



An  
Bord  
Pleanála

## Inspector's Report 313820-22

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<b>Development</b>	Erection of a sign & removal of conditions relating to the payment of development contributions
<b>Location</b>	3 Poplar Row, Ballybough, Dublin 3
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3629/22
<b>Applicant(s)</b>	Bartra Property (Poplar Row) Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Split Decision
<b>Type of Appeal</b>	First Party v. Decision
<b>Appellant(s)</b>	Bartra Property (Poplar Row) Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	28 <sup>th</sup> March 2023
<b>Inspector</b>	Louise Treacy

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 1,360 m<sup>2</sup> and is located at No. 3 Poplar Row, Ballybough, Dublin 3, with rear access available from Annesley Place. The site accommodates an apartment scheme which is 6-storeys in height fronting onto Poplar Row to the north. The neighbouring land uses at this location are primarily residential in nature.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the erection of a sign related to the multi-occupancy unit at ground floor level at the 'Build-to-Rent' residential apartment development at No. 3 Poplar Row with service access on Annesley Place, Ballybough, Dublin 3, as required by condition no. 9 attached to the grant of permission for Planning Reg. Ref. No. 3900/18 and the removal of condition nos. 2 and 3 which relate to the payment of development and special contributions under Section 48(1) and Section 48(2)(c) respectively of the Planning and Development Act, 2000, as amended, attached to the aforementioned grant of permission.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority issued a split decision in relation to the proposed development on 23<sup>rd</sup> May 2022 whereby planning permission was **granted** for the erection of a sign related to the multi-occupancy unit at ground floor level subject to 8 no. conditions.
- 3.1.2. Condition no. 2 excludes the removal of condition nos. 2 and 3 which relate to the payment of development and special contributions under the parent permission (Reg. Ref. 3900/18).
- 3.1.3. Condition no. 3 states that the development shall comply with all conditions attached to the parent permission (Planning Reg. Ref. No. 3900/18) where applicable to this development.
- 3.1.4. All other conditions are generally standard in nature.

3.1.5. Planning permission was **refused** to remove condition nos. 2 and 3 which relate to the payment of development and special contributions as attached to the parent permission (Planning Authority Reg. Ref. 3900/18) for 1 no. reason as follows:

“The permitted development was assessed as a build-to-rent (BTR) development in accordance with the description of development on the public notices and the details supplied with the application. Having regard to the quantum and density of residential units permitted, the lack of an active use at street level in accordance with the Z4 zoning objective under the Dublin City Development Plan 2016-2022, the application of flexibility in the case of standards for overall floor area and private open space, as permitted in the case of BTR developments under SPPR8 of Sustainable Urban Housing: Design Standards for New Apartments (2018), and the failure to provide public open space on the site in accordance with Section 16.10.3 of the aforementioned Plan, it is considered that the conditions attached are appropriate and reasonable, allow for some planning gain to the area, and that their removal would be contrary to the proper planning and sustainable development of the area”.

## 3.2. **Planning Authority Reports**

### 3.2.1. **Planning Reports**

3.2.2. The Planning Officer had no objection to the proposed signage.

3.2.3. In assessing the applicant’s proposal to remove condition nos. 2 and 3 of the parent permission, the Planning Officer noted that the applicant has entered into an Agreement for Lease Scheme with Dublin City Council in relation to all 39 no. of the originally permitted units. The applicant refers to a similar arrangement for another housing scheme in Dublin 7 (Planning Authority Reg. Ref. 3538/17), and in relation to which, the Board determined that no development contribution payments were required. Notwithstanding the identified lease agreement, the Planning Officer noted that the site remains in the applicant’s ownership.

3.2.4. The Planning Officer also noted that the applicant had proposed to make a financial contribution in lieu of public open space as set out in their planning submission and did not appeal this development contribution condition at the time of the decision.

Based on the foregoing, the Planning Officer recommended that planning permission be refused to omit condition nos. 2 and 3 of the parent permission.

#### 3.2.5. **Other Technical Reports**

3.2.6. **Engineering Department – Drainage Division:** No objection to the proposed development subject to condition.

#### 3.3. **Prescribed Bodies**

3.3.1. **Irish Water:** None received.

3.3.2. **Irish Rail:** None received.

