



An
Bord
Pleanála

Board Direction
BD-013959-23
ABP-317218-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 02/10/2023.

The Board decided this referral in accordance with the following order.

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: SHDW/007/20

WHEREAS by Order dated the 16th day of September, 2021, An Bord Pleanála, under application reference number ABP-310350-21, granted subject to conditions a permission to Puddenhill Property Limited care of BMA Planning of Taney Hall, Eglinton Terrace, Dundrum, Dublin, for development comprising 590 no. apartment units in 4 no. 2 to 10 storey blocks (Blocks 1 to 4) comprising of 234 no. 1 bed apartments, 316 no. 2 bed apartments and 40 no. 3 bed apartments, non-residential uses at ground floor level within Blocks 1 and 2 comprising 2 no. retail/ commercial units totalling 350sqm, 4 no. office units (224sqm), a health/medical centre (526sqm) and a creche (542sqm) with first floor outdoor play area, and all associated roads, streets, public spaces and services infrastructure:

AND WHEREAS Condition No. 34 of An Bord Pleanála decision under Ref. ABP 310350-21 required that prior to the commencement of development the developer shall pay 'a financial contribution to the Planning Authority in lieu of open space as provided for under Objective DMS57B of the Fingal Development Plan 2017-2023 and in accordance with the terms of the Development Contribution Scheme made under

Section 48 of the Planning and Development Act 2000, as amended', and that the 'manner of payment and amount of payment shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination':

AND WHEREAS the developer and the planning authority failed to agree on the amount of development contribution to be paid in accordance with Condition 34:

AND WHEREAS the matter was referred by the developer to An Bord Pleanála on the 29th of May 2023 for determination:

AND WHEREAS the Board is satisfied that the matter at issue is the amount of development 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 published by the Department of Environment, Community and Local Government in 2013; the Development Management Guidelines for Planning Authorities published by the Department of Environment, Heritage and Local Government in 2007; the Fingal Development Plan 2017-2023; the Fingal County Council Development Contribution Scheme 2021-2025 in place from 1st January 2021; and the documentation submitted by the referrer and the planning authority:

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 Condition 34 on foot of this referral results in a charge of €1,135,250 (one million, one hundred and thirty five thousand, two hundred and fifty euro).

Reasons and Considerations

Having regard to:

- a) Section 34(5) of the Planning and Development Act 2000, as amended,
- b) The provisions of the Fingal Development Plan 2017-2023 and the Fingal County Council Development Contribution Scheme 2021-2025,
- c) Section 48 of the Planning and Development Act 2000 (as amended),
- d) the submissions on file, and the planning history of the site.

The Board considered that, in the absence of agreement from the Local Authority, and having regard to the design, nature, and scale of the proposed open spaces, the inclusion of the entire area of Open Space No. 1 (4,737m²) as public open space is reasonable, but that the entire area of Open Space No. 2 (1,848m²) should be excluded from the calculable public open space provision. Based on the resulting shortfall of 19,363m², the amount of contribution payable was calculated based on 4.78 acres.

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.

Board Member: Eamonn James Kelly **Date:** 02/10/2023
Eamonn James Kelly

