

An
Bord
Pleanála

Board Direction
ABP-309809-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 19/07/2022.

Board Order as follows:

WHEREAS by order dated the 26th day of July 2019 An Bord Pleanála, under An Bord Pleanála reference number ABP-304249-19, granted subject to conditions a permission to Bartra Property (Eblana) Limited care of Thornton O'Connor Town Planning, Number 1 Kilmacud Road Upper, Dundrum, Dublin 14 for development, comprising demolition of existing buildings on site, construction of 208 no. Build to Rent Shared Living Residential Development, cafe/kiosk and associated site works, Old School House, Eblana Avenue, Dún Laoghaire, Co. Dublin:

AND WHEREAS Condition Number 23 attached to the said permission required the developer to 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 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. 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,

AND WHEREAS the developer and the planning authority failed to agree on the amount of development contribution to be paid in accordance with Condition Number 23, in compliance with the terms of the said condition and the matter was referred by the developer to An Bord Pleanála on the 10th day of March 2021 for determination,

AND WHEREAS the Board is satisfied that the matter at issue is the amount of financial contribution to be paid,

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), the Dún Laoghaire Rathdown County Development Contribution Scheme 2016-2020 (as amended) and the Dún Laoghaire Rathdown County Development Plan 2016-2022, including the Dún Laoghaire Urban Framework Plan,

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:

Reasons and Considerations

Having regard to:

- a) The Dún Laoghaire Rathdown Development Contribution Scheme 2016-2020 (under Section 48 of the Planning and Development Act 2000, as amended), and Dún Laoghaire Rathdown County Development Plan 2016-2022;
- b) Conditions attached to An Bord Pleanála Reference Number ABP-304249-19, under which planning permission was granted for demolition of existing buildings on site, construction of 208 no. Build to Rent Shared Living Residential Development, cafe/kiosk and associated site works;

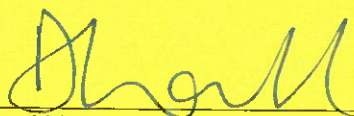
c) Section 34(4)(m) of the Planning and Development Act 2000, as amended, which states: Conditions under subsection (1) may, without prejudice to the generality of that subsection, include all or any of the following:

conditions for requiring the provision of roads, including traffic calming measures, open spaces, car parks, sewers, watermains or drains, facilities for the collection or storage of recyclable materials and other public facilities in excess of the immediate needs of the proposed development, subject to the local authority paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities; and

d) Section 34 (5) of the Planning and Development Act 2000, as amended, which states: The conditions under subsection (1) may provide that points of detail relating to a grant of permission may be agreed between the planning authority and the person to whom the permission is granted and that, in default of agreement, the matter is to be referred to the Board for determination;

the Board considered that the point of detail in dispute regarding Condition Number 23 of previously permitted ABP-304249-19 in terms of Section 34(5) and 34(4)(m) and decided that Condition Number 23 was correctly applied by the planning authority in respect of a contribution of €468,355.85 towards public infrastructure and facilities benefiting development in the area of the planning authority. The Board concluded that the application of a financial contribution is applicable in this instance, and can see no evidence of overcharging by reason of class of contribution sought.

Board Member:



Dave Walsh

Date: 19/07/2022