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

3.4.1. None.

### 4.0 **Planning History**

4.1. **Planning Authority Reg. Ref. 3900/18:** Planning permission granted on 23<sup>rd</sup> May 2019 for the demolition of an existing commercial building and the development of a “Build-to-Rent” residential apartment development comprising a 7-storey building with 52 no. apartment units; a community facility/meeting room and ESB substation/switch room at ground floor level, bicycle parking, a bin facility, 2 no. areas of communal open space, including a children’s play space, and associated site development works.

4.2. Condition no. 2 required the developer to pay a Section 48 development contribution in the amount of €93,458.88.

4.3. Condition no. 3 required the developer to pay a special development contribution in lieu of public open space of €4,000 per residential unit under Section 48(2)(c) of the Act.

4.4. Condition no. 9 required that any signage for the multi-occupancy ground floor unit be the subject of a separate application for permission.

4.5. **Planning Authority Reg. Ref. 3541/19; ABP Ref. 305603-19:** Planning permission sought for amendment to “Build-to-Rent” residential apartment development permitted under Planning Reg. Ref. 3900/18, involving the omission of condition no. 4 of that permission, comprising the construction of an additional floor of residential

accommodation, (increasing no. of permitted units from 39 no. to 46 no.) and the provision of brick to front elevation.

- 4.6. A split decision was issued by the Board on 2<sup>nd</sup> March 2020 whereby permission was granted for the proposed elevational treatments and permission was refused for the additional floor of accommodation on the basis that it would be visually incongruous and would not integrate successfully with the existing streetscape and built environment.

## **5.0 Policy and Context**

### **5.1. Dublin City Development Plan 2022-2028**

- 5.1.1. While the Dublin City Development Plan 2016-2022 was in force at the time this planning application was lodged, the 2022-2028 development plan has been adopted in the interim and is the relevant local planning policy document for the purposes of adjudicating this appeal case.

### **5.2. Land Use Zoning**

- 5.2.1. The site is subject to land use zoning “Z4 – Key Urban Villages / Urban Villages” which has the objective “to provide for and improve mixed-services facilities”.

### **5.3. Public Open Space**

- 5.3.1. Section 15.8.6 of the plan confirms that the public open space requirement for residential developments shall be 10% of the overall site area. Section 15.10.2 of the plan confirms that all build-to-rent developments will be required to provide the same quantum of public open space as standard apartment developments.
- 5.3.2. Public open space will normally be located on-site. In some instances, it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity. Financial contributions in lieu of public open space will only be applicable in schemes of 9 or more units.

#### **5.4. Dublin City Development Contribution Scheme 2020-2023**

5.4.1. Section 10 of the development contribution scheme relates to contributions in lieu of public open space and states:

“The Dublin City Development Plan provides discretion to the Council to determine a financial contribution in lieu of all or part of the public open space requirement for a particular development. The Plan provides that in the event of the planning authority considering a site to be too small or inappropriate to fulfill Dublin City Development Plan requirements for public open space provision, a financial contribution of €4,000 per unit towards provision of or improvements to a park and/or enhancement of amenities in the area in line with the City’s Park Strategy shall be required”.

5.4.2. Section 11 of the development contribution scheme identifies the circumstances where no contribution or a reduced contribution applies, including social housing as follows:

- those which are provided in accordance with an agreement made under Part V of the Planning and Development Act (as amended).
- those which are provided by a voluntary or co-operative housing body, which is recognised as such by the Council.
- those made available under the Council’s Scheme of Priority for Affordable Dwelling Purchase Arrangements under Section 85 of the Housing (Miscellaneous Provisions) Act 2009 as amended and Housing (Miscellaneous Provisions) Act 2009 (Part 5) Regulations 2019 (S.I. No.81 of 2019).

#### **5.5. Development Contributions – Guidelines for Planning Authorities, 2013**

5.5.1. Planning Authorities and An Bord Pleanála are required to have regard to these S. 28 guidelines in the performance of their functions under the Planning Acts. The primary objective of the development contribution mechanism is to partly fund the provision of essential public infrastructure, without which development could not proceed.

