



An
Bord
Pleanála

Board Direction
BD-004095-19
ABP-304670-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on September 23rd, 2019.

The Board treated this case under section 48 of the Planning and Development Act, 2000, as amended. The Board also decided that the planning authority be directed, for the reasons and considerations set out below, to amend condition number 8 as follows.

8. The developer shall 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, as amended. The amount of the contribution shall be agreed between the planning authority and the developer, and shall ensure that no double payment of contributions in respect of the 99 dwellings the subject matter of the present application shall be paid where such contributions had been paid under condition number 8 of planning permission register reference number SD17A/0359 prior to its expiry. In default of such agreement as to amount, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of any further development on the subject site 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme

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,

Reasons and Considerations

It is considered that development contributions under Section 48 of the Planning and Development Act, 2000, as amended, should be paid in respect of all of the dwellings that are the subject matter of this application, and that, while double charging is not appropriate, the documentation submitted with the application and appeal has not provided evidence that the full amount of the contributions under condition number 8 of planning permission register reference number SD17A/0359 were paid prior to the expiration date of that permission. Accordingly, it is reasonable, and in accordance with the provisions of the South Dublin County Council Development Contribution Scheme 2016 – 2020, that condition number 8 of the present planning permission should be amended.

In not accepting the recommendation of the Inspector to direct the deletion of the condition, the Board was not satisfied, based on the documentation submitted with the application and appeal, that the full amount of the development contributions due under condition number 8 of planning permission register reference number SD17A/0359 had been paid in respect of the total of 99 houses authorised by that permission, and therefore decided to amend the appealed condition so as to prevent double payment of contributions, while ensuring that development contributions for

all 99 houses are levied, having regard to the fact that planning permission SD17A/0359 had expired on 6th September 2019, under condition number 2 of that permission.

Board Member

Date: 23rd September 2019

Philip Jones