



An
Bord
Pleanála

Board Direction
ABP-300759-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 31/10/2018.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS Condition No. 8 of An Bord Pleanála decision PL06D.245271 (Reg Ref D15A/0215) required that prior to the commencement of development the developer to pay to the planning authority a financial contribution in respect of Luas Line B1-Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under Section 49 of the Planning and Development Act 2000, as amended. In the event of a default of such agreement, the matter shall 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 supplementary development contribution to be paid in accordance with Condition 8:

AND WHEREAS the matter was referred by the developer to An Bord Pleanála on the 22nd January 2018 for determination:

AND WHEREAS the Board is satisfied that the matter at issue is to determine the proper application of the terms of the Scheme:

AND WHEREAS the Board had particular regard to the provisions of Section 34(5) of the Planning and Development Act 2000, as amended, the Development

Contributions Guidelines for Planning Authorities (2013) and the Dun Laoghaire Rathdown County Council Section 49 Development Contribution Scheme for Extension of Luas Line B1 – Sandyford to Cherrywood adopted on 13th January 2003 (incorporating amendments to Clause 13 as adopted by the County Council at its meeting on 13th May, 2013 – to be effective for all decisions from 14th May, 2013 – 14th December 2015):

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 planning authority has properly applied the terms of the Scheme by determining that the amount of supplementary development contribution to be paid be based on its determination of the area of the curtilage of the premises, and the Board considers that the proper application of the terms of the Scheme in this instance is that the area of the curtilage of the premises is the area of the site, as applied for under file Ref. No. PL06D.245271 (Reg Ref D15A/0215) and that the supplementary development contribution under Condition 8 of this planning permission should be based on this area.

Reasons and Considerations

Having regard to:

- a) Section 34(5) of the Planning and Development Act 2000, as amended,
- b) The provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022 and the Dun Laoghaire Rathdown County Council Section 49 Development Contribution Scheme for Extension of Luas Line B1 – Sandyford to Cherrywood
- c) Section 49 of the Planning and Development Act 2000 (as amended),
- d) the submissions on file, and the planning history of the site

The Board considered Section 13 of the Dun Laoghaire Rathdown County Council Section 49 Development Contribution Scheme for Extension of Luas Line B1 – Sandyford to Cherrywood whereby *‘one off’ housing will be assessed on the area of the curtilage of the premises as determined by the Planning Authority* and was satisfied that the Planning Authority, Dun Laoghaire Rathdown County Council in this

case had determined the “curtilage of the premises” in the Assessment of Financial Contribution – Luas Levy report dated 10th February 2016 as being the area of the site, as applied for under file Ref. No. PL06D.245271 (Reg Ref D15A/0215).

Board Member:

Date: 31/10/2018

John Connolly