



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312317-21

<b>Development</b>	House, septic tank & percolation area, detached domestic garage, horse stables (6 boxes) with 2 ancillary rooms & all associated site works
<b>Location</b>	Drinnanstown North, Rathangan, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	21691
<b>Applicant(s)</b>	William Magnier.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Leo Price Andrew Maloney.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	13/04/2022
<b>Inspector</b>	J. Green

## 1.0 Site Location and Description

- 1.1. The site subject to this appeal (subject site) is in the townland of Drinnanstown North, Co. Kildare, approximately 4.5 kilometres northeast of the settlement of Rathangan. The site is currently under agricultural use with a stated area from the application form of 3.98 ha, elsewhere the layout map delineates a site of 6.98ha. The site initially slopes down and then gently up from the L7004 road which runs along its northern frontage. The subject sites sloping topography is located generally between the 80m and 90m OD levels. The site is accessed off the L7004, via an existing recessed agricultural access with good sight lines in each direction. The L7004 is a typical county public road capable of accommodating two passing vehicles, but not at speed. The road is subject to the general 80kmph speed limit.
- 1.2. Landuses in the vicinity are predominantly agricultural in nature with an established generally dispersed rural settlement pattern. There are also several quarries proximate to the subject site with a quarry operation immediately north of the site (Flanagan Concrete Ltd.) on the opposite side of the L7004, as well as two other significant commercial operations, one c.200m to the southwest (Callan Recycling Centre) and another approximately 600m to the south.
- 1.3. The site itself is roughly diamond shaped when viewed in plan form and is a large agricultural field bounded with mature hedging. This mature vegetative belt offers significant visual screening for the site. There is an existing farm building/stables with plastered walls, and pressed metal roof in the southern portion of the subject site, set back off the road by approximately 215m, with a finished floor level (ffl) of c.87mOD. This building is serviced via a hardcore access track from the recessed agricultural entrance. The subject site is generally set within agricultural land – to the northwest, where there is an existing two-storey house on a triangular site, to the immediate north where the quarry is in operation and to the east lies a cluster of one-off dwellings set within their own sites.
- 1.4. At time of site inspection, the subject site was dry and neither site features or vegetation suggested any history of waterlogging or drainage issues. There is a 10kV power line traversing the southwestern portion of the appeal site.

## 2.0 Proposed Development

2.1. The proposed development constitutes the provision of the following:

- A single storey, four bedroomed single storey dwelling house.
- A domestic garage.
- Stables.
- A Horse Walker, and
- Dungstead.

The proposed development also includes all relevant ancillary works associated with the above.

2.2. Access to the proposed development is to be via the existing established entrance, with foul drainage by means of a septic tank and percolation area. Water supply to the site is proposed to be via existing public mains, with surface water being dealt with via soakaways.

2.3. The application was accompanied by the following documentation of note-

- Details of property ownership and the applicant's connection with the area.
- Completed Rural Housing Planning Application Form.
- Site characterisation form for foul drainage.

2.4. Minor clarifications were submitted at further information stage, including access clarifications, calculations in relation to the accurate sizing calculations for the Dungstead and additional drainage details, however, there were no significant alterations to the proposed development.

## 3.0 Planning Authority Decision

### 3.1. Further Information

3.1.1. The Planning Authority initially requested additional information, updated details were received on 12th November 2020, which included the following-

- Additional drainage details.

- Clarification that the access to the site was previously permitted under Pl. Ref. 08/1223.
- Calculations in relation to the accurate sizing calculations for the Dungstead.

### 3.2. **Decision**

3.2.1. By Order dated 6<sup>th</sup> December 2021, Kildare County Council issued a Notification of decision to grant planning permission subject to 23 no. conditions, – the main items of note within the conditions can be summarised as follows:

- Development to be carried out in accordance with plans and particulars submitted on 19<sup>th</sup> May 2021, and 12<sup>th</sup> November 2021.
- Seven-year occupancy condition attached.
- Preservation of existing hedgerows and trees surrounding the subject site.

### 3.3. **Planning Authority Reports**

#### 3.3.1. Planning Reports

Two Planning Reports have been attached to the file. The first is dated 13/07/2021 and recommended that further information be sought in relation to surface water, sight access/sightlines, cross section of floor levels and septic tank/percolation area, dungstead calculations, and additional land registry mapping.

The second planning report is dated 9/12/2021 and recommends that permission be granted for the proposed development, in making this recommendation the Planners report found that:

- On the basis of the information on file the applicant had demonstrated his local need as per the requirements of the Kildare County Development Plan 2017-2023 (CDP).
- The scale and design of the dwelling is relatively modest and capable of assimilation subject to minor revisions to the proposed finishes.
- The technical matters raised in the Further Information request have been dealt with to the satisfaction of the Planning Authority.

#### 3.3.2. Other Technical Reports

- Area Engineer: Report dated 26/05/2021 - No objection subject to conditions
- Environment: Report dated 21/04/2021 - seeking further information, report dated 30<sup>th</sup> November 2021, - no objection subject to conditions
- Water Services: Report dated 5/7/2021- No objection subject to conditions
- Transportation: Report dated 17/06/2021 seeking further information, report dated 24<sup>th</sup> November 2021 - no objection subject to conditions

### 3.4. Prescribed Bodies

- 3.4.1. An Taisce report dated 1/12/2021, noting the substantial planning history on this site and that the current proposal does not address the two refusal reasons attached by the Board in their previous consideration of a dwelling at this location for the same applicant under ABP-301564-18.
- 3.4.2. Irish Water report dated 5/07/2021 stating standard conditions should be imposed in the event of the applicant connecting to the public water/wastewater system.

