planning Authority in terms of its assessment of the application and the opportunities afforded to make submissions having regard to the alterations of the nature of the development during the course of the application. I note that procedural matters are not matters for the Board in terms of the appeal. I note that the third-party appellant and observers outline the specific planning concerns with respect to the development and I consider it appropriate to proceed to the assessment of these issues and development as proposed on its merit.

### **7.3 Principle of development and policy considerations**

7.3.1 Under the Kanturk Municipal District Local Area Plan 2017 the site is zoned existing built up area. The proposed residential infill scheme is appropriate in the context of this zoning objective and is in line with the requirements of the National Planning Framework which seeks to ensure that at least 30% of all new housing development is delivered within the existing built-up area of towns and villages on infill and or brownfield sites. In this regard I concur with the first party that the provision of three residential units within this central and accessible location is to be welcomed.

### **7.4 Design and site layout**

7.4.1 As regards the design the proposed scheme adopts a traditional form and finish with pitched slate roof and rendered plaster finish. I consider that the proposed design is appropriate to the context. As regards development standards the proposed apartments are generally designed to comply with the internal floorspace areas and dimensions set out in Section 5.3 of the Quality Housing for Sustainable Communities: Best Practice Guidelines. Second floor 2 bed apartment is underprovided in terms of storage and private amenity space however given the infill nature of the site a degree of flexibility would apply. All units are dual aspect and in

my view provide for a reasonable standard of residential amenity for future occupants.

7.4.2 As regards impacts on established residential amenity I note the concerns raised by the third-party appellant with regard to overbearing impact overlooking and potential impact on future development proposals with respect to the adjoining lands to the east. On the question of scale I consider that the proposal sits appropriately within the streetscape and creates a strong urban frontage. On the issue of overlooking as windows to the eastern elevation serve bathrooms and are obscurely glazed no negative overlooking impact arises and the proposal will not in my view compromise future development of this adjoining site to the east. The separation distance to the adjacent dwelling to the west and location of the garage in between mitigates potential for negative amenity impacts. Given the separation distance to the appellant's dwelling opposite to the north of the site overlooking or light impact is not an issue. Given the town centre and fully serviced location the proposal represents an appropriate infill development of the site. I conclude that, given the context and form of the site, the proposal would be of an appropriate design, and layout.

7.4.3 On the issue of daylight and sunlight no daylight/sunlight or overshadowing assessment has been submitted with the application. I note the traditional form and siting within this town centre streetscape. All apartments are dual aspect which maximises daylight penetration. The rear balconies and ground floor patio private amenity space off the kitchen / dining /living rooms are south facing. It is reasonable to conclude that the proposed units will achieve good internal daylight and sunlight levels. As regards outdoor amenity areas the BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21st. The amenity spaces provided will exceed the standard. As regards concerns raised with regard to potential noise and other disturbances including anti-social behaviour, there is no evidence to suggest that such issues would arise. Given the small scale of the development noise or other disturbance arising is not likely to be significant in the

context of the established built up area. I conclude that the development is acceptable in terms of its impact on established and proposed residential amenity.

## **7.5 Traffic, access, parking and servicing and other matters**

7.5.1 I note that the proposal relies on the development of the adjoining site to the south in terms of vehicular access and parking provision and in terms of surface water attenuation. Cycle parking facilities are provided to the eastern elevation of the building. As regards piped services the site is serviced by public watermain and foul sewer and no specific issues are raised in relation to same. As regards flooding I note that the subject site is not the subject of such risk under the OPW's flood maps.

7.5.2 As regards impact on ecology and wildlife given the town centre location and built-up nature of the area disturbance is not likely to be significant. I note the Construction Environmental Management Plan which sets out the draft methodology for construction works incorporating best practice to mitigate the potential for environmental impacts. Regarding landscaping and boundary treatment it is proposed to provide a boundary wall to the west while the existing mature boundary to the east is to be maintained and supplemented where necessary. I note that Council's ecologist expressed concern with regard to planting of Buddleja species and it is appropriate that landscaping scheme is subject to written agreement. As regards allegations of Japanese Knotweed on the site I note that the survey by Ash Ecology and Environmental found no evidence of the invasive species on the site.

7.5.3 On the issue of archaeological potential I note that there are no recorded monuments on the site or in close proximity.

