



An
Bord
Pleanála

Board Direction
ABP-319176-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 09/04/2025.

The Board decided, as set out in the following draft Order, that the section 48 condition is applicable and no social housing exemption applies.

Draft Board Order as follows:

WHEREAS by Order dated the 21st day of September, 2020 An Bord Pleanála, under planning register reference number ABP-306721-20, granted subject to conditions a permission to Roseberry Investments Limited care of John Spain Associates, 39 Fitzwilliam Place, Dublin 2 for a development comprising the construction of a 'Build to Rent' residential development comprising 124 number apartments as follows: A) 124 number apartments (arranged as two chevron shaped blocks (five to six number storeys)) comprising 48 number one-bedroom units, and 76 number two-bedroom units, each with private amenity space (balcony or terrace). Communal residential facilities in the form of a management office, post room, children's room, games room, coffee dock, reading/media room, group/yoga room, DIY bicycle repair room and garden room are located on the lower ground floor, of the southern block, extending to circa 268 square metres, B) Additional external communal amenity space is located adjacent to the building's perimeter, providing a range of seating, a play area at the eastern elevation, bicycle parking, hard and soft landscaping and informal recreation, extending to circa 2,628 square metres along with a single storey refuse store (circa 38 square metres), C) The northern block includes an under-croft car park accessed via a ramp adjacent to the site entrance and provides 54 number car-parking spaces

including four number car club spaces and three number disabled spaces. 150 number bicycle spaces are provided at ground level, (with 80 number spaces within a single storey bicycle store (circa 55 square metres)), at the site's western perimeter, D) Vehicular access is via the existing access road and car park located east of Swords Road (at the western perimeter) with an additional shared pedestrian and bicycle entrance (and fire tender access) provided at the south west corner, with access improvements including a pedestrian crossing, E) Reconfiguration of the junction at Seven Oaks is included in the application., F) Plant room, Electricity Supply Board sub-station are included at lower ground floor level at the western elevation where the two buildings adjoin, with two areas of enclosed plant included at roof level with a sedum roof provided and G) All associated site development and landscape works.

AND WHEREAS Condition number 25 attached to planning register reference number ABP-306721-20 provides for the following, "The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities 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, as amended. The contribution shall be paid prior to 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. Details of the application of the terms of the Scheme 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 to determine the proper application of the terms of the Scheme".

AND WHEREAS the developer and the planning authority failed to agree on the amount of the contribution to be paid pursuant to Condition number 25, and on the application of the terms of the relevant Development Contribution Scheme in compliance with the terms of the condition and the matter was referred by the developer to An Bord Pleanála on the 28th day of February 2024 for determination:

AND WHEREAS the Dublin City Council Development Contribution Scheme 2016-2020 is considered the applicable scheme.

AND WHEREAS the developer has confirmed to the Board in its submission received on the 14th day of February 2025 that the works commenced on the 26th day of July 2021 as proposed in the 7 day Commencement Notice submitted to Dublin City Council.

AND WHEREAS the developer has confirmed on page 3 of their submission received by the Board on the 28th day of February 2024 that the Lease Agreement with Dublin City Council has been granted on the 24th day of August 2023.

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 the residential units at lands adjacent to the Bonnington Hotel, Swords Road, Whitehall, Dublin 9, on foot of planning permission reference ABP-306721-20 constitute units which are not exempt from the requirement to pay development contributions prior to commencement of development for the purposes of the applicable Development Contribution Scheme 2016-2020 made under section 48 of the Planning and Development Act, 2000, as amended.

REASONS AND CONSIDERATION

Having regard to:

- (a) sections 34(5) and 48 of the Planning and Development Act, 2000, as amended;
- (b) the Order dated the 21st day of September, 2020 by An Bord Pleanála, under planning register reference number ABP-306721-20, granting permission for the development subject to conditions;

- (c) Condition number 25 of planning register reference number ABP-306721-20 that states inter alia that “....The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate...”;
- (d) the Dublin City Council Development Contribution Scheme 2016-2020, which is considered the applicable scheme, including in particular Section 17 therein that states “The contributions under the Scheme shall be payable prior to commencement of development or as otherwise agreed by the Council”;
- (e) the commencement of the development on the 26th day of July 2021, and
- (f) the Lease Agreement with Dublin City Council on the 24th day of August 2023;

the Board considered it has not been demonstrated that, on the commencement of the development of these residential units on the 26th day of July 2021, any exemptions from the requirement to pay development contributions for the purposes of the Development Contribution Scheme 2016-2020 made under section 48 of the Planning and Development Act, 2000, as amended, were applicable or otherwise agreed with the Council and, therefore, it is determined that the developer shall pay to Dublin City Council a financial contribution in respect of public infrastructure and facilities as set out in Condition number 25 of planning permission reference ABP-306721-20.

In disagreeing with the Inspector's recommendation, the Board considered Condition 25 and the Development Contribution Scheme clearly states the Section 48 contribution was to be paid prior to commencement of development. While noting the details of the Lease Agreement, it is dated the 24th day of August 2023 which is over two years after the commencement date of the 26th day of July 2021.

Board Member: Eamonn James Kelly **Date:** 10/04/2025
Eamonn James Kelly