### 3.5. Third Party Observations

- 3.5.1. Two third party observations were lodged in relation to the proposed development during the planning authority's consideration. The main issues raised were that the proposed development would:
- Contribute to the overdevelopment of the area, constitute excessive urban generated housing at this location, and therefore be contrary to the sustainable rural housing guidelines.
  - Give rise to excessive traffic on the surrounding rural roads and constitute a traffic hazard from due to the proliferation of entrances onto this heavily trafficked road.
  - Pollute surface and ground water, arising from an overconcentration of septic tanks and wells located in the vicinity.
  - The applicant does not live in the area, nor does he operate a bloodstock business from the area and therefore does not have a local need for a dwelling.

## 4.0 Planning History

- 4.1.1. There are several planning history files associated with the subject site and the adjoining family lands in the immediate vicinity, details of which are set out below:

### Applications on the Subject Site:

**PI. Ref. 08/1223:** Permission refused on 26<sup>th</sup> August 2008, to Donal Magnier for a dormer bungalow, stables, farm buildings on a 6.1ha [elsewhere 6.91ha] site, on the current appeal site. Donal Magnier was indicated as being the owner.

**PI. Ref. 08/2013:** Permission granted on 17<sup>th</sup> September to Donal Magnier for stables, farm buildings and secondary effluent treatment system on a 6.1ha [elsewhere 6.91ha] site. Donal Magnier was indicated as being the owner. The current applicant is stated to reside in part of the stables. The buildings, as constructed, appear not to be the same as those for which permission was granted by the planning authority.

**PI. Ref. 14/820:** Permission refused on 13<sup>th</sup> November 2014, to William Magnier for a dormer dwelling on a site on the western half of the current appeal site. The applicant was indicated as being the owner of the site. Permission was refused for 3 no. reasons, the first two related to the failure to substantiate a housing need/connection to the rural area while the third related to design (dormer styled dwelling was proposed at an elevated position on the southern portion of the site – adjacent to the extant stables).

**PI. Ref. 16/716:** Permission refused on 10<sup>th</sup> March 2017, to William Magnier, for a dormer dwelling on half the site of the current proposal (similar to above). The applicant was stated to be the owner, and the sole refusal reason was based on the design of the proposed development, which was a dormer bungalow and located at an elevation on site slightly lower than that previously proposed under PI. Ref. 14/820 but still in the southern portion of the site and therefore at a higher level than the current proposal.

**PI. Ref. 17/898 (ABP Ref: ABP-301564-18):** Permission granted by the Planning Authority to William Magnier for the construction of a serviced bungalow dwelling on a site which constituted approximately half of the site (western portion) of the current application. The dwelling proposed was a single storey bungalow which was

relocated on site through further information to a location similar to the current proposal. This application was appealed to An Bord Pleanála (ABP-301564-18) who refused permission for the development for the following reasons:

- “1. The proposed development would contravene the rural housing policy of the planning authority, in that the applicant has failed to establish a need to reside in this area by reference to operation of a full-time business from his landholding – one which would contribute to and enhance the rural community, and the nature of which is location dependent and intrinsically linked to a rural location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed development would tend towards the advancement of suburbanisation, in an area which has already been subject to extensive one-off housing, and which lacks basic services such as sewers, public footpaths, public lighting and community services/commercial facilities to serve such a housing concentration. It is considered that the proposed development would lead to demands for the uneconomic provision of such services and facilities in an area where these are not proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”*

**PI. Ref. 21/583:** Incomplete application.

Relevant Planning Applications in the vicinity of the Subject Site:

**PI. Ref. 00/1787:** Permission granted to Juliette Magner (applicant’s stepsister) on 6th June 2001, for dwelling at Boston Common – on a site located approximately 140m to the east of the subject site.

**PI. Ref. 15/434:** Incomplete Application.

**PI. Ref. 15/457:** Permission granted to Mary Graham (applicant’s mother who was stated to be the owner of that site) on 3<sup>rd</sup> February 2016, for retention of house granted permission PI. Ref. 00/1787, (Same site as that set out above).

**PI. Ref. 01/769:** Permission granted on 9th January 2002, to Mary Graham for dwelling and stables on a 1.33ha site at Boston Common and Feighcullen townlands, approximately 250m east of the subject site. [A portion of this site was

indicated as being in the ownership of the current applicant's father, D. Magnier Senior, in relation to sterilisation of lands for file ref. 99/283].

**PI. Ref. 05/2410:** Retention permission granted to Mary Graham for retention of stable block on the site of the above permission.

**PI. Ref. 98/74:** Permission granted to Daniel Magnier (applicant's father) on 12<sup>th</sup> August 1998, to construct dwelling and stables at Boston Common. The area of the landholding was stated to be 5.06ha. This site is located approximately 250m to the southeast of the subject site.

**PI. Ref. 00/1319:** Permission granted to D. Magnier (applicant's father) on 15<sup>th</sup> August 2001, for retention of stables and outbuildings and relocation of dwelling and all buildings in present form at Boston Common, referring to broadly the same site as 98/74 above. A further permission was granted under PI. Ref. 01/1372 to Donal Magnier on 24<sup>th</sup> July 2002, for indoor schooling barn extension to the previously consented existing stables at this location. Subsequently another permission (PI. Ref.17/1453) was granted to Brendan Cawley to retain alterations to stables accommodation previously granted permission (PI. Ref. 01/1372).

**PI. Ref. 99/283:** Permission granted to Donal Jonathan Magnier (applicant's stepbrother) on 15<sup>th</sup> March 2000, for house at Boston Common (on the 5.06ha landholding of his father). This house was constructed. Condition 3 required sterilisation of lands outlined on blue on a drawing received by KCC on 9<sup>th</sup> December 1999. These lands are indicated on a map to the east of the applicant's father's landholding (and approximately 140m east of the subject site) but indicated as being in the ownership of D. Magnier Senior. A house for the current applicant's stepsister was subsequently built on these lands outlined in blue (PI. Ref. 00/1787 discussed previously above refers).