#### **5.6. Natural Heritage Designations**

5.6.1. None.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A first-party appeal has been lodged by Jim Brogan Planning and Development Consultant on behalf of the applicant. The appeal relates to the Planning Authority's decision to refuse permission for the removal of condition nos. 2 and 3 of the parent permission (Planning Reg. Ref. No. 3900/18) and against condition nos. 2 and 3 of the Planning Authority's decision to grant permission for the proposed signage. The grounds of appeal can be summarised as follows:

- The applicant entered an Enhanced Long Term Social Housing Lease Scheme on another apartment scheme elsewhere in Dublin City (as granted under Planning Authority Reg. Ref. 3538/18; ABP Ref. 300466-17). Condition nos. 15 and 16 of this permission related to the payment of a S.48 development contribution and a S.49 Luas Cross City contribution.
- Agreement could not be reached with the Planning Authority on the amount of contribution to be paid and the matter was referred to the Board (ABP Ref. 306254-19 refers). The Board determined that the residential units constituted social housing units by reason of the lease signed by the applicant and Dublin City Council, and as such, were exempt from the requirement to pay development contributions.
- This precedent (referred to as "the Stoneybatter precedent") clearly establishes the principle that residential units which are subject to a long-term lease under the Enhanced Long Term Social Housing Lease Scheme, constitute social housing which is exempt from the requirement to pay development contributions as provided for in the Development Contributions Scheme.
- A total of 39 no. units are permitted on the subject site under the parent permission (Planning Authority Reg. Ref. 3900/18). The applicant has entered into an Agreement for Lease Scheme with Dublin City Council for the use of all the units as social housing. Article 11 in the Dublin City Council Development Contribution Scheme 2020-2023 provides that no contributions

are payable under the scheme for social and affordable housing units. As such, no contribution is payable.

- The exemption provided under Article 11 is equally applicable to condition no. 3 of Planning Reg. Ref. 3900/18 which relates to the payment of a contribution in lieu of public open space.
- The applicant submitted a Referral to the Board in March 2021 (ABP Ref. 309708-21) as to whether the proposed development is exempt from the requirement to pay development contributions. Notwithstanding that the Board decided they had no jurisdiction to determine the Referral, the Planning Inspector determined that the subject units are social housing which are exempt from the requirement to pay development contributions.
- In adjudicating on the current planning application, Dublin City Council did not consider the merits for removing the requirement to pay development contributions as presented in the planning report.
- The Planning Authority's considerations relating to the Build-to-Rent status of the development and the relaxation of applicable development management standards, were of no material relevance to the attachment of the subject conditions to which the application relates or the point at issue in the application.
- There is no reference in the Planning Authority's assessment to the precedent case or the exemptions relating to social housing in the development contribution scheme.
- The development contribution in lieu of public open space is not being applied equitably or consistently by the Planning Authority. Two planning applications for 17 no. residential units with no public open space provision on a site at 87 North Strand Road / Poplar Row immediately to the east of the appeal site did not have development contribution conditions attached (Planning Authority Reg. Refs. 3601/20 and 2213/20 refer). No justification in relation to same was provided in the planning reports for either application.
- The Planning Authority does not have the power to impose levies for "planning gain" as stated in the Planning Officer's report and is ultra vires.



- In the event the Board upholds the appeal to remove the conditions relating to the payment of development contributions, it is also requested that condition no. 2 of the Planning Authority's decision be removed.
- Condition no. 3 should also be amended to allow for the exclusion of condition nos. 2 and 3 attached to Planning Reg. Ref. 3900/18.

6.1.2. The appeal submission includes the following appendices:

- Appendix 1: Copy of Planning Authority's decision on Planning Reg. Ref. 3629/22
- Appendix 2: Extract of ABP Ref. 300466-17 (condition nos. 15 and 16)
- Appendix 3: Opinion of Mr. Rory Mulcahy S.C. dated 14<sup>th</sup> October 2019 on the application of the Dublin City Development Contribution Scheme 2016-2022 to planning permission ABP Ref. 300466-17
- Appendix 4: Copy of Board Order for ABP Ref. 306254-19
- Appendix 5: Copy of Dublin City Council Decision on Planning Reg. Ref. 3900/18
- Appendix 6: Copy of Board Order for ABP Ref. 305603-19
- Appendix 7: Extract Agreement for Lease dated 25<sup>th</sup> August 2020 for Poole House, 3 Poplar Row, Ballybough, Dublin 3
- Appendix 8: Copy of Dublin City Council Development Contribution Scheme Article 11
- Appendix 9: Opinion of Mr. Rory Mulcahy S.C. dated 18<sup>th</sup> January 2020 on the application of the Dublin City Development Contribution Schemes 2016 and 2020
- Appendix 10: Extract ABP Planning Inspector's Report on case ABP Ref. 309708-21
- Appendix 11: Extract ABP Planning Inspector's Report on case ABP Ref. 309708-21

