

An
Bord
Pleanála

Board Direction
BD-016270-24
ABP-314985-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 10/05/2024.

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:

To **AMEND** Condition No. 33 as follows for the reasons and considerations hereunder:

There is a shortfall of 3060m² (0.3ha) in the quantum of public open space which would be generated by the proposed development. The applicant is required to make up this shortfall by way of a financial contribution of €179,576.00, in accordance with Section 48 of the Planning and Development Act 2000 (as amended). The contribution will be applied to the continuing upgrade of recreational facilities in Millennium Park.

Reason To ensure the delivery of infrastructure necessary to serve the proposed development and in the interests of orderly development.

Reason and Considerations (1)

The proposed development contains a shortfall in public open space which is required at a rate of 12% of the site area under Objective DMSO52. Note 5 of the Fingal Development Contribution Scheme 2021 – 2025 allows for a financial contribution to be applied to any development that has a shortfall in public open space. The financial levy to be applied is based on the provisions of Note 5 which requires 75% of the shortfall to be calculated at a rate of Class 1 open space, based

on €200,000 per acre, and 25% of the shortfall to be calculated at a rate of Class II open space based on €350,000 per acre. The amended amount to be applied under Condition No. 33 has been calculated in accordance with Objective O52 of the Fingal County Development Plan 2022-2028 and in accordance with Note 5 of the Fingal Development Contribution Scheme 2021 – 2025.

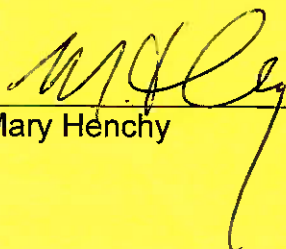
The Board concurred with the Inspector's assessment but noted that the Inspector had calculated the contributions incorrectly, Class 1 open space should be calculated at a rate of €200,000 per acre and Class 2 open space should be calculated at rate of €350,000 per acre in accordance with Fingal County Council Development Contribution Scheme 2021-2025. The Board decided the applicant is required to make up this shortfall by way of a financial contribution of €179,576.

Remove condition Condition No. 34 for the reasons and considerations hereunder:

Reasons and Considerations, as follows.

It is considered that Condition No. 34 is not in accordance with the requirements of Section 48(2)(c) of the Planning and Development Act as the development referenced in the condition is not exceptional or specific to the proposed development, the scope of the works listed in the condition are not identified and the works listed in Condition No. 34 are covered by the Fingal County Development Contribution Scheme 2021-2025, which was prepared in accordance with Section 48 of the Planning and Development Act 2000, (as amended).

Board Member:


Mary Henchy

Date: 10/05/2024