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The most relevant planning policy document is the Kildare County Development Plan 2017-2023 (CDP). Section 4.12 deals with housing in rural areas. The site is located within Rural Housing Policy Zone 1 (that area of the County under strongest



pressure, arising from proximity to Metropolitan Dublin). Within zone 1 applicants need to comply with the policy set out at 4.12.7 of the CDP. Applicants who are not engaged in farming must be able to show that they are a member of the rural community and satisfy one of three specified local need criteria. Section 4.12.7 states as follows:

*“Rural generated housing demand will be managed having regard, inter alia, to the applicant’s genuine local need, together with the protection of key economic, environmental, natural and heritage assets, such as the road network, water quality, important landscapes, habitats and the built heritage. In order for an applicant to be considered for a one-off dwelling in the rural area of Kildare, an applicant must:*

*(A) Meet one of the following categories of applicant:*

- 1. A member of a farming family who is actively engaged in farming the family landholding. OR*
- 2. A member of the rural community. AND*

*(B) Meet one of the local need criteria set out in Table 4.3 (a) and (b) Schedule of Local Need.*

Table 4.3(b) of the County Development Plan states the following in relation to the Category of Applicant 2

**Category Of Applicant 2:** *A member of the rural community. The applicant must demonstrate a genuine local need to reside close to their family home by reason of immediate family ties [immediate family members are defined as mother, father, son, daughter, brother, sister or guardian] or their active and direct involvement in a rural based enterprise.*

*Local Need Criteria Rural Housing Policy Zone 1:*

- (i) Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare as members of the rural community and who seek to build their home in the rural area on their family landholding and who currently live in the area. Where no land is available in the family ownership, a site within 5km of the original family home may be considered.*

- (ii) *Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare, as members of the rural community who have left the area but now wish to return to reside near to, or to care for immediate family members, seeking to build their home in the rural area on the family landholding or on a site within 5km of the original family home.*
- (iii) *Persons who can satisfy the Planning Authority of their commitment to operate a full-time business from their proposed home in the rural area where they have existing links to that rural area and that the business will contribute to and enhance the rural community and that the nature of such enterprise is location dependent and intrinsically linked to a rural location.*

**Policy RH3** of the CDP requires “...*applicants to demonstrate that they are seeking to build their home in the rural area in Kildare for their own full-time occupation. Applicants will be required to demonstrate that they do not own or have not been previously granted permissions for a one-off rural dwelling in Kildare and have not sold this dwelling or site to an unrelated third party, save in exceptional circumstances.*”

**Policy RH4** of the CDP states it is the policy to “*Restrict residential development on a landholding, where there is a history of development through the speculative sale or development of sites, notwithstanding the applicant’s compliance with the local need criteria.*”

**Policy RH5 states** “*Restrict occupancy of the dwelling as a place of permanent residence for a period of seven years to the applicant/occupant who complies with the relevant provisions of the local need criteria.*”

**Policy RH 9** relates to the siting and design of rural dwellings and notes that notwithstanding compliance with the local need criteria applicants must comply with all other normal siting and design considerations including proper siting, provision of landscaping, protection of features which contribute to local attractiveness, provision of safe access and egress, appropriate drainage provisions and means of foul drainage as well as ensuring the floodrisk management guidelines are complied with.

**Policy RH18** states: *“Ensure that planning applications for a rural dwelling on the basis of the establishment of a full-time viable commercial equine or other rural enterprise on site will generally be favourably considered, having regard to the following criteria:*

- (i) The landholding shall comprise a minimum of 5 Hectares.*
- (ii) All other siting and design considerations will be taken into account in assessing the application.*
- (iii) It must be demonstrated that the nature of the enterprise is location dependent and intrinsically linked to a rural location.”*

## **5.2. Sustainable Rural Housing – Guidelines for Planning Authorities**

5.2.1. These guidelines state that development plans should facilitate the housing need of the rural community while directing urban generated housing to settlements. The guidelines go on to state that the housing requirements of persons with a link to the rural area should be facilitated in the area it arises subject to normal siting and design requirements.

## **5.3. National Planning Framework**

5.3.1. National Policy Objective 19 of the National Planning Framework (NPF) states the following in relation to one-off rural housing in the countryside:

*“Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere:*

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.*
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in*

*statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.”*

#### **5.4. Natural Heritage Designations**

- 5.4.1. The site is located approximately 5.5km to the west-northwest of Mouds Bog SAC (Site code 002331) and some 5.8km to the northwest of Pollardstown Fen SAC (Site code 000396). The Grand Canal, c. 1.0km to the north, is a proposed Natural Heritage Area (Site code 002104).

#### **5.5. EIA Screening**

- 5.5.1. Schedule 5 of the Planning and Development Regulations 2001 (as amended) (“the Regulations”) sets out the various classes and thresholds of development which require mandatory Environmental Impact Assessment (EIA). A component part of the proposed development (dwelling house) is of a class specified in Schedule 5 Part 2 of the Regulations (Class 10(b) “Infrastructure projects” refers), which establishes the relevant EIA threshold in relation to this class of development as *“Construction of more than 500 dwelling units”*.
- 5.5.2. Having regard to the nature and scale of the development, which includes the provision of a single dwelling house, the absence of features of ecological importance within, proximate, or linked to, the subject site and given the nature of the receiving environment, I conclude that there is no likelihood of significant effects on the environment arising from the proposed development. Accordingly, I conclude that the necessity for submission of an Environmental Impact Assessment Report and carrying out of EIA can be set aside at a preliminary stage.

