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**Planning and Development Acts 2000 to 2018**

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

**Planning Register Reference Number: D15A/0215**

**WHEREAS** by Order dated the 5<sup>th</sup> day of November, 2015, An Bord Pleanála, under appeal reference number PL 06D.245271, granted subject to conditions a permission to Brian Carroll and Kate McCauley care of O’Keeffe Architects of Suite One, The Avenue, Beacon Court, Sandyford, Dublin for development comprising the construction of a new two-storey, detached, six bedroomed dwellinghouse (409 square metres) and car port (28.5 square metres) with new access laneway and gate from the Falls Road. Works include the provision of a wastewater treatment system and surface water soakaways and new 2.1 metres high fence to internal boundary to form the site area. The existing mature screen planting is retained and protected, all at Saint Catherine’s, Falls Road, Shankill, County Dublin:

**AND WHEREAS** condition number 8 attached to the permission required prior to commencement of development that the developer pay to the planning authority a financial contribution in respect 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, 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 details of the application of the terms of the Scheme in compliance with the terms of the condition and the matter was referred by the developer to An Bord Pleanála on the 22<sup>nd</sup> day of January, 2018 for determination:

**AND WHEREAS** the Board is satisfied that the matter at issue is to determine the proper application of the terms of the Scheme:

**AND WHEREAS** the Board had particular regard to

- (a) the provisions of Section 34(5) of the Planning and Development Act 2000, as amended,
- (b) the Development Contributions Guidelines for Planning Authorities, issued by the Department of the Environment, Community and Local Government in January 2013, and
- (c) the Dún Laoghaire-Rathdown County Council Section 49 Development Contribution Scheme for Extension of Luas Line B1 – Sandyford to Cherrywood adopted on 13<sup>th</sup> January 2003 (incorporating amendments to Clause 13, as adopted by the County Council at its meeting on 13<sup>th</sup> May, 2013 – to be effective for all decisions from 14<sup>th</sup> May, 2013 – 14<sup>th</sup> December 2015):

**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 based on the Reasons and Considerations set out below, hereby determines that the planning authority had properly applied the terms of the Scheme by determining that the amount of supplementary development contribution to be paid be based on its determination of the area of the curtilage of the premises, and the Board considers that the proper application of the terms of the Scheme in this instance is that the area of the curtilage of the premises is the area of the site, as applied for under appeal reference number PL 06D.245271 (planning register reference number D15A/0215) and that the supplementary development contribution under condition number 8 of this planning permission should be based on this area.

## **Reasons and Considerations**

Having regard to:

- (a) Section 34(5) and section 49 of the Planning and Development Act 2000, as amended,
- (b) the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and the Dún Laoghaire-Rathdown County Council Section 49 Development Contribution Scheme for Extension of Luas Line B1 – Sandyford to Cherrywood, and
- (c) the submissions on file, and the planning history of the site

the Board considered Section 13 of the Dún Laoghaire-Rathdown County Council Section 49 Development Contribution Scheme for Extension of Luas Line B1 – Sandyford to Cherrywood whereby *'one off' housing will be assessed on the area of the curtilage of the premises as determined by the Planning Authority* and was satisfied that the Planning Authority, Dún Laoghaire-Rathdown County Council, in this case had determined the

“curtilage of the premises” in the Assessment of Financial Contribution – Luas Levy report dated 10<sup>th</sup> February 2016 as being the area of the site, as applied for under file appeal reference number PL 06D.245271 (planning register reference number D15A/0215).

## **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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**John Connolly**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

**Dated this            day of            2018.**