



An
Bord
Pleanála

Board Direction
BD-002568-19
ABP-302925-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/03/2019.

The Board decided to treat this case under section 48 of the Planning and Development Act, 2000. The Board also decided, based on the Reasons and Considerations set out below / set out on the attached copy of the Inspector's report, that the planning authority be directed, as follows:

Remove condition number 6

Amend condition number 2 as follows

Reasons and Considerations

The Board, in accordance with section 48 of the Planning and Development Act, 2000, (as amended) considered that the terms of the Dublin City Council Development Contribution Scheme 2016-2020 had not been properly applied in respect of Condition 2 and directs the said Council to **AMEND** said condition to reflect the accurate reckonable floor area in relation to the basement car parking and to give effect to the approved SCSi Tender Price Indexation rate of 7.2% applied to the industrial/commercial development levy rate of the Development Contribution Scheme with effect from the 1st January 2019:

Condition 2:

The developer shall pay to the planning authority a financial contribution of €1,155,043.35 (one million, one hundred and fifty five thousand, and forty three euro and thirty five 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.

The Dublin City Development Contribution Scheme 2016-2020 provides for a Community Parks Improvement Programme as part of the general contribution scheme and provides for a contribution in lieu of open space. Condition 6 requires a financial contribution toward parks and open space facilities. Section 48(2)(c) financial contribution conditions may be applied only to exceptional costs not covered by such a scheme. The Board, in accordance with Section 48 of the Planning and Development Act, 2000 (as amended), considered that the terms of condition number 6 does not fall within the scope of Section 48(2)(c) of the Planning and Development Act 2000 (as amended) and Condition 6 should, therefore, be **REMOVED**.

Board Member:

Date: 12/03/2019

Terry Prendergast