



An
Bord
Pleanála

Board Direction
ABP-303399-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/05/2019.

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

WHEREAS by Order dated the 16th day of January, 2007 Carlow County Council under planning register reference number 06/882 granted, subject to conditions, a permission to Byrne & Byrne Ltd. care of Raymund Kelly Architects of 80 South Main Street, Wexford, for a development comprising the construction of 130 no. dwellings, 1 no. creche and 20 no. serviced sites and an element of inner relief road to facilitate the proposed development and all associated site works with connection to existing public services, all at Mortarstown, Carlow. An Extension of Duration of Permission was granted under planning register reference number 11334 on the 10th day of February, 2012 to extend the permission until the 15th day of January, 2017, with a further Extension of Duration of Permission subsequently being granted under planning register reference number 17243 on the 6th day of October, 2017, to extend the permission until the 31st day of December, 2021, and construction commenced under planning register reference number 06/882:

AND WHEREAS condition numbers 20, 21, 22, 23 & 24 attached to this permission required the developer to pay to the planning authority financial contributions in the sum of €1,295,363.58, being the appropriate contributions to be applied to this development in accordance with the Carlow County Council Development Contribution Scheme, 2003 as adopted by Carlow County Council with effect from 1st May, 2003 in accordance with section 48 of the Planning and Development Act, 2000, as amended:

AND WHEREAS the developer and the planning authority failed to agree on the amount of the contributions to be paid in compliance with the terms of condition numbers 20, 21, 22, 23

& 24 and the matter was referred by the developer to An Bord Pleanála on the 9th day of January, 2019 for determination:

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 development contributions payable under the terms of condition numbers 20, 21, 22, 23 & 24, as reduced in accordance with the Carlow County Council Development Contribution Scheme, 2017-2021 adopted on 13th February, 2017 pursuant to the provisions of sections 48(3A)(b) – (3B) of the Planning and Development Act, 2000, as amended, in respect of any house or houses that have not been constructed and any house or houses that have been constructed but have not been rented, leased, occupied or sold, shall be exclusive of any interest charge sought to be imposed under the terms of the current Development Contribution Scheme.

Reasons and Considerations

Having regard to:

- a) sections 34(5) and 48 of the Planning and Development Act, 2000, as amended,
- b) the Carlow County Council Development Contributions Schemes, 2003 and 2017-2021,
- c) sections 29 (3(A) – 3(C)) of Part 4 of the Urban Regeneration and Housing Act 2015, and
- d) the planning history of the site
- e) the specific wording of condition numbers 20, 21, 22, 23 & 24 of the permission granted by Carlow County Council under planning register reference number 06/882, and
- f) the submissions on file,

the Board considered that the amounts payable in accordance with the terms and conditions of the permission under condition numbers 20, 21, 22, 23 & 24 should be reduced in accordance with the Carlow County Council Development Contribution Scheme, 2017-2021 exclusive of any interest sought to be imposed under the terms of that Development Contribution Scheme, but only in respect of any house or houses that have not been

constructed and any house or houses that have been constructed but have that not been rented, leased, occupied or sold,

Board Member:

Date: 16/05/2019

Terry Ó Niadh