



Planning and Development Acts 2000 to 2018

Planning Authority: Dublin City Council

Planning Register Reference Number: 3055/18

Appeal by De La Salle Brothers care of Auveen Byrne and Associates of Lioscarran House, 32 Dale Road, Kilmacud Road, Stillorgan, County Dublin in relation to the application by Dublin City Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 2 and in relation to the inclusion of special contribution condition number 6 in its decision made on the 8th day of October, 2018.

Proposed Development: Revisions to development permitted under planning register reference number 4161/16, An Bord Pleanála appeal reference number ABP-300442-17. (The permitted development on a larger site of 2.12 hectares includes: (a) re-location and improvement of existing Gaelic Athletic Association football pitch, (b) accommodation of extension to Gaelscoil Ui Earcain, (c) construction of four-storey residential care home served by 72 number surface car-parking spaces and landscaped open space, (d) construction of 18 number apartments in a three and four-storey block served by 18 number surface car-parking spaces and (e) new vehicular and pedestrian access to residential care home and apartment developments from School Road.). The revisions now proposed comprise: Provision of basement car-park under the residential care home, to service the residential care

home, with 72 number car parking spaces, 20 number bicycle parking spaces, laundry, storage and plant, replacement of permitted block of 18 number apartments with 22 number apartments, in a three and four-storey block (Block B), comprising five number one-bedroom units, 13 number two-bedroom units and four number three-bedroom units; with balconies on west and east-facing elevations and roof garden at third floor level on north part of building, additional three and four-storey block of 22 number apartments (Block A), comprising five number one-bedroom units and 17 number two-bedroom units with balconies on west and east-facing elevations and roof garden at third floor level on north part of building. Total number of proposed apartments 44 number served by 46 number surface car-parking spaces and 44 number bicycle parking spaces, revised open space to serve the residential care home, minor revisions to residential care home to accommodate revised site service road layout (floor area reduced by 17 square metres). The development will otherwise be carried out in accordance with Dublin City Council permission, planning register reference number 4161/16, An Bord Pleanála appeal reference number ABP-300442-17. All on a site of 1.124 hectares adjoining Gaelscoil Ui Earcain at Glasanaon Road and School Road, Finglas East, Dublin.

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 marked (1) set out below, directs the said Council, under section 48 (13) of the 2000 Act to REMOVE condition number 6 and the reason therefor.

Furthermore, the Board considered, based on the reasons and considerations marked (2) set out below, that the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 2 and directs the said Council under section 48 of the Planning and Development Act, 2000, as amended, to AMEND the said condition number 2 so that it shall be as follows for the reason stated.

2. The developer shall pay to the planning authority a financial contribution of €1,155,043.35 (one million, one hundred and fifty-five thousand and forty-three euro and thirty-five 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 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 Dublin City Development Contribution Scheme 2016-2020 provides for a Community Parks Improvement Programme as part of the general contribution scheme and provides for a contribution in lieu of open space. Condition number 6 requires a financial contribution towards parks and open space facilities. Section 48(2)(c) financial contribution conditions may be applied only to exceptional costs not covered by such a scheme. The Board, in accordance with Section 48 of the Planning and Development Act, 2000, as amended, considered that the terms of condition number 6 do not fall within the scope of Section 48(2)(c) of the Planning and Development Act 2000, as amended, and condition number 6 should, therefore, be removed.

Reasons and Considerations (2)

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered that the terms of the Dublin City Council Development Contribution Scheme 2016-2020 had not been properly applied in respect of condition number 2 and directs the said Council to amend condition number 2 to reflect the accurate reckonable floor area in relation to the basement car parking and to give effect to the approved SCSI Tender Price Indexation rate of 7.2% applied to the industrial/commercial development levy rate of the Development Contribution Scheme with effect from the 1st day of January, 2019.

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.

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

Dated this day of 2019.