6.1.3. The content of these appendices has been reviewed and considered in the adjudication of this appeal case.

## 6.2. Planning Authority Response

6.2.1. A response to the appeal was received from the Planning Authority on 12<sup>th</sup> July 2022 and includes a response from a Senior Executive Planner and a legal opinion prepared by Stephen Dodd S.C. The response can be summarised as follows:

- A planning application to remove a condition of planning permission concerning a financial contribution is fundamentally different to a referral to the Board as to whether a development falls within an exemption under the contribution scheme for liability to pay a financial contribution.
- Where it is decided that an exemption under the scheme is applicable, this does not involve a removal of condition, nor does it involve a retrospective decision that the decision to impose a financial condition was invalid.
- There is nothing in Planning Reg. Ref. 3900/18 which restricts the development to social housing. It was not included in the planning application and is not included in a planning condition.
- The statutory text of Section 48 and 34 and case law indicates that the reference point for the purposes of applying the contribution scheme, is the development as stated in the planning permission, and not the particular type of development which is intended to be used when the planning permission is initially commenced, or development completed.
- It is not appropriate to interpret or apply a planning condition by reference to a subsequent agreement or submission.
- The enhanced social housing lease has no planning status or statutory basis under the Planning Acts or any enactment which could impact on the application, effect and meaning of a planning condition in the manner suggested. The planning permission remains a residential development which is not restricted to social housing. Uncertainties arise when the development is used for social housing under a lease rather than as a requirement of the planning permission.
- The proposed leasing arrangement under which social housing may be used arises from a property transaction as distinct from the planning permission,

which is in contrast to Part V social and affordable housing which arises from a condition of a permission.

- The entering into a lease agreement is not subject to any public consultation or notice and did not form part of the planning application on which the public could make submissions.
- The reference standard for the purposes of applying the contribution scheme is the planning permission and development described therein and not the particular motivation of the developer to commence at that time arising from a non-planning arrangement.
- Once the letting of the development for social housing comes to an end, the developer can proceed to sell the units for ordinary residential purposes with no liability for the contribution payment.
- Notwithstanding the desire to achieve consistency in decision making throughout the city, it is recognised that each case is different. The Planning Authority is not obliged to take into account previous decisions by An Bord Pleanála in relation to applications on other sites in its functional area.
- Social housing would be expected to have the same public open space standards as other types of housing.
- A decision not to apply a public open space levy condition to another permission should not be seen as setting a precedent for all future developments in the vicinity of a site. The case identified by the applicant relates to a much smaller scheme of 17 no. units.
- The proposal was assessed as a BTR scheme, and some flexibility was applied in relation to unit size and private open space provision on this basis. In the case of an application for social housing or traditional residential units, the same level of flexibility would not normally be applied, and a higher standard of development would be required.

### 6.3. Further Responses

6.3.1. A response to the Planning Authority's appeal response was received from Jim Brogan Planning and Development Consultant on behalf of the applicant on 6<sup>th</sup> September 2022 and includes a legal opinion prepared by McCann Fitzgerald. The response can be summarised as follows:

