



An
Bord
Pleanála

Board Direction
BD-000741-18
ABP-300272-17

The submissions on this file and the Inspector's report were considered at a Board meeting held on July 19th 2018.

The Board treated this case under section 34 (5) of the Planning and Development Act, 2000, as amended. The Board also determined, as recommended by the Inspector, that the amount to be paid by the developer to the planning authority under condition number 20 shall be €70, 229.25. Board Order to be as follows:-

WHEREAS Condition number 20 of An Bord Pleanála decision PL06D.245340 (planning authority register reference number D15A/0286) required that prior to the commencement of development the developer was required to pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000. In the event of a default of such agreement, the matter was to be referred to the Board to determine the proper application of the terms of the Scheme.

AND WHEREAS the developer and the planning authority failed to agree on the amount of development contribution to be paid in accordance with Condition 20.

AND WHEREAS the matter was referred by the developer to An Bord Pleanála on the 17th day of November 2017 for determination:

AND WHEREAS the Board is satisfied that the matter at issue is the amount of development contribution remaining to be paid (the developer already having paid the sum of €17,160).

AND WHEREAS the Board had particular regard to the provisions of Sections 34(5) and 48 of the Planning and Development Act 2000, as amended, and the Dun Laoghaire Rathdown County Council Development Contribution Scheme 2016-2020 as adopted on 14th December 2015.

AND WHEREAS the Board considered that the Development Contribution Scheme in question does not provide for any exemption or reduction in the case of student accommodation that is replaced, and noted that the statutory definition of student accommodation, as set out in the Planning and Development (Strategic Housing) Act 2016, post-dated the date of grant of planning permission in this case (which was 31st December 2015), and therefore is not relevant in assessing the proper application of the terms of the Development Contribution Scheme which was in force at the time of the grant of planning permission.

AND WHEREAS the Board considered that the Development Contribution Scheme in question does provide for a reduction in respect of demolition of development, whereby 50% of the demolished floor area is offset against the countywide element of the levy, and that the proper application of the terms of the Scheme should allow for this reduction, in relation to the student block that has been demolished.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 34(5) of the Planning and Development Act, 2000, as amended, and for the Reasons and Considerations set out below, hereby determines that the amount of the contribution remaining to be paid by the developer, on a correct application of the Development Contribution Scheme, results in a charge of €70,229.25.

Reasons and Considerations

Having regard to:-

- (a) Sections 34(5) and 48 of the Planning and Development Act, as amended;
- (b) The terms and conditions of planning permission reference number PL06D. 245340 (planning authority register reference number D15A/0286), and in particular condition number 20 of that permission;
- (c) The provisions of the Dun Laoghaire Rathdown County Council Development Contribution Scheme 2016 - 2020; and
- (d) The submissions on file, and the planning history of the site.

It is considered that the Development Contribution payable in this case should make allowance for the building to be demolished, by offsetting 50% of the floor area of this building, in line with the applicable exceptions and reductions as set out in Section 10 (g) of the Dun Laoghaire Rathdown County Council Development Contribution Scheme 2016 – 2020, which allows for such offset.

Board Member

Date: 23rd July 2018

Philip Jones