## **7.6 Screening for Appropriate Assessment**



- 7.6.1 The site is neither within nor beside a Natura 2000 site. I note that the application is accompanied by an Appropriate Assessment Screening Report by Ash Ecology and Environmental. The nearest Natura 2000 sites are the River Blackwater (Cork Waterford SAC (site code 002170) 880m west the Lower River Shannon SAC(site code 002165) which occurs within 10km to the northwest and Stack's to Mullaghareirk Mountains West Limerick Hills and Mount Eagle SPA (Site Code 004161) 4.6km to the west. There is no hydrological connectivity to Lower River Shannon SAC or Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA thus there is no potential for direct or indirect effects.
- 7.6.2 As regards the River Blackwater (Cork Waterford SAC (site code 002170) the Newmarket Wastewater Treatment Plant discharges to the River Dalua within the Natura 2000 site. The Newmarket Stream flows 70m south of the boundary and discharges to the Dalua River and River Blackwater. The potential for indirect effects from emissions during the construction and operational phases must be considered.
- 7.6.3 The site is fully serviced and best practice construction management methods would constitute an integral component of construction works. As regards storm water the proposal is in combination with the adjoining site involving attenuation to facilitate a 100-year storm event with silt trap and discharge via silt trap to the Newmarket Stream. 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 and in combination with other plans or projects would not be likely to have a significant effect on any European Site and in particular Blackwater (Cork / Waterford) SAC (Site code 002170) or any other European Site in view of the sites' Conservation Objectives and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8.0 Recommendation**

- 8.1 Having considered the contents of this application in detail, the decision of the planning authority, the provisions of the Development Plan, the national guidelines,

the grounds of appeal, my site inspection and my assessment of the planning issues, I consider it appropriate to recommend to the Board that permission be granted subject to the following schedule of conditions.

## **Reasons and Considerations**

Having regard to the central location of the site on zoned lands, the layout of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## **CONDITIONS**

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further information submitted on 15<sup>th</sup> day of March 2021 and 18<sup>th</sup> day of March 2021 except as may otherwise be required in order to comply with the following conditions

Reason: In the interest of clarity.

2. Prior to the commencement of development details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and in the interest of visual amenity.

3. 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 the commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than {1:500] showing –
  - (i) the species variety, number size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel. beech or alder]
  - (ii) Details of screen planting [which shall not include cupressocyparis x leylandii]
  - (iii) Details of hard landscaping works specifying surfacing materials, furniture and finished levels.
  - (iv) Details of patio landscaping and boundary treatment
- (b) specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
- (c) A timescale for implementation [including details of phasing].

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development shall be replaced within the next planting season with others of similar size and species unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

- 4. a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of

the hedge for its full length and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of 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 and to ensure a proper standard of development.

6. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

7. Entrance from the public road and the internal road network serving the development including turning bays, parking areas, footpaths, verges and kerbs shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interest of amenities and public safety.

8. The management and maintenance of the proposed development following completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of

public open spaces roads and communal areas shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

- 9.** All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard ducting shall be provided to facilitate the provision of broadband infrastructure within the development.

Reason: In the interest of orderly development and the visual amenities of the area.

- 10.** Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of amenity and public safety.

- 11.** Prior to the commencement of development, the developer shall submit and obtain the written agreement of the planning authority to a plan containing details for the management of waste within the development.

Reason: In the interest of the residential and visual amenities of the area.

- 12.** Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall be prepared in accordance with "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and

Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 20006.

Reason: In the interest of sustainable waste management.

13. 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. The plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction and demolition waste.

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

14. 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.

**15.** The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

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

**16.** The developer shall pay the sum of €7,200 (Seven thousand and two hundred euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index Building and Construction (Capital Goods), published by the Central Statistics Office, to the planning authority as a special contribution under section 48(2)© of the Planning and development Act in respect of the extension and widening of the public footpath to serve the development. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter may be referred to the Board to determine.

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

17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or other security to secure the provision and satisfactory completion of roads, footpaths, water mains. Drains, open space and other services required in connection with the development coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination,

Reason: To ensure the satisfactory completion of the development.

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Bríd Maxwell

Planning Inspector

13<sup>th</sup> August 2021