### **6.0 The Appeal**

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

- 6.1.1. There have been two, third-party appeals lodged in the current case. The appeal from Andrew Moloney, Boston Cottage, Rathangan, raises the following issues -

- The current application does not overcome the refusal reasons previously issued on this site to the same applicant on the same landholding (Pl. Ref. 17/898, ABP 301564-18 refers).
- The appellant states that all houses which were approved to the applicant's family have been sold and the only property now owned is this stable block which can be the only available living quarters for which no planning permission has been granted.
- The applicant's family have not lived in the area since 2015 when they sold their family home on the lands adjacent.
- Landholding is not suitable to sustain a full-time bloodstock business.
- The area is suffering from overdevelopment.
- The road network is not suitable for catering for additional development.
- The applicant and his father have been refused permission on the site since 2008 on several occasions and the planning authority has stated that the applicant does not have sufficient need to live in the area.

6.1.2. The appeal lodged by Leo Price raises the following issues:

- As there has been no change in circumstances since the previous application the decision to refuse permission from the Board (ABP 301564 18) should be upheld.
- The site is not large enough to sustain a full-time bloodstock business as proposed by the applicant
- The development of site has already caused a negative impact on the rural landscape and the proposed house will further cause greater visual impact on the countryside
- The area has been overdeveloped and the applicant's family have already been approved for four houses on lands in the area.
- Road network is not capable of sustaining any further development in the area.

- The area is under excessive urban generated housing and the proposed house is contrary to sustainable rural housing there being an over concentration of septic tanks in the area.

## 6.2. Applicant Response

6.2.1. The Applicant has submitted detailed responses to the matters raised in the third-party appeals, the main response issues are set out below:

- In relation to the previous decision that issued from An Bord Pleanála the appellant notes that the Planning Authority who are very familiar with the site have considered that the applicant fully meets the relevant housing need criteria as set out in the County Development Plan, and that the current application must be assessed on its own merits.
- In relation to overdevelopment the applicant notes the decision of the planning authority who concluded that the area was not overdeveloped, the applicant also submits that the proposed development stands on its own site of 17 acres.
- In relation to traffic the applicant states they are very familiar with the locality and do not agree with any assertions that the local road network is insufficient. The applicant notes there has been increased industrial activity and the wider area and specifically references Callan recycling in this regard, furthermore the applicant notes that his activities are already in place on site and access rearrangements are satisfactory, therefore traffic movements will not be significantly increased by the proposed development.
- It is asserted that the applicant does live in the area and has lived there for in excess of 12 years. The Applicant states that he complies with the County Development Plan policies and that he needs to live on the subject site for security purposes as he is a keeper of animals.
- In relation to the operation of a bloodstock business at this location it is stated that the applicant has invested considerably in respect to stables and the facilities on the subject site. It is not accepted that a blood stock business cannot be sustained on the holding, and it is clarified that the applicant has

options to rent additional land for grazing and documentary evidence has been provided in this regard.

- In relation to the claims of excessive urban generated housing the applicant notes that he is from the area and has a business there and further clarifies that this issue has not been raised by the appellants in relation to any other recent planning applications in the vicinity.
- In relation to the overconcentration of septic tanks the applicant clarifies that the site of the current development is in excess of 17 acres in size and is therefore capable of accommodating the requirements of the foul drainage system proposed.
- In relation to visual impact the applicant notes the existence of significant mature trees along the side boundaries and that the subject site which currently caters for a bloodstock business has been well maintained. The applicant also acknowledges that the presence of a substantial recycling plant in the vicinity and accordingly clarifies that it is in his best interest to maintain mature planting along the subject site's boundaries.
- The applicant has also stated that he is of the opinion that the appeals lodged should be dismissed by the Board as it is alleged that they have been made with the sole intension of delaying the development or securing the payment of money gifts or other considerations. In support of this allegation documentation has been submitted including letters, phone records, copies of correspondence, garda statements, and details of an alleged admission by one of the appellants that moneys and lands were sought in exchange for withdrawing the appeals on the previous application. Correspondence from family members (applicant's father and mother) has also been submitted setting out further background information and additional detail as to the alleged motivations of the appellants.
- The applicant has also submitted letters of support for his proposed development from those in the bloodstock industry, applicant's solicitors and agent clarifying and confirming that he fully satisfies the local housing need requirements of the County Development Plan.

### 6.3. Planning Authority Response

The planning authority has not provided any additional response to the appeals beyond providing the Board with the details of the application documentation.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Nature of the Appeals.
- Rural Housing Requirements and Planning History.
- Previous An Bord Pleanála Refusal Reasons
- Traffic, Access and Servicing.
- Siting Design and Layout, and
- Other matters.

### 7.2. Nature of the Appeals

7.2.1. The applicant in response to the grounds of appeal has asked the Board to consider the provisions of Section 138 of the Planning and Development Act, 2000 (as amended) (“the Act”) which provides that the Board at its absolute discretion can dismiss an appeal where it considers the appeal to be (a) vexatious, frivolous or without substance or foundation (Section 138(1)(a)(i) of the Act refers), or alternatively if the Board considers the appeal is (b) made with the sole intention of, inter alia, securing the payment of money, gifts, consideration or other inducement by any person (Section 138(1)(a)(ii) of the Act refers).

7.2.2. The applicant has provided documentation in their response speaking to the alleged motivation of the appellants, and refers to Garda interviews, phone records, correspondence providing details of meetings with an appellant, as well as a copy of an alleged letter from an appellant seeking monies and land in order to secure the withdrawal of the appeal on the previous application and appeal that was lodged on this site (Pl. Ref, 17/898, ABP-301564-18 refers).



