



An
Bord
Pleanála

Board Direction
BD-009324-21
ABP-310666-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 27/10/2021.

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, as follows:

Remove condition 10.

Reasons and Considerations:

Having regard to:

- (a) The Fingal County Council, Development Contribution Scheme 2021 – 2025 made under Section 48 of the Planning & Development Act, 2000, and as adopted on the 14th day of December, 2020.
- (b) The nature, scale and extent of the development sought and permitted under P.A. Ref. No. F20A/0712 on the 1st day of June, 2021.
- (c) The planning history of the site, including the evolution of buildings and their uses since the construction of 'Glenaveena' in the 1860s.
- (d) An inspection of the site, including the interior of the subject chapel building.
- (e) The fact that Section 3(b) of the Fingal County Council Development Contribution Scheme specifically sets out that existing developments may not be included in any such determination where a benefit has accrued in relation to public infrastructure and facilities.

- (f) The fact that the terms of the Fingal County Council Development Contribution Scheme specifically sets out under Section 11(i)(v) that changes of use are exempt unless the revised usage of the building or service constitutes intensification.
- (g) The fact that no intensification of the chapel building or the residential use of the site would arise by way of the proposed development sought under this application.
- (h) The fact that Section 11 of the Fingal County Council Development Contribution Scheme specifically sets out under Section 11 for the exemption allowed for under Section 11(i)(a) to (v) to be addressed where approval subsequently is granted to convert an exempt structure to habitable accommodation.
- (i) The fact that the grant of permission includes a condition limiting the use of the chapel building to be used solely for use incidental to the enjoyment of the dwelling house, sets out that it cannot be sold, rented, or leased independently of the house or used for the carrying on of any trade or business (Condition No.2 of P.A. Ref. No. F20A/0712).

The Board having considered the terms of the applicable Development Contribution Scheme with respect to a contribution in respect of change of use of the chapel building was not correctly interpreted and applied by the Planning Authority in respect of a contribution towards public infrastructure and facilities benefiting development in the area of the Planning Authority.

The Board concluded that a financial contribution was not applicable in this instance based on the exemption provided for under Section 11(i)(v) of the scheme which indicates that changes of use are exempt unless the revised usage of the building or service constitutes intensification.

The Board considered no intensification of use has occurred in this instance having regard to the overall nature, scale, extent, and scope of development sought under P.A. Ref. No. F20A/0712.

The Board therefore directs the Planning Authority to omit Condition No. 10 of P.A. Ref. No. F20A/0712 on the basis of the Development Contribution Scheme being incorrectly applied.

Board Member: Terry Ó Niadh
Terry Ó Niadh

Date: 27/10/2021

