



## Board Direction

---

**Ref: 26.RP2136**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21<sup>st</sup> March 2017.

The Board determined that an appropriate amount in terms of the discharge of the requirements of Condition 12 of PL85.243203 by the developer to the planning authority is a nil amount.

### REASONS AND CONSIDERATIONS

In coming to its determination, the Board had regard to the following:

- (a) the provisions of Section 34(5) of the Planning and Development Act, 2000, as amended,
- (b) the nature of Condition 12 attached to the grant of permission by An Bord Pleanála under appeal reference number PL85.243203,
- (c) the failure of the planning authority and the developer to agree in relation to Condition 12,
- (d) the documentation on file, the submissions made by the parties to this case, and the report of the Inspector,
- (e) the history of this case, whereby the site had previously been zoned for residential use at the time of the original grants of permission under planning authority registration reference numbers 20023678 and 20043065; the expiry of those permissions prior to final completion of the development; and the nature of the application under An Bord Pleanála appeal reference number PL85.243203 (planning authority register reference number 2013100), which sought to retain and complete the then substantially completed houses,
- (f) the Open Space and Amenity land use zoning objective that applied to the development on the date of the grant of permission by An Bord Pleanála, as set out in the Wexford Town & Environs Development Plan 2009-2015, whereby residential use is neither permitted in principle, nor open for consideration, but is not normally acceptable, and
- (g) the provisions of Section 96 of the Planning and Development Act, 2000, as amended, which applies to applications for permission for the development of houses on land zoned solely for residential use, or for a mixture of residential and other uses.

The Board decided, in the particular circumstances of the case, that the appropriate sum would be a nil amount in terms of the discharge of the requirements of Condition 12 by the developer to the planning authority, and was satisfied that this was a reasonable approach in the circumstances.

In deciding not to accept the Inspector's recommendation that the developer should be paid €30,000 by the planning authority in respect of the transfer of a house, the Board did not consider that this approach was appropriate in light of the zoning objective for the lands, and the provisions of Section 96 of the Planning and Development Act, 2000, as amended, which no longer applied to the lands in question on the date of the grant of planning permission.

Board Member: \_\_\_\_\_ Date: 29<sup>th</sup> March 2017  
Fionna O' Regan