- Decisions made by An Bord Pleanála constitute significant precedents to which regard should be had by a Planning Authority in the determination, where relevant, of planning applications.
- There is no material difference in circumstances that would justify Dublin City Council dismissing the decision on the Stoneybatter referral case.
- Where an issue arises in the determination of a planning application as to whether or not a development contribution should be sought by way of a planning condition under the provisions of a particular development contribution scheme, and a referral decision has been made previously by the Board in relation to the substantive matter, the Board must respect that previous decision when making its determination.
- The DCC opinion ignores the public interest and social value of the Poplar Row lease and other leases entered under the Enhanced Social Housing Lease Scheme. Units provided under this scheme provide identical social value to social housing provided under a Part V agreement, and for that reason, should enjoy the same exemptions.
- The 2020 Development Contribution Scheme was adopted following a public process under Section 48 of the Planning Acts, with ample opportunity for public submissions. Any complaints or concerns regarding the scope of the social housing exemption could have been raised during that process.
- The development contribution in lieu of public open space is not a "special contribution" within the statutory meaning of that term, with such contributions relating to specific exceptional costs not covered by a scheme.
- Condition no. 3 of the parent permission does not relate to costs not covered by the 2020 Scheme. Rather, it relates to the payment in lieu of public open space provision, the basis of which is in Article 10 of the Scheme.

- If the Board determines that it does not have jurisdiction to remove the contribution conditions, it is suggested that the appropriate course of action would be to modify the conditions to allow for a referral to the Board on the issues raised in the appeal.

#### 6.4. Observations

6.4.1. None.

### 7.0 Assessment

- 7.1. Dublin City Council made a split decision in relation to the proposed development whereby: (1) Notification of the Decision to Grant Permission issued for the erection of a sign related to the multi-occupancy unit at ground floor level subject to 8 no. conditions, and (2) Notification of the Decision to Refuse Permission issued for the removal of condition nos. 2 and 3 regarding the payment of development contributions and special development contributions as attached to the parent permission (Planning Authority Reg. Ref. 3900/18). Condition no. 2 of the Notification of the Decision to Grant Permission excludes the removal of condition nos. 2 and 3 attached to the parent permission, while condition no. 3 requires that the development shall comply with all conditions attached to the parent permission where applicable to the development which is the subject of this appeal case.
- 7.2. A first party-appeal has been lodged by Jim Brogan Planning and Development Consultant on behalf of the applicant in relation to the Planning Authority's Decision to Refuse Permission. The Board is also requested to omit condition no. 2 of the permission and amend condition no. 3 of the Planning Authority's decision to grant permission for the proposed signage (to reflect the omission of condition nos. 2 and 3 from the parent permission).
- 7.3. I note that the legal opinion provided by McCann Fitzgerald (appeal response of 6<sup>th</sup> September 2022 refers) raises a query as to whether the Board has jurisdiction to remove the conditions from the parent permission as sought under the current application. In this regard I note that an appeal against these conditions was not lodged at the time the parent permission was determined as provided under Section 48(10)(b) of the Act and that the permission has now been implemented on the site.

In the event the Board considers it has jurisdiction to consider the appeal, I am satisfied that the development for which planning permission has been granted, comprising a pressed metal panel with brushed stainless-steel lettering (0.895 m x 0.490 m), complies with development plan standards and I note that no third-party submissions were made on the application. As such, I am satisfied that the Board can restrict itself to considering the grounds of the appeal, which relate to the decision to refuse permission in this instance.

- 7.4. Condition no. 2 of the parent permission requires the developer to pay a S.48 development contribution in the amount of €93,458.88. Condition no. 3 of this permission requires the developer to pay a S. 48(2)(c) development contribution in the amount of €4,000 per residential unit in respect of public open space, to be used for the upgrading of public open space in the area as determined by the Parks and Landscape Services Division. In submitting an appeal in relation to the Planning Authority's decision to refuse permission, the applicant's agent contends that the proposed development is exempt from the requirement to pay these contributions as the applicant has entered into an agreement with the Local Authority to use the development as social housing under an Enhanced Long Term Social Housing Lease Scheme (25-year term).
- 7.5. In considering the matter at hand, I note that the parent permission authorised the development of 39 no. Build-to-Rent apartments on the site. While I acknowledge that the apartments will be leased to the Planning Authority as confirmed in the appeal submission, I note that the development will remain in private ownership. As such, there is nothing to preclude the development from reverting back to private use should / when the lease period ends. Thus, while the delivery of additional social housing is welcomed, these units will not form part of the permanent social housing stock in the city.
- 7.6. Whether the development is used as social housing or reverts to private use, it will benefit from public infrastructure and facilities in the area as provided by the Local Authority. Given that the development remains in private ownership, I consider that the developer is required to contribute to the cost of delivering this infrastructure and facilities as provided for under Section 48 of the Planning and Development Act, 2000 (as amended), notwithstanding the arrangements to lease the development as social housing.

