

An
Bord
Pleanála

Board Direction
BD-010080-22
ABP-310883-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/02/2022.

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:

Amend condition numbers 3, 4, 5, 6, 7 and 8 as follows.

- 3 The developer shall pay to the planning authority a financial contribution of €3,368.60 (three thousand, three hundred and sixty eight euro and sixty cents) in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the

Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

- 4 The developer shall pay to the planning authority a financial contribution of €1,023.12 (one thousand and twenty-three euro and twelve cents) in respect of roads infrastructure 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 Sandyford Urban Framework Plan made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 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.

- 5 The developer shall pay to the planning authority a financial contribution of €267.12 (two hundred and sixty-seven euro and 12 cents) in respect of community and parks infrastructure 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 Sandyford Urban Area Framework Plan made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the 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. The

application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 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.

- 6 The developer shall pay to the planning authority a financial contribution of €99.12 (ninety-nine euro and 12 cents) in respect of surface water infrastructure 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. The contribution shall be paid prior to the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 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.

- 7 The developer shall pay to the planning authority a financial contribution of €2,269.26 (two thousand, two hundred and sixty-nine euro and 26

cents) in respect of roads infrastructure 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. The contribution shall be paid prior to the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 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.

- 8 The developer shall pay to the planning authority a financial contribution of €1,472.10 (one thousand four hundred and seventy-two euro and ten cents) in respect of community and parks infrastructure 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. The contribution shall be paid prior to the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 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, as follows.

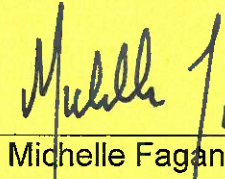
Having regard to:

- The total additional floor area of 42m² proposed in this application (a waste bone room with a proposed floor area of 14.6m² and an office/canteen area with a proposed floor area 27.4m² shown on drawing number 2040/01) and to which this grant of planning permission applies.
- To the provisions of the Section 49 Supplementary Development Contribution Scheme for the extension of Luas line B1 – Sandyford to Cherrywood which provides (paragraph 13) that only net additional development in hectares in the case of commercial redevelopment projects will be levied and that ancillary plant rooms will be exempt.
- To the provisions of the Section 48 Development Contribution Scheme 2015 which provides (paragraph 10(s) that ancillary plant room (where plant is not core activity/operation)) shall be exempt,
- To the provisions of the Sandyford Urban Framework Plan Development Contribution scheme which provides (paragraph 10(s) that ancillary plant room (where plant is not core activity/operation)) shall be exempt,
- The level of contributions applicable on the 21st June 2021,

It is considered that the areas of development to be retained to which the Development Contribution Schemes apply were 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 therefore directs the Planning Authority to amend Conditions No. 3, 4, 5, 6, 7 and 8 of P.A. Ref. No. D21A/0364 on the basis of the Development Contribution Schemes being incorrectly applied.

Board Member:


Michelle Fagan

Date: 21/02/2022