



An  
Bord  
Pleanála

**Board Direction**  
**RP06F.2141**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 03.09.2018.

The Board determined that the amount of the contribution required to be paid under the following conditions of planning permission register reference number F13A/0146 (An Bord Pleanála reference number PL06F242233) is as follows:

Condition No. 12 - a bond of an insurance company for €40,000 (forty thousand euro) or a cash deposit of €25,000 (twenty five thousand euro only)

Condition No. 13 - €120,414 (one hundred and twenty thousand and four hundred and fourteen euro)

Condition No. 14 - €20,675 (twenty five thousand, six hundred and seventy five euro)

Board Order as follows:-

**WHEREAS** by order dated the 22<sup>nd</sup> day of November, 2013, An Bord Pleanála, under appeal reference number PL06F.242233 granted subject to conditions a permission to Brian Wallace and Kevin Thompson care of Stephen Little and Associates of 6 Upper Mount Street, Dublin for development comprising the construction of four number 1.5 storey, split level, five bedroom detached houses (circa 262 square metres gross floor area each) and one number single storey, split level, four bedroom detached house (circa 234 square metres gross floor area) and all associated site development works, including access from Carrickbrack Road via one number existing site entrance upgraded to serve house plots 1, 2 and 3, and via one number new site entrance to serve house plots 4 and 5; site excavation, landscaping and

boundary treatments, lighting and service connections all on a site measuring circa 0.98 hectares, bounded to the north by a graveyard associated with Saint Fintan's Church, to the west by South Hill housing estate, to the east by Carrickbrack Road and to the south by a detached dwelling at Carrickbrack Road, Sutton, Dublin.

**AND WHEREAS condition number 12** attached to the permission required the developer to lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security was to be as agreed between the planning authority and the developer or, in default of agreement, the matter was to be determined by An Bord Pleanála,

**condition number 13** attached to the permission required the developer to 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 was to be paid prior to commencement of development or in such phased payments as the planning authority may have facilitated and to be subject to any applicable indexation provisions of the Scheme at the time of payment. The condition required that details of the application of the terms of the Scheme were to be agreed between the planning authority and the developer or, in default of agreement, the matter to be determined by An Bord Pleanála

and **condition number 14** attached to the permission required the developer to pay to the planning authority a financial contribution in respect of the shortfall in the provision of public open space 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 was to be paid prior to commencement of development or in such

phased payments as the planning authority may have facilitated and to be subject to any applicable indexation provisions of the Scheme at the time of payment. The condition required that details of the application of the terms of the Scheme were to be agreed between the planning authority and the developer or, in default of agreement, the matter to be determined by An Bord Pleanála;

**AND WHEREAS** the developer and the planning authority failed to agree on the above details in compliance with the terms of these conditions and the matter was referred by the developer to An Bord Pleanála on the 15<sup>th</sup> day of December, 2016 for determination;

**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 under **condition number 12**, the appropriate type and amount of security would be a bond of an insurance company for €40,000 (forty thousand euro) or a cash deposit of €25,000 (twenty five thousand euro) and that the amount payable under **condition number 13** is €120,414 (one hundred and twenty thousand, four hundred and fourteen euro) and under **condition number 14** is €25,675 (twenty five thousand, six hundred and seventy five euro).

## **Reasons and Considerations**

Having regard to:

- (1) the nature and scale of the development as described under appeal reference number PL06F.242233 and the submissions and documentation on file;
- (2) The specific wording of **Condition number 12** of the permission granted by the Board under PL06F.242233 which required the payment of security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development and the Managers order No. PBN/31/01 dated 24th July 2001 and amended rates under the Chief Executives order No. PL/GEN/05/14 dated 22<sup>nd</sup> day of June 2014 which set the applicable rates for security;

- (3) The specific wording of **Condition number 13** (public infrastructure and facilities) and **Condition number 14** (shortfall in the provision of public open space) of the permission granted by the Board under PL06F.242233 which required the payment of financial contributions under the terms of the Development Contribution Scheme prior to the commencement of development or in such phased payments as the planning authority may facilitate, and in default of agreement that the matter should be referred to the Board;
- (4) Section 48 of the Planning and Development Act 2000, as amended and the terms of the applicable Fingal Development Contribution scheme 2013-2015 at the date of the grant of permission;

The Board considers that in respect of condition number 12, the appropriate type and amount of security would be a bond of an insurance company for €40,000 (forty thousand euro) or a cash deposit of €25,000 (twenty five thousand euro only), that the terms of the Fingal Development Contribution scheme 2013-2015 has been properly applied in this instance and that the appropriate amounts to be paid are €120,414 (one hundred and twenty thousand and four hundred and fourteen euro) in respect of Condition number 13 and €20,675 (twenty five thousand, six hundred and seventy five euro) in respect of Condition number 14.

### **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**

**Date:** 04.09.2018

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Terry Prendergast