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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Dún Laoghaire-Rathdown County Council.**

**Planning Register Reference Number: D15A/0286**

**WHEREAS** by order dated the 31<sup>st</sup> day of December, 2015, An Bord Pleanála, under appeal reference number PL 06D.245340 (planning register reference number D15A/0286), granted subject to conditions a permission to Crosswaithe Developments Limited care of McGill Planning Limited of 7 Fitzwilliam Street Upper, Dublin for development comprising renovation of Neptune House including demolition and removal of 20<sup>th</sup> century, two-storey annex (circa 1,162 square metres), internal and external modification to Neptune House including removal/blocking up/restoration of existing doors, windows, stairs and walls; insertion of new doors, windows, opes and widening of existing; removal of basement toilet; removal of roof and replacement with new roof structure, chimneys and terrace (circa 22 square metres north-facing) accessible from the redesigned second floor; restoration of existing stonework and metalwork; proposed modifications to facilitate the provision of four number apartments (one number two-bed and three number three-beds, ranging in size from circa 160 square metres to circa 234 square metres) within Neptune House; provision of new open spaces and boundary treatments within the curtilage of Neptune House providing new private terraces (circa 175 square metres total) and public open space (circa 3,453 square metres; demolition and removal of three-storey Student Block (circa

1,155 square metres); provision of 13 number, two-three storey two to four bed houses ranging in size from circa 126 square metres to circa 185.4 square metres and comprising five number detached houses and eight number. semi-detached houses. One of the detached houses is provided with two number first floor private terraces (east and west facing); modifications to and widening of existing access from Temple Crescent to provide a new roadway through the site with a new exit onto Temple Crescent to the north of the site; car parking and all associated site development, landscaping, boundary treatment works and services provision, all at site of circa 0.97 hectares comprising Neptune House (Protected Structure RPS Number 440), Temple Crescent, Monkstown, Blackrock, County Dublin:

**AND WHEREAS** condition number 20 attached to that 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 the commencement of development or in such phased payments as the planning authority may facilitate and was to be subject to any applicable indexation provisions of the Scheme at the time of payment, and the condition required that details of the application of the terms of the Scheme were to be agreed between the developer and the planning authority or, in default of agreement, the matter was to be determined by An Bord Pleanála:

**AND WHEREAS** the developer and the planning authority failed to agree on the amount of development contribution to be paid in accordance with condition number 20 of that permission and the matter was referred by the developer to An Bord Pleanála on the 17<sup>th</sup> day of November, 2017 for determination:

**AND WHEREAS** the Board is satisfied that the matter at issue is the amount of development contribution remaining to be paid (the developer already having paid the sum of €17,160):

**AND WHEREAS** the Board had particular regard to the provisions of Sections 34(5) and 48 of the Planning and Development Act 2000, as amended, and the Dún Laoghaire-Rathdown County Council Development Contribution Scheme 2016-2020 as adopted on the 14<sup>th</sup> day of December 2015:

**AND WHEREAS** the Board considered that the Development Contribution Scheme in question does not provide for any exemption or reduction in the case of student accommodation that is replaced, and noted that the statutory definition of student accommodation, as set out in the Planning and Development (Strategic Housing) Act 2016, post-dated the date of grant of planning permission in this case (which was the 31<sup>st</sup> day of December 2015), and therefore is not relevant in assessing the proper application of the terms of the Development Contribution Scheme which was in force at the time of the grant of planning permission:

**AND WHEREAS** the Board considered that the Development Contribution Scheme in question does provide for a reduction in respect of demolition of development, whereby 50% of the demolished floor area is offset against the countywide element of the levy, and that the proper application of the terms of the Scheme should allow for this reduction, in relation to the student block that has been demolished:

**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 for the Reasons and Considerations set out below, hereby determines that the amount of the contribution remaining to be paid by the developer, on a correct application of the Development Contribution Scheme, results in a

charge of €70,229.25 (seventy thousand, two hundred and twenty nine euro and twenty five cent).

## **Reasons and Considerations**

Having regard to:-

- (a) Sections 34(5) and 48 of the Planning and Development Act, 2000, as amended;
- (b) the terms and conditions of appeal reference number PL 06D. 245340 (planning register reference number D15A/0286), and in particular condition number 20 of that permission;
- (c) the provisions of the Dún Laoghaire-Rathdown County Council Development Contribution Scheme 2016 - 2020; and
- (d) the submissions on file, and the planning history of the site;

it is considered that the development contribution payable in this case should make allowance for the building to be demolished, by offsetting 50% of the floor area of this building, in line with the applicable exceptions and reductions as set out in Section 10 (g) of the Dún Laoghaire-Rathdown County Council Development Contribution Scheme 2016 – 2020, which allows for such offset.

## **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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**Philip Jones**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2018.**