- 7.2.3. In relation to the provisions of Section 138(1)(a)(i) of the Act it is noted that the matters raised within the third-party appeals include relevant planning issues which formed the basis of the refusal reasons that issued from the Board under ABP-301564-18, (the previous application by the same applicant for a dwelling at this location), i.e. housing need and expansion of an inappropriate suburban form of development. In this regard therefore, in my opinion, the appeals cannot be said to be vexatious, frivolous or without substance or foundation. Accordingly, it is my consideration that the appeals do not merit dismissal under Section 138(1)(i) of the Act as both appeals raise matters which relate to the proper planning and sustainable development of the area.
- 7.2.4. In relation to Section 138(1)(a)(ii) of the Act, the applicant has made detailed submissions in regard to the appellants' alleged motivations, however, the grounds of appeal that have been lodged do not refer to any of these matters. In this regard I note that the details submitted relate to the previous application that was lodged, appealed and ultimately refused permission by An Bord Pleanála. Furthermore, from review of the submitted documentation the allegations are primarily focused on one of the appellants/appeals. On this basis I am of the opinion that there is no clear basis to dismiss these appeals under Section 138(1)(a)(ii) of the Act.
- 7.2.5. As set out above, I am of the opinion that there is no clear basis to dismiss these appeals under Section 138 of the Act. I therefore intend to consider the planning matters raised in the appeals and issue a recommendation in relation to the proposed development on its planning merits.

### 7.3. Rural Housing Requirement and Planning History

- 7.3.1. There is an extensive planning history in relation to this site and the applicant's family in the wider area. This planning history is not just in relation to the current appeal site, but also in relation to lands to the east and southeast in Feighcullen and Boston Common townlands. Permission has been granted since 1998 (around which time the family moved to this area), for four houses to members of the applicant's immediate family – father, mother, stepbrother and stepsister. All houses were built, and all have now been sold on – due to family business difficulties during the recession as well as other family reasons, and documentary evidence of this has been provided. On the basis of the information submitted, I accept that the sale of

previously permitted dwellings in the vicinity were not speculative in nature but were sold out of necessity due to financial difficulties. In this regard I accept that the landowner's family has not been involved in the speculative sale or development of sites and that Policy RH4 of the County Development Plan is therefore not applicable in the current case.

7.3.2. The applicant states that he remains resident in the area as he resides in the stables and photographs have been provided on file showing that part of the existing stables that have been converted for that use. This use has not been permitted and these alterations would appear not to have the benefit of planning permission, however the existing stables are in place and do not form part of the current application. I note that the Board do not have an enforcement function and furthermore that there is no evidence on file of any enforcement action having been taken by the Planning Authority on this matter. However, should the Board be minded to grant permission in this case I would recommend that a condition be imposed to clarify that one dwelling unit only is permitted on this landholding unless a further consent is issued separately in order to ensure that residential use of the site is for those who have substantiated a need and fully satisfy all relevant requirements.

7.3.3. From the documentation lodged with the planning application, the applicants housing need to reside in this local area can be summarised as follows:

- The applicant will reside permanently in the proposed dwelling house.
- The applicant has never previously been granted permission for a dwelling house in County Kildare.
- The applicant has stated that he qualifies for a dwelling in Zone 1, under Category of applicant 2, local need criteria (i) (i.e. – *“Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare as members of the rural community and who seek to build their home in the rural area on their family landholding and who currently live in the area. Where no land is available in the family ownership, a site within 5km of the original family home may be considered.”* In this regard the applicant has submitted the following details-
  - Letters from national and secondary schools in Rathangan confirming the applicant attended the local schools for ten years (from 2000-

2010). The national school letter confirms that he was living in Boston Hill – a rural townland immediately adjacent to the townland within which the subject site is located.

- Birth certificate.
- Utility bills and other correspondence (Bank statements, Electoral register confirmation, Revenue, Insurance, Department of Social & Family Affairs, Health Service Executive) on various dates from 2010, 2014, 2015, 2016, 2017, 2018, 2019, 2020, and 2021, confirming the applicants address as being the rural address of Drinnanstown/ Feighcullen, Rathangan, Co. Kildare.
- Written confirmation that the applicant is residing in the stables on the subject site.
- Confirmation that the applicant is employed by the MCR group at various locations throughout Kildare.
- Map indicating the previous permissions granted to his family members, as well as written submissions stating the reasons behind their sale, to address business debts arising from the recession.

7.3.4. On review of the submitted documentation, I am satisfied that the applicant has lived a substantial period of his life (in excess of 12 years) in this rural area and remains a current resident in the area. In relation to the subject site (6.98ha delineated in red on application layout map) the documentation and planning history suggests that this came into the family ownership in 2008. Under the provisions of the County Development Plan, it is not necessary for an applicant to own or have access to family lands in the area of their upbringing to qualify for a rural housing need under the category of applicant being cited in the current case, notwithstanding this however, I note that the subject lands have been in the ownership of the family for in excess of 13 years.

7.3.5. The inspectors report and An Bord Pleanála decision on the previous application for a dwelling on this site noted that a rural housing need had not been justified. In this regard the issue arising in the previous Inspectors Report was from the definition of

“A member of the Rural Community”, as set out in table 4.3(b) of the County Development Plan, which states that:

*“The applicant must demonstrate a genuine local need to reside close to their family home by reason of immediate family ties or their active and direct involvement in a rural based enterprise.”* [emphasis added by author]

In this instance the applicant has difficulty in presenting immediate family ties to the area, (immediate family members being defined as mother, father, son, daughter, brother, sister or guardian in the County Development Plan). While these were obviously all resident in the local area previously the relevant dwellings have had to be sold and his immediate family members have moved elsewhere. I agree that the applicant has a rural connection to the area, however, he cannot (due to the specific circumstances) demonstrate the need to reside close to his family home by reason of immediate family ties as his immediate family members are no longer resident locally. The documentation presented within the file notes that the applicant intends to take care of his elderly father should favourable consideration be forthcoming, however, at present his father is not resident at this location. Accordingly, the applicant has gone on to provide further evidence and comprehensive detail of his active and direct involvement in a rural based enterprise (i.e., his equine business which is in operation at this location) to satisfy the requirements of the definition of a member of the rural community set out in table 4.3(b) of the County Development plan.

