



Planning and Development Acts 2000 to 2019

Planning Authority: Kildare County Council

Planning Register Reference Number: 18/149

Appeal by Lonadale Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin against the decision made on the 5th day of November, 2018 by Kildare County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of six number existing buildings (with a gross floor area of circa 2,180 square metres) and the removal of hard surfacing on the subject site, and the construction of a part one, part two and part three number storey Health Care Facility for a Cancer Treatment Clinic (Proton Therapy) with a gross floor area of circa 3,555 square metres, including a terrace and plant areas at roof level, on a site area of approximately 2.5 hectares. The proposal includes a service yard which also contains a substation, switchroom, transformer, waste storage area and two number chillers. The proposal includes landscaped areas of open space, including a variety of gardens, and all associated boundary treatments. A new signalised road junction providing access to the proposed development, and future development proposals, from Hospital Street (R445) is proposed. Additional road improvement works to Hospital Street are also proposed, including pedestrian crossings, upgrades to footpaths, road markings and traffic signalling. The proposal includes internal access roads, including

connections to future development lands, new pedestrian access points and footpaths. The associated site and infrastructural works including foul and surface water drainage, 80 number surface car parking spaces and cycle parking, all at the former Magee Barracks site, Hospital Street (R445), Kildare Town, County Kildare.

Decision

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE conditions numbers 26, 27 and 34 and the reasons therefor, and to AMEND condition number 25 so that it shall be as follows for the reasons set out.

25. The developer shall pay to the planning authority a financial contribution in the sum of €243,600 (two hundred and forty three thousand and six hundred euro) as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision of traffic calming works including Toucan Crossings along a 664 metre section of the R445 fronting and running either side of the Magee Barracks road frontage. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the ***Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Reasons and Considerations

Having regard to the nature and scale of the proposed development and the anticipated additional traffic volumes along the R445 and into and out of the site that will be generated by the proposed development, as a proportion of the anticipated total traffic flows that will be generated by the development in combination with the development of the entire Magee Barracks site together with the proposed Cherry Avenue Park, it is considered that the requirements of condition number 25, condition number 26, condition number 27 and condition number 34 place an unduly onerous burden on the applicant and the developer of the proposed Cancer Treatment Clinic. Accordingly, it is considered that condition number 26, condition number 27 and condition number 34 of the planning authority notification of decision to grant planning permission should be removed and condition number 25 should be amended.

It is considered that the applicant should contribute towards the traffic calming works required on the 664 metre section of the R445 specified by the planning authority by way of the payment of a Special Financial Contribution pursuant to Section 48(2)(c) of the Planning and Development Act 2000, as amended, in accordance with the schedule of costs indicated by the planning authority in their letter of 5th November, 2018 (accompanying the planning authority notification of decision to grant planning permission for the proposed development of the same date) as revised by the planning authority in their letter to An Bord Pleanála dated the 7th March, 2019 (€231,600). It is considered that the applicant should also contribute, on a pro rata basis with the other developments benefitting from the proposed works to the 664 metre section of the R445, towards the cost of the provision of the addition of two number Toucan crossings identified by the planning authority as being

required along this section of the upgraded R445 calculated on the basis of the estimate of costs provided by the planning authority (i.e. 12% of €100,000 = €12,000). The total Special Financial Contribution to be levied pursuant to Section 48(2)(c), therefore, amounts to €243,600 (i.e. €231,600 plus €12,000).

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.

Maria FitzGerald
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board

Dated this day of 2019