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**Planning and Development Acts 2000 to 2018**

**Planning Authority: South Dublin County Council**

**Planning Register Reference Number: SD18A/0202**

**Appeal** by Thomas McMullan care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in relation to the inclusion of special contribution condition number 12 by South Dublin County Council in its decision made on the 22<sup>nd</sup> day of November, 2018.

**Proposed Development:** A mixed use development consisting of 29 residential units (comprising two number one-bedroom units, 16 number two-bedroom units and 11 number three-bedroom units (including terraces and balconies), an office unit (100 square metres), two number retail units (87 square metres and 154 square metres), ancillary bin stores (16 square metres) and bike storage area (29 square metres) across four number blocks (Blocks A to D), the breakdown for the individual Blocks is as follows: Block A (three storeys (1,497 square metres)), seven number apartments and seven number duplex apartments, Block B (three storeys (851 square metres)), four number apartments and four number duplex apartments, Block C (three storeys (777 square metres)), six number apartments and two number retail units and Block D (two-storey (243 square metres)), the refurbishment, alteration and extension of the existing two-storey former public house (including the demolition of a three square metre rear lean-to) and its change of use to one number office unit and one number apartment, with new bin

stores and bike store to the rear. The provision of private open space, communal and public open space, surface car parking (30 number spaces), signage all hard and soft landscaping including boundary treatments, SUDS measures including attenuation tanks, PV panels, changes to levels and all other associated site excavation