

An
Bord
Pleanála

Board Direction
BD-013840-23
ABP-317382-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/09/2023.

The Board decided, generally in accordance with the reporting inspector's recommendation as follows:

WHEREAS by Order dated the 15th day of March, 2021, An Bord Pleanála, under application reference number ABP-309126-21, granted subject to conditions a permission to Glenveagh Homes Limited care of John Spain Associates, of 39 Fitzwilliam Place, Dublin 2, for development comprising demolition of the existing two-storey dwelling and ancillary buildings (circa 1,287 square metres) and the construction of a residential development of 192 number apartments and ancillary facilities in five number five-storey apartment buildings, comprising 67 number one-bedroom apartments, 104 number two-bedroom apartments and 21 number three-bedroom apartments, at 'Balroy House' Carpenterstown Road, Dublin:

AND WHEREAS condition No. 30 of An Bord Pleanála decision ABP-309126-21 required that prior to the commencement of development the developer shall pay to the planning authority a *special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended in respect of the provision of public open space in the area*, and that *'The amount of the contribution 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 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 no. 30:

AND WHEREAS the matter was referred by the developer to An Bord Pleanála on the 13th day of June 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 30 on foot of this referral results in a nil charge.

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), and
- d) the submissions on file, and the planning history of the site.

The Board considered that, in the absence of evidence of specific exceptional costs not covered by a development contribution scheme which would benefit the proposed development in accordance with section 48(2)(c) of the Planning and Development Act, 2000, as amended, that the appropriate quantum of monies due under condition number 30 of ABP Ref. No. 309126-21 is, therefore, nil.

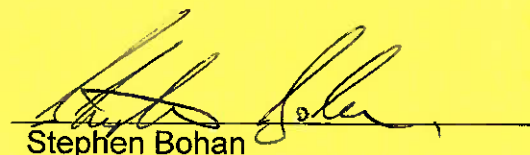
MATTERS CONSIDERED

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.

[**Note 1:** The Board noted that open space shortfalls are provided for under Note 5 of the FCC Development Contribution Scheme 2021-2025 under Section 48 and could be addressed under Condition No.31 of ABP Ref. No. 309126-21].

[**Note 2:** Please issue a copy of this Direction with the Board Order to the parties.]

Board Member


Stephen Bohan

Date: 21/09/2023