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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Westmeath County Council**

**Planning Register Reference Number: 17/6067**

**Appeal** by Kelbuild Limited care of The Planning Partnership of 29 Oliver Plunkett Street, Mullingar, County Westmeath in relation to the application by Westmeath County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 6 and in relation to the inclusion of special contribution condition number 23 and the inclusion of supplementary contribution condition number 7 in its decision made on the 4<sup>th</sup> day of January, 2018.

**Proposed Development:** A mixed use development of 97 number residential units, a childcare facility, commercial units and communal private and public open space. The proposed development comprises two number blocks of apartments above commercial ground floor uses, Block 1: Part four/five-storey block of 16 number apartments (nine number two bedroom and seven number three bedroom units) above ground floor commercial (Classes 2 and 3) use of 475 square metres and as incorporating a communal area for the block at first floor level 63 square metres, Block 2: Part four/five-storey block of 16 number apartments (12 number two bedroom and four number three bedroom units) above ground floor childcare facility (245 square metres), commercial (Classes 2 and 3) use of 180 square metres and as incorporating a communal

area for the block at first floor level 63 square metres, construction of 65 number houses, (eight number three bedroom and 57 number four bedroom) two and three-storey in height with the formation of 4,210 square metres of landscaped open space areas incorporating, a centralized play area (pocket park) of 2,185 square metres and an open space network linked by pedestrian footpaths to Mullingar Greenway with an area of 2,025 square metres, 155 number car parking spaces, 50 number cycle parking spaces, primary vehicular and pedestrian access to the proposed development will be provided from a new access road from the constructed primary care centre access road, associated residential estate roads. The proposal includes: the installation of a new box culvert under the Feeder Canal (Royal Canal) to facilitate the surface water drainage network to the north and west of the site and neighbouring townlands of Irishtown, Robinstown (Levinge) and Mullingar Town, all associated hard and soft landscaping, boundary treatments, footpaths and ancillary works above and below ground on a site of circa 2.75 hectares, Harbour Road/Martins Lane, Robinstown (Tyrrell), Mullingar, County Westmeath.

## **Decision**

**The Board considered, based on the reasons and considerations marked (1) set out below, that the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 6 and directs the said Council under section 48 of the Planning and Development Act, 2000, as amended, to AMEND the said condition number 6 so that it shall be as follows for the reason stated.**

**Furthermore, the Board considered, based on the reasons and considerations marked (2) set out below, that the terms of the Supplementary Development Contribution Scheme for the area had been properly applied in respect of condition number 7 and directs the said Council under section 49 of the Planning and Development Act, 2000, as amended, to ATTACH the said condition number 7 and the reason therefor.**

**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, also directs the planning authority, based on the reasons and considerations marked (3) below, to ATTACH the said condition number 23 and the reason therefor.**

6. The developer shall pay to the planning authority a financial contribution of €145,332 (one hundred and forty-five thousand, three hundred and thirty-two 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 (1)**

The Board considered that the terms of the Development Contribution Scheme had not been properly applied in the case of condition number 6 in that the communal rooms are ancillary to the residential units in Blocks 1 and 2, which attract development contributions in their own right. The Board note that the rooms are positioned at first floor level and are not independently accessible from outside of the blocks and, therefore, considered that this floorspace does not fall within the description of “industrial/commercial” floorspace detailed in the Scheme and that the floorspace should not attract a contribution in its own right.

## **Reasons and Considerations (2)**

Having regard to the provisions of the section 49 Supplementary Development Contribution Scheme for the Clonmore Link Road and Robinstown Link Road, the Board considered that the terms of the Supplementary Development Contribution Scheme for the area had been properly applied in respect of condition number 7.

## **Reasons and Considerations (3)**

The Board considered that the application of a charge under condition number 23 of a special contribution towards the construction of the Harbour Link Road to access the site and which benefited the proposed development was justified.

## **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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**Paul Hyde**

**Member of An Bord Pleanála**

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

**Dated this            day of            2018.**