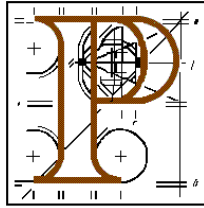


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

South Dublin County

Planning Register Reference Number: SD15A/0301

An Bord Pleanála Reference Number: PL 06S.245936

APPEAL by Carechoice Lucan Gp limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in relation to the application by South Dublin County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 14 of its decision made on the 24th day of November, 2015.

PROPOSED DEVELOPMENT: Demolition of existing two-storey industrial/factory building (2,691square metres) and construction of residential nursing home on lands at the former factory building. The development will comprise 124 bedrooms (147 bed spaces) with associated ancillary/common facilities and office/administration areas. The new building will range in height from one storey to part two-storey and part three-storey. The development will also include car parking, site works, landscaping, retention of and modification to one existing access and removal of one secondary access plus boundary treatment and upgrade to footpath along Hayden's Lane, all at former factory building, Hayden's Lane, Adamstown, Lucan, County Dublin.

DECISION

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 14 and directs the said Council to AMEND the said condition number 14 so that it shall be as follows for the reason stated.

14. The developer shall pay to the planning authority a financial contribution of €393,600 (three hundred and ninety three thousand, six hundred euro) 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. The application of any indexation required by this condition 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.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

REASONS AND CONSIDERATIONS

The Board had regard to the provisions relating to the payment of development contributions where demolitions were involved and considered it appropriate that contributions under previous permissions, planning register reference numbers 90A/0529 and S99A/0102, should be taken into account. The Board had regard to the non-availability of file number 90A/0529 but considered it likely on balance of probability that this levy had been paid. The Board considered that under the terms of the scheme that the area to be levied was therefore $6,573-269-1,056= 5,248$ square metres, being the area of the proposal less those areas on which a levy had been paid already. The Board further had regard to the provisions of Section 48(3A)(a) of the Planning and Development Act 2000, as amended, which became operative on the 1st day of September 2015, and considered that the levy per square metre which is applicable is that which became operative on the 1st day of January 2016, that is, €75 per square metre and that the levy should therefore be $5,248 \times 75 = €393,600$.

In disagreeing with the inspector's position that a reduction should be made in respect of the entire area of the building which was demolished, the Board considered that the contribution scheme did not make provision for reducing a levy in respect of floor area on which a levy had not been paid.

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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.