- 7.3.6. The application documentation includes substantial information outlining both his own and his family’s background and experience in the bloodstock/equine industry. Written confirmation has been provided of clients whose horses he currently takes care of at the subject site and further support in the wider industry to provide additional grazing lands should they be required, as well as bona fides from other members of the industry which support his background in and the development of the applicant’s equine facilities. The current application also provides for additional stables, a horse walker, and dungstead and offers further and more comprehensive detail of the applicant’s intent in relation to the further development of the established (and authorised) use of the lands as a horse training and stabling facility. While I note that the applicant is employed by the MCR Group, on the basis of the information submitted I also consider that he has clearly demonstrated his “...active

*and direct involvement in a rural based enterprise...*” as required under the provisions of table 4.3(b) of the County Development Plan.

- 7.3.7. I note the planners report that was prepared in recommending a grant of permission by the Planning Authority for the current proposal which stated that as the applicant was seeking to demonstrate a housing need under the category of application 2(i) and therefore that it was not necessary to demonstrate any plans for the equine business. As set out above, table 4.3(b) of the County Development plan clearly states that in the absence of being able to demonstrate a need to reside close to their family home by reason of immediate family ties, that direct involvement in a rural based enterprise must be shown in order to qualify under the definition of “A member of the rural community”.
- 7.3.8. The planning report from the planning authority goes on to state that *“the application does not refer to the proposed business in the public notices and should permission be granted conditions will apply to restrict the use of the site to non-commercial activity”*. In relation to this issue, I note that the public notices and development description refer to the provision of horse stables, six stable boxes, a medical room, a feed room, a horse walker, and a dungstead as well as the proposed dwelling house and all associated works. Accordingly, both domestic and agricultural uses are proposed on site, and should the Board consider granting permission for the development as proposed I would recommend that no such restriction on equine/agricultural activities be conditioned.
- 7.3.9. On consideration of all the above and the application and appeal documentation I believe the applicant has satisfied the rural housing need requirements for the provision of a dwelling in zone 1 as a member of the rural community under category of applicant 2(i) as set out in the Kildare County Development Plan 2017-2023, (having particular regard to the provisions of table 4.3(b)). Furthermore, in my opinion the requirements of the Sustainable Rural Housing – Guidelines for Planning Authorities, April 2005 have been satisfied. These guidelines state that the housing requirements of persons with a link to the rural area should be facilitated in the area it arises subject to normal siting and design requirements (Siting and design is considered further below).

7.3.10. The provisions of the National Planning Framework must also be considered. In this regard the NPF states that in rural areas under urban influence (such as the area in which the subject site is located) that the provision of single housing in the countryside can be facilitated *“based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans.* As the applicant has demonstrated both his social (family and long-term rural resident) as well as his economic ties (his established equine business) to the subject site I consider that the provisions of the NPF have been satisfied.

#### 7.4. Previous An Bord Pleanála Refusal Reasons

7.4.1. The appellants have stated that as the overall circumstances have not changed then the previous refusal reasons attached to ABP-301564-18 (KCC PI. Ref. 17/898) which relate to the inability to justify a rural housing need, and the further suburbanisation of this rural area, have not been overcome and should therefore continue to apply.

7.4.2. While the planning context for the site has not altered in terms of the relevant provisions of the County Development Plan, since the Board previously considered the previous application on this site, I must point to the following changes/differences between the previous application and that currently under appeal.

- The applicant has provided additional detail in relation to his proposed agricultural intentions at this location in the form of his established and ongoing equine business. Furthermore, the current application provides for the expansion of these facilities while also providing confirmation of existing, ongoing and future provisions for this enterprise. The first refusal reason issued from the Board in relation to the previous application noted that the rural housing need had not been established due to the failure to establish a business which would contribute to and enhance the local area while also being location dependent. The detail of the applicants active and direct involvement in a rural based enterprise was not clearly articulated within the previous application. As required under the County Development Plan the current application has established the applicants active and direct involvement in a location-dependent rural business on this site, thus

overcoming the housing need deficiency identified by the Board in the previous appeal. These details were not available to the Board previously. as noted in the previous inspector's report:

*“The applicant has provided no details of commitment to operate a full-time business from his landholding – one which would contribute to and enhance the rural community, and the nature of which is location dependent and intrinsically linked to a rural location.”*

In relation to the above I note that the requirement to operate a “...full-time business from their proposed home in the rural area ....” relates to a category of applicant 2(iii) under table 4.3(b) of the County Development Plan. The current applicant's local need justification is established under category of applicant 2(i) under which the requirement is to demonstrate their “.... active and direct involvement in a rural based enterprise” in order to satisfy the definition of a member of the rural community set out within table 4.3(b). This requirement does not state that the enterprise must be full-time.

- The second major alteration between the previous and current application is that the site of the proposed development has been increased to entail the entire 6.98 ha (c.17 acre) landholding at this location. The second refusal reason that issued from the Board noted that the previous application (on a site of 3.98ha) would contribute to suburbanisation. I note that this area of County Kildare is under strong pressure for housing arising from its proximity to metropolitan Dublin, however, I also note that while there is a significant cluster of dwellings to the east and south-east in neighbouring townlands, the subject site stands apart from that area. I consider the provision of a dwelling on this substantial site in conjunction with the existing stables and the additional facilities proposed are consistent with a rural form of development and will not be read as suburban in form or nature. In my opinion the provision of a dwelling within this significant site with agricultural buildings clustered around a separate yard area is entirely in keeping with the rural character. Furthermore, I consider that the improvement of equine facilities at this location will contribute to the local area and be effectively assimilated into the landscape.