- 7.7. As such, in my opinion, the proposed development does not fall under the definition of social housing for the purposes of availing of an exemption from the payment of development contributions under Section 11 of the Dublin City Development Contribution Scheme 2020-2023. In reaching this conclusion I note that this definition includes units: (i) provided under Part V of the Act, (ii) provided by a voluntary or co-operative housing body, or (iii) those made available under the Council's Scheme of Priority for Affordable Dwelling Purchase Arrangements. In reaching this conclusion, I have reviewed the Board's decision in relation to a similar case in Dublin 7 (the "Stoneybatter precedent") as discussed at length in the applicant's appeal submission (Planning Reg. Ref. 306254-19 refers). Notwithstanding the Board's decision in relation to that case, I have concluded that the proposed development is not exempt from the requirement to pay S. 48 development contributions for the reasons and considerations described above and that planning permission to omit condition no. 2 of the parent permission should be refused.
- 7.8. In considering the S. 48(2)(c) special development contribution which was attached to the parent permission, I note that Section 15.8 6 of the development plan confirms that 10% of the overall site area of residential developments shall comprise public open space. For the avoidance of doubt, I note that this reflects the standards in place under the Dublin City Development Plan 2016-2022, which was in force when the parent application was determined. Section 15.10.2 of the current plan clarifies that all build-to-rent developments are required to provide the same quantum of public open space as standard apartment developments. This space shall normally be provided on site, but in some instances, it may be appropriate to seek a financial contribution towards its provision elsewhere in the city. Financial contributions in lieu of public open space apply to schemes of 9 or more units.
- 7.9. The applicant's agent submits that the development contribution in lieu of public open space is not being applied equitably or consistently by the Planning Authority and identifies 2 no. planning permissions for 17 no. residential units at North Strand / Poplar Row which did not attract such conditions. In responding to the foregoing, the Planning Authority submits that social housing is expected to have the same standard of public open space as other types of housing and that a decision not to attach an open space levy to another permission should not be seen as a precedent for all future applications in the vicinity of a site. The Planning Authority also submits

that the development was assessed as a Build-to-Rent development and that some flexibility was applied in relation to unit size and open space provision on this basis. In the case of an application for social housing or traditional residential units, the Planning Authority states that the same level of flexibility would not normally be applied, and a higher standard of development would be required.

- 7.10. In my opinion, the permitted development is not exempt from the requirement to pay a financial contribution in lieu of public open space provision within the site. I acknowledge the precedent cases which have been identified by the applicant's agent where this requirement did not arise, but I consider that the Planning Authority's overall approach to this matter is not for the adjudication of the Board. The permitted development comprises 39 no. build-to-rent units on a site which does not provide any public open space. Having regard to the development plan standards in this regard, I consider that a development contribution in lieu of public open space is payable in this instance and that planning permission should be refused to omit condition no. 3 of the parent permission.
- 7.11. In the event the Board disagrees with my assessment and considers that planning permission should be granted to omit condition nos. 2 and 3 of the parent permission, I recommend that condition no. 2 of the Planning Authority's Notification of the Decision to Grant Permission should be omitted and condition no. 3 should be amended accordingly.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission be refused to omit condition no. 2 and condition no. 3 of the parent permission Planning Authority Reg. Ref. 3900/18 for the reasons and considerations set out hereunder.

## **9.0 Reasons and Considerations**

- 9.1. The permitted development, comprising a private Build-to-Rent development of 39 no. apartment units, does not comprise social housing as defined in Section 11 of the Dublin City Development Contribution Scheme 2020-2023, and as such, is not exempt from the requirement to pay Section 48 development contributions in respect of public infrastructure and facilities that is provided, or intended to be provided, 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). In addition, the permitted development, which does not provide any public open space within the site, is not exempt from the requirement to pay a development contribution in lieu of public open space as provided for under the development plan and Section 10 of the development contribution scheme. As such, the omission of condition nos. 2 and 3 of the parent permission (Planning Authority Reg. Ref. 3900/18) would be contrary to development plan standards, the terms of the Dublin City Development Contribution Scheme 2020-2023 and the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Louise Treacy  
Senior Planning Inspector

29<sup>th</sup> March 2023