An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2017

Cork County Council

Planning Register Reference Number: 16/07271

An Bord Pleanála Reference Number: ABP-300056-17

APPEAL by George Maloney, Statutory Receiver of O'Brien and O'Flynn (in liquidation and receivership) care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork in relation to the inclusion of special contribution condition number 6 by Cork County Council in its decision made on the 3rd day of October, 2017.

PROPOSED DEVELOPMENT: A seven year planning permission for the construction of 200 number residential units (comprising 86 number semidetached dwellinghouses, 70 number townhouses, 22 number ground floor apartments with 22 number duplex apartments overhead), crèche and all associated ancillary development works including the completion of a roundabout and road improvements onto Maryborough Hill, footpaths and cycle lanes, bus stop, foul and storm water drainage, boundary treatments, landscaping and amenity areas, and the removal of existing electricity transformer/substation and construction of new electricity substation at Maryborough Ridge, Moneygurney, Douglas, County Cork.

DECISION

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended by section 30 of the Planning and Development Act, 2010, based on the reasons and considerations under, directs the said Council, under section 48 (13) of the 2000 Act, to REMOVE condition number 6 and the reason therefor.

REASONS AND CONSIDERATIONS

It is considered that the planning authority has not demonstrated that there are specific exceptional costs in terms of the provision of recreation and amenity facilities arising from the proposed development that would benefit the proposed development in this instance. The Board considered that compliance with policy is not an appropriate application of section 48(2)(c) of the Planning and Development Act, 2000, as amended, and that costs to be levied under this section should be specific exceptional costs which are of specific benefit to the proposed development, and that these costs should be properly apportioned. The contention that the Ballybrack Valley Shared Use Pedestrian and Cycle Path will be of benefit to the proposed development is not borne out by evidence submitted by the planning authority – with particular regard to the location of this pedestrian and cycle path relative to the appeal site at Maryborough Ridge and the timing of its construction. It is, therefore, considered that the special contribution, as proposed by the planning authority, for recreation and amenity facilities, does not come within the scope of section 48(2)(c) of the Planning and Development Act, 2000, as amended, and accordingly, would be unwarranted.

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 2018.