## 7.5. Traffic, Access and Servicing

### Traffic:

- 7.5.1. The site is serviced by an existing recessed agricultural access off the L7004, which is a county road in good repair at time of site inspection. This road also serves as the access to the Flanagan Concrete quarry which is to the immediate north of the subject site, and it therefore accommodates a significant number of large vehicles. The 80kph speed restriction applies in this area. Sight distances in both directions at the existing agricultural access are good and have been shown on the updated layout map provided with the further information response, although it will be necessary to maintain the hedgerows on either side. Most of the L7004 is wide enough for two vehicles to pass with care.
- 7.5.2. The appeals state that the road network is not capable of sustaining any further development in the area. There are a significant number of houses to the east and southeast of the appeal site which also take access from the L7004 and from the L3002 (larger county road to the southeast). The surface of local roads was good at time of site inspection. The subject site already accommodates a stable building, and I am of the opinion that the additional traffic that will arise from the proposed development will not be at such a significant scale as to adversely impact the capacity of the roads nor create any additional hazards. The traffic movements that will be introduced with the provision of a dwelling house, additional stables, horse walker, dungstead and ancillary works will in my opinion be capable of being accommodated on the existing road network without adverse impact on existing road users or residents in the wider area. The Roads section and area engineers reports from the Planning Authority indicated that there was no objection to the proposed subject to appropriate conditions being imposed.

### Water Supply:

- 7.5.3. The water supply is stated to be from public mains located within the L7004. The agricultural buildings to the south on this site are provided with water. The applicant states that he is not aware of any public wells in the immediate vicinity. Irish Water had no objection to the proposal and on the basis of information submitted I consider the water supply proposals to be acceptable.

### Foul Drainage:



- 7.5.4. The application documentation includes a detailed site characterisation form which demonstrates that the site is suitable for the provision of a standard septic tank and percolation area. No groundwater was encountered within 2.4m of ground level, and while the trial holes were not dug at the location of the proposed percolation area, the ground conditions throughout the site appeared consistent on visual inspection. The site appears well drained. The groundwater aquifer in the area is indicated as being 'LI' – Locally Important Aquifer – Bedrock which is Moderately Productive only in Local Zones. The vulnerability of the aquifer is 'High' – the middle category (3) of five – arising from proximity of rock to the surface. There was no evidence of any rock outcrops on the entirety of the site. The Water Services Department and Environment Section of KCC had no objection to the proposal. On the basis of the information submitted I am satisfied that the site is suitable for the disposal of foul drainage in the manner proposed.
- 7.5.5. No indication is given of where foul waste from the existing stables building is discharged – but it is likely to be to a septic tank and percolation area permitted ref. 08/2013 – immediately to the south of the stables building, and there is sufficient separation distance to the proposed dwelling from this location.

Surface Water:

- 7.5.6. There are no watercourses within or on the site boundaries. Surface water from the residential element of the Proposed Development is to be discharged to soakaways downslope of the dwelling. There is no likelihood that discharge of surface water would impact on adjoining sites or on the L7004. Arising from the sloping nature of the land, the site would not be prone to flooding.
- 7.5.7. An additional soakaway will be provided at the site entrance to ensure surface water does not come onto the public road, albeit that the site topography at this location would not facilitate this – i.e., the site initially slopes down and away from the public road at this location.
- 7.5.8. In relation to the servicing requirements for the agricultural elements of the proposed development, the further information details submitted include calculations in relation to the size of the proposed dungstead and clarifies that a sealed tank with a minimum capacity of 12.8m<sup>3</sup> will be provided while clean/uncontaminated roof and surface water will be directed to soakaways (Report by Teagasc advisor dated

10/8/2021 refers). Accordingly, clean water will be kept separate to soiled water from the agricultural yard area, and the soiled water will then be dealt with appropriately in accordance with the Nitrates Directive in relation to disposal/land spreading. I consider that the dwelling house and its proposed surface water and foul drainage systems are sufficiently separated from the existing and proposed stables and yard area (proposed dwelling is located 79.6m north of the existing stables) to ensure that both systems will operate independently and be capable of dealing with their respective loadings. I have no issue with the proposed drainage arrangements.

## **7.6. Siting Design and Layout.**

- 7.6.1. The proposed development is essentially in two parts, with the residential component (dwelling house and domestic shed) located at a setback of approximately 111m from the public road with a finished floor level (ffl) of 81.6m OD and a finished roof level (frl) of 87.100m OD. The agricultural components (additional stables, horse walker, and dungstead) are located further to the south of the site and are arranged around the existing stables. The existing stables have a ffl of 87.039m OD and a frl of 92.687m OD. The proposed stables have a similar ffl and frl at 87.040 and 92.915m OD respectively. The proposed horse walker and stables are proposed to the rear of the existing stables to form a yard area and the dungstead is proposed at a higher ffl 88.5m OD to the rear of the proposed stables.
- 7.6.2. The dwelling house and domestic shed are single storey and have a low visual impact, both are set at a low level within this well screened site. The agricultural elements of the proposal are arranged around the existing stable's structure and are in keeping with the overall character of this rural area.
- 7.6.3. The site is surrounded by mature trees. In the wider area the landscape is rural in nature albeit characterised by one off dwellings (with a particular concentration of these to the east), with large-scale quarry operations and a major recycling plant also in the vicinity. Flannagan concrete quarry is to the immediate north of the site, while Callanan recycling is located to the southwest, (spoil heaps from this facility can be noted on the site visit photographs). Further to the south the land continues to rise and there are additional one-off dwellings provided at higher ffl's and with higher ridge lines along the county road network further to the south.

- 7.6.4. Both the proposed domestic and agricultural elements will be serviced by the existing on-site access road which is in place and well-kept. The site itself is substantial having a stated, red-lined area of 6.98 hectares which is just over 17 acres (the stated area on the application form – 3.98 ha - is incorrect and appears to be a carry-over from the previous application considered by the Board at this location - ABP-301564-18 – which was an application for a dwelling on approximately half of the current site).
- 7.6.5. The design of the dwelling is a standard bungalow which I consider to be inoffensive in the context of the surrounding elements of the natural and built environment. Having regard to the planning history and site context I have no issue in relation to the design of the current proposal. The Planning Authority has, however, sought for the quoins to be removed from the design. This would appear to be a standard approach in terms of the condition that was imposed by the Planning Authority and in that regard, I would recommend that should the Board consider a grant of permission in this instance that a similar condition be restated in order to comply with Kildare County Council's rural housing design requirements and in the interests of consistency.
- 7.6.6. In my opinion the proposed development is capable of being visually accommodated at this location without significant adverse impact on the visual amenities or character of the area or residential amenities of the wider area. Furthermore, I consider that the location and layout of the proposed development satisfies the requirements of Policy RH9 of the County Development plan referring to siting and design requirements, in this regard the proposed development integrates appropriately with its physical surroundings and respects the character of the area, while also providing for adequate landscaping and satisfying the design and development management standards of the CDP.

## **7.7. Other Issues**

- 7.7.1. The appellants have raised concern that the site is not of sufficient scale to accommodate a horse training or stabling facility. In response to this issue the applicant has stated and provided documentary evidence of support for the provision

of additional lands should they be required for grazing, and furthermore has demonstrated both his own and his family's long-term involvement with the training and keeping of horses at this location and in the wider area. In this regard I also note the provisions of policy RH 18 of the County Development plan which indicates that the minimum landholding requirement for an applicant who is establishing a need for a rural dwelling on the basis of establishing a full-time viable commercial equine or other business is 5 hectares. It is noted that the current application has not been lodged or considered under policy RH 18, however, it is referenced here as it demonstrates that the County Development Plan has established a minimum viable size (5ha) for such an equine enterprise. It should also be noted that in relation to the current proposal the existing stables facility is in place and operational on this approximately 6.98Ha (17 acre) site, accordingly I have no concerns in relation to the viability of the existing or proposed equine facility on the basis of the size of the available landholding.

7.7.2. Previously the Planning Authority sought a sterilisation agreement in relation to their recommendation to grant permission under PI. Ref.17/898 – the application that was subsequently refused by the Board under ABP -301564-18. Condition No. 8 of the Notification of Decision to grant planning permission in that case required the applicant to enter into a sterilisation agreement in relation to the entire 6.9ha field (which forms the entire development site under the current application). No such requirement has been attached in the current Notification of Decision to Grant permission that issued from Kildare County Council. As the entire landholding at this location represents the proposed development site, I do not foresee any reason for the Board to require any sterilisation agreement in the current case should it be minded to issue a grant of permission. As referenced previously above, I note that the applicants use of a part of the existing stables for residential purposes does not enjoy the benefit of consent and in this regard, I recommend that in the event of favourable consideration an appropriate condition be imposed to ensure one dwelling unit only is permitted on site.

7.7.3. The Planning Authority conditioned that a financial contribution of €10,017.37 be applied (condition no. 23 of their decision refers) under the requirements of their adopted Development Contribution Scheme. If the Board is minded to grant permission, a condition should be attached requiring payment of a development

contribution in accordance with the Development Contribution Scheme of Kildare County Council.

## **8.0 Appropriate Assessment**

- 8.1.1. The site is neither within nor immediately abutting any European site. The closest site is 5.5km distant (Mouds Bog SAC - Site code 002331) while Pollardstown Fen SAC (Site code 000396) is 5.8km to the southeast. There are no surface water hydrological links with any European site. Having regard to the scale of the proposed development and its location in relation to the nearest European sites, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

- 9.1. Having regard to the above it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions

## **10.0 Reasons and Considerations**

Having regard to the provisions of the Kildare County Development plan 2017-2023, objectives of the National Planning Framework and the Sustainable Rural Housing Guidelines, as well as the nature, form, scale, location and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in the context of rural housing policy, visual amenity of the area, traffic safety, and public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 12th day of November 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. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.  
  
(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.

3. The site boundary, as delineated in the further information documentation received 12th day of November 2021, shall accommodate one dwelling unit only, unless a further planning permission is granted.

**Reason:** To ensure orderly development avoid overdevelopment and in the interests of the proper planning and sustainable development of the area.

4. (a) The existing mature planting around the site boundaries shall be retained except to the extent that its removal is necessary to maintain adequate and safe sight-distances at the entrance to the site.

(b) The site shall be landscaped in accordance with the landscaping plan submitted with the application on the 19<sup>th</sup> of May 2021, using acceptable native species as outlined in table 17.2 of the Kildare County Development Plan 2017-2023. Planting shall be carried out and completed within the first planting season following commencement of development. Any plants which die, are removed or become seriously damaged or diseased, within a period of five 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 visual amenity.

5. The roof colour of the proposed house and domestic shed shall be blue-black, black, dark brown or dark grey. The colour of the ridge tile shall be the same as the colour of the roof.

**Reason:** In the interest of visual amenity.

6. The external walls of the dwelling and domestic shed shall be finished in neutral colours such as grey or off-white. External finishes shall consist of natural stone, wet dash or napp plaster only. No quoins are permitted.

**Reason:** In the interest of visual amenity.

7. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

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

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

9. Surface water from the site shall not be permitted to drain onto the adjoining public road.

**Reason:** In the interest of traffic safety.

10. (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.

(b) The septic tank system shall discharge to a percolation area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the percolation area is constructed in accordance with the standards set out in the EPA document.

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

11. (a) All solid waste arising from the stables shall be collected and stored in the dungstead which shall have an impermeable base.

(b) Seepage from the dungstead and any soiled water from the stables/yard area shall be piped to a suitably sized effluent holding tank.

(c) The disposal of farmyard manure and soiled water shall be carried out in accordance with European Communities (good Agricultural Practice for Protection of Waters) Regulations 2017, as amended.

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

12. The developer shall pay to the planning authority a financial contribution of €10,017.37 (ten thousand and seventeen euro and thirty-seven cent) 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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J. Green  
Senior Planning Inspector

5<sup>th</sup> May 2022