



An
Bord
Pleanála

Board Direction
BD-000359-18
ABP-300385-17

The submissions on this file and the Inspector's report were considered at a Board meeting held on May 24th 2018.

The Board decided to treat this case under section 139 of the Planning and Development Act, 2000. The Board also decided, for the Reasons and Considerations set out below, that the planning authority be directed, as follows:

- Attach condition number 2, and the reason therefor.
- Remove condition number 35, and the reason therefor.
- Amend condition numbers 5, 6 and 7, so that they read as follows:-

5. The playground shall be constructed in accordance with the drawings and particulars submitted on the 10th day of July 2017, and at the developer's expense. These works shall be carried out and completed, to the written satisfaction of the planning authority, before any of the proposed houses are made available by the developer for occupation.

Reason: To provide for the amenity requirements of future occupants of the proposed residential estate.

6. The development hereby permitted shall be carried out and completed at least to the taking-in-charge standards required by the planning authority. Prior to commencement of any development on the site, the developer shall submit a

drawing to the planning authority, for its written consent, identifying all lands to be taken in charge by the local authority. This shall include all of the open spaces and also the lands to be reserved for completion of the Distributor Road including associated footpaths and cycle paths to the eastern site boundary. Pending the future construction of the Distributor Road to the eastern site boundary, the lands concerned shall be planted with grass and maintained temporarily as open space by the developer until the estate is taken in charge by the planning authority. At the time of taking in charge, the open spaces and the lands for the Distributor Road shall be vested in the local authority as open space. In default of agreement this matter shall be referred to An Bord Pleanála for determination.

Reason: To facilitate the completion of the Distributor Road, in accordance with the provisions of the Local Area Plan, and to ensure that the future construction of the Distributor Road by the local authority is facilitated by the reservation of these lands and their vesting upon taking in charge of the development.

7. The works to the R512 within the developer's landholding, comprising the removal and reinstatement of the roadside boundary wall, undergrounding of overhead cables, the installation of roadside footpath and installation of public lighting, shall be carried out at the developer's expense. These works shall be carried out and completed, to the written satisfaction of the planning authority, before any of the proposed houses are made available by the developer for occupation.

Reason: In the interest of pedestrian and traffic safety.

Reasons and Considerations

Having regard to the nature, scale and location of the proposed residential development within a 50kph speed limit zone, to the general adequacy of the regional road and to the provisions of the Development Contribution Scheme for Limerick County, it is considered that the works required by condition numbers 5, 6,7 and 35, in respect of the upgrading of the regional road outside of the developer's landholding, of the provision of a car park to serve the nearby school, and to extend

the Distributor Road, are not warranted as they are not necessary to facilitate or benefit the proposed development. However, it is considered that the playground is an integral part of the open space for the residential scheme hereby permitted and should be carried out at the developer's expense, without any reduction in the development contributions required under condition 2. Furthermore, it is considered that the works to the regional road within the developer's landholding, comprising the removal and reinstatement of the roadside boundary wall, the undergrounding of overhead cables, the installation of roadside footpath and installation of public lighting, are necessary for pedestrian and traffic safety and are specifically attributable to the residential scheme hereby permitted, and should be carried out at the developer's expense, without any reduction in the development contributions required under condition 2. Furthermore, the Board was satisfied that the financial contribution set out in condition number 2 was in accordance with the adopted development contribution scheme.

Note: In arriving at its decision, the Board considered that the provision of the car park and the completion of the Distributor Road to the eastern site boundary should not be the responsibility of the developer and that these could be pursued by the local authority subject to the transfer of lands through the taking-in-charge procedures, in accordance with national policy in this regard. This matter is covered in the amendments to condition number 6, which reflect model conditions for taking in charge of open space recommended by the Department of Housing, Planning and Local Government. In this regard, it is not considered appropriate that the development be managed or maintained by a private management company, but should be taken in charge by the local authority upon completion.

[Please issue a copy of this Direction to the parties with the Board Order.]

Board Member

Date: 24th May 2018

Philip Jones