

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Galway County

Planning Register Reference Number: 16/405

An Bord Pleanála Reference Number: PL 07.247368

APPEAL by Pale Horizon Limited care of James O'Donnell Planning Consultancy Services of Suite 3, Third Floor, Ross House, Victoria Place, Eyre Square, Galway in relation to the application by Galway County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 9 of its decision made on the 9th day of September, 2016.

PROPOSED DEVELOPMENT: Amendment to the five residential units previously granted permission under planning register reference number 15/1001 in the form of:

1. Change of residential unit types at ground and first floor along with the construction of ground floor single storey extension to units numbers 1 and 5 (6.4 square metres).
2. Change of residential type from a two-bedroom townhouse to three bedroom townhouses at numbers 1, 4 and 5.
3. Change of residential type from the two one bedroom apartments at ground and first floor to a three-bedroom townhouse.

4. New window to east facing elevation at first floor level with all the relevant site works and services at Carrowbaun, Loughrea, County Galway.

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 9 and directs the said Council to AMEND condition number 9 so that it shall be as follows for the reason stated.

9. The developer shall pay to the planning authority a financial contribution of €2,337 (two thousand, three hundred and thirty-seven 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 the 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

Having regard to the planning history of the site and, in particular, the grant of permission under planning register reference number 05/2449 in respect of which payment of a contribution was levied in respect of Recreation and Amenity infrastructure and to the provisions of the Galway County Council Development Contributions Scheme 2016 for exemption from payment of a development contribution in respect of change of use of a permitted development unless significant intensification of use and/or additional floor area is also included, the Board considered that the planning authority incorrectly applied the terms of the said Scheme by including a requirement for payment of a contribution in respect of Recreation and Amenity infrastructure and facilities in condition number 9. Accordingly, the planning authority is directed to amend condition number 9 as set out above by omitting the requirement for payment of the contribution in respect of Recreation and Amenity infrastructure.

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 2017.