



An
Bord
Pleanála

Board Direction
BD-005691-20
ABP-306254-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on the 28/04/20.

The Board determined as follows:

WHEREAS by Order dated the 8th day of October, 2018 An Bord Pleanála, under planning register reference number ABP-300466-17, granted subject to conditions a permission to Bartra Real Estate Limited care of Coady Architects of Mount Pleasant Business Centre, Mount Pleasant Avenue, Ranelagh, Dublin for a development comprising the construction of a seven-storey/four-storey building consisting of a total of 23 number apartments, (six number one bedroom units, 14 number two bedroom units and three number three bedroom units) with balconies (two number) at first floor level, balconies (three number) at second and third floor levels, balconies (two number) at fourth, fifth and sixth floor levels, all on the eastern elevation, ground floor terraces (three number), balconies (three number) at first, second and third floor levels, and balconies (two number) at fourth, fifth and sixth floor levels, all on the western elevation, a total of 24 number bicycle spaces, a bin store, an area of communal open space (175 square metres), including a play space and associated site development works at numbers 40-41 Stoneybatter and numbers 1-3 Blackhall Place, Dublin

AND WHEREAS condition numbers 15 and 16 attached to this permission required the developer to pay to the planning authority financial contributions, being the appropriate contribution to be applied to this development in accordance with the

Dublin City Council Development Contribution Scheme 2016-2020 as adopted by Dublin City Council on the 7th day of December, 2015 in accordance with section 48 of the Planning and Development Act, 2000, as amended and the Dublin City Supplementary Development Contribution Scheme Luas Cross City (St Stephens Green to Broombridge Line), as adopted by Dublin City Council on the 18th April 2017, in accordance with section 49 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 contribution to be paid pursuant to condition numbers 15 and 16, and on the application of the terms of the relevant Development Contribution Scheme in compliance with the terms of this condition and the matter was referred by the developer to An Bord Pleanála on the 20th day of December, 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 based on the Reasons and Considerations set out below, hereby determines that the residential units under construction at 40-41 Stoneybatter and 1-3 Blackhall Place, Dublin 7, on foot of planning permission Reference ABP-300466-17, constitute units for social housing use, by reason of the Agreement for Lease made on the 13th June, 2019, signed by the developer and Dublin City Council, and that these units therefore fall to be considered as social housing units which are exempt from the requirement to pay development contributions, for the purposes of the applicable Development Contribution Scheme 2016-2020 made under section 48 of the Planning and Development Act, 2000, as amended and the terms of the Supplementary Development Contribution Scheme Luas Cross City made under section 49 of the Planning and Development Act 2000, as amended.

Reasons and Considerations

Having regard to:

- (a) sections 34(5), 48 and 49 of the Planning and Development Act, 2000, as amended,
- (b) the Dublin City Council Development Contribution Schemes 2016-2020 and the Supplementary Development Contribution Scheme, Luas Cross City,
- (c) the specific provisions of the 'Enhanced Long-Term Social Housing Leasing Scheme' introduced by the Department of Housing, Planning and Local Government, under Pillar 2 of 'Rebuilding Ireland: An Action Plan for Housing and Homelessness' aimed at private investment in order to deliver social housing at scale.
- (d) the submissions on file, and the planning history of the site,

the Board considered it appropriate that the residential units be deemed social housing units, for the purposes of the respective Development Contributions Schemes described above, and that development contributions under Condition nos. 15 and 16 be determined on this basis.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

In deciding not to accept the recommendation of the Inspector, the Board noted that the signed agreement for lease between the developer and Dublin City Council, provides these residential properties for social housing use and noted the confirmation from Dublin City Council that this agreement is under the 'Enhanced Long Term Social Housing Scheme'. This Scheme is derived from Government Policy under Rebuilding Ireland. It is the opinion of the Board that the units in

question therefore fall to be considered within the description 'social housing units', as set out under item 12 of the Dublin City Council Development Contribution Schemes 2016-2020 and item 11 of the Supplementary Development Contribution Scheme 2016-2020, Luas Cross City.

Note: the Board also note the statement at Section 06 of the publication 'Enhanced Long Term Social Housing Leasing Scheme', prepared by the Housing Agency and the Department of Housing, Planning and Local Government, October 2019, that, 'the leasing of properties to a Local Authority for social housing use does not exempt the development from the requirements set out in Section 96 of the Planning and Development Act 2000.'

Board Member

Date: 05/05/2020

Chris McGarry