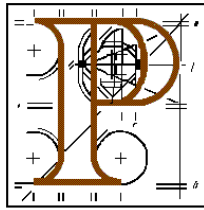


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2017

**Dun Laoghaire-Rathdown County**

**Planning Register Reference Number: D15A/0385**

An Bord Pleanála Reference Number: ABP-300194-17

**APPEAL** by O'Flynn Capital Partners care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in relation to the application by Dun Laoghaire-Rathdown County Council of the terms of the Development Contribution Scheme made for the area in respect of conditions numbers 33, 68, 69, 70, 72 and 73 of its decision made on the 18<sup>th</sup> day of October, 2017.

**PROPOSED DEVELOPMENT:** Demolition of 11 number residential units and ancillary structures and the construction of a scheme comprising 164 number residential units (comprising: 60 number four-bed semi-detached houses (with the option to provide combinations of House Type A (three number storey) and/or House Type A1 (two number storey)); two number four-bed, three number storey detached houses (House Type A2); 12 number four-bed, three number storey, plus study semi-detached houses (House Type B); two number three-bed, two number storey semi-detached houses (House Type C); 12 number three-bed, two number storey terrace houses (House Type C1); and 76 number two-bed and three-bed, two and three number storey duplex apartments (Blocks D, E, F and G).

The development will also consist of the construction of part of the Planning Scheme's Druid's Glen Road (also known as P to Q) to its connection with the western boundary of the subject site for a distance of approximately 158 square

metres from its connection to the N11 (and all associated development and infrastructural works).

This includes the provision of up to 30 metres of the Druid's Glen bridge, comprising one complete and two number partial bridge abutments, to the western boundary of the subject site. This will also involve the diversion of approximately 40 metres of the Cabinteely Stream. (The overall three-span Druid's Glen Road bridge will measure 36 metres in length, with four number bridge abutments with the balance to be built as part of a subsequent permission yet to be secured on the lands to the west of the subject site).

The development will also include the construction of: waste storage facilities; associated car parking spaces and bicycle parking spaces, respectively, vehicular, pedestrian and cycle access and egress; provision of boundary treatments; associated lighting; alterations to existing site services; Sustainable Urban Drainage systems; compensatory storage facilities; changes in levels; associated hard and soft landscaping including a playground; and all other associated site excavation and infrastructural and site development works above and below ground.

Works to the N11 (external to the application site) to facilitate the construction of the junction with the Druid's Glen Road will be undertaken by Dun Laoghaire-Rathdown County Council in its capacity as Roads' Authority for the area.

All proposed works affecting the public drainage system are subject to detailed agreement with the Water and Drainage Department of Dun Laoghaire-Rathdown County Council.

All on a site of 5.295 hectares approximately, comprising the lands of Woodbrook (Number 8 Beech Park), Foinavan (Number 7 Beech Park), Lynwood, Corrente, Dun Baoi (Number 4 Beech Park), Teely Lodge, The Galliard, El Dorado, Capard, Greenhills, and Silver Slope and the road area and associated open spaces at Beech Park, Bray Road, Cabinteely, Dublin/Loughlinstown, County Dublin, and its connection with the N11. The site includes some 0.7892 hectares forming part of Development Area 5 (Druid's Glen) of the Cherrywod Strategic Development Zone Planning Scheme (April 2014). (The balance of the site is located within the lands designated by Government for the establishment of a Strategic Development Zone (S.I. Number 535 of 2010, but is outside the Planning Scheme area).

The site is principally bounded by an ESSO petrol station to the north; the N11 to the east; Numbers 2 to 4 Sunnyhill Park, Loughlinstown to the south; and partly by the Cabinteely Stream and open space to the west. (The property identified as Wood Haven (Beech Park, Cabinteely, Dublin) located between Silver Slope and El Dorado, does not form part of this development), as revised by the further public notice received by the planning authority on the 14<sup>th</sup> day of June, 2017.

## 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 conditions numbers 33, 68, 69, 70, 72 and 73 and directs the said Council to REMOVE conditions numbers 33, 68, 69 and 70 and the reasons therefor, AMEND conditions numbers 72 and 73 so that they shall be as follows for the reasons stated, and to attach a further condition as follows for the reason set out replacing planning authority's conditions numbers 68, 69 and 70 and the reasons therefor.**

72. The developer shall pay to the planning authority a financial contribution of €1,545,742.84 (one million, five hundred and forty-five thousand, seven hundred and forty-two hundred and eighty-four cent) in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

73. No development on foot of this permission shall commence until security for the provision and satisfactory completion of services (including roads, footpaths, open space, public lighting, sewers, watermains and drains) in accordance with the plans and particulars lodged with the application has been given by: -

- (a) Lodgement with the Council of an approved Insurance Company Bond in the sum of €749,439 (seven hundred and forty-nine thousand, four hundred and thirty-nine euro) which shall be kept in force by the Developer until such time as Roads, Open Spaces, Car Parks, Sewers, Watermains and Drains are completed to the satisfaction of the Council or
- (b) Lodgement with the Council of a Cash Sum of €485,114 (four hundred and eighty-five thousand, one hundred and fourteen euro) to be applied by the Council at its absolute discretion if such services are not fully provided to its satisfaction on the provision and completion of such services to standard specifications.

**Reason:** To ensure that a ready sanction may be available to the Council to induce the provision of services and prevent disamenity in the development. Note: That water supply and foul drainage shall be in accordance with the requirements of Irish Water.

### **Further Condition**

The developer shall pay to the planning authority a financial contribution of €1,907,599.20 (one million, nine hundred and seven thousand, five hundred and ninety-nine euro and twenty cent) 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**

Having regard to the quality and extent of public open space to be provided in the development, the proximity of the site to significant public open space amenities and parks including Cabinteely Park and Kilbogget Park, and the guidance set out in the Development Contributions Guidelines that development should be incentivised through lower development contributions in SDZ's, the Board considers the imposition of condition number 33 requiring an additional levy in lieu of public open space under section 48 (2) (c) of the Planning and Development Act 2000 to be excessive and in this context should be deleted in its entirety.

Having regard to the nature and extent of development as proposed and as modified in the submission to the planning authority on the 22<sup>nd</sup> day of September 2017 and the provisions of section 10 (g) of the Section 48 Development Contribution Scheme 2016-2020, the Board considers that the terms of the Development Contribution Scheme have not been properly applied by the planning authority and in this regard, the amount payable under section 48 and 49 of the Planning and Development Act 2000, as amended, should be reduced accordingly.

Having regard to the nature and extent of development as proposed and as modified in the submission to the planning authority on the 22<sup>nd</sup> day of September 2017, the extent of Insurance Company Bond/Cash Sum should be reduced accordingly.

## **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.

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

**Dated this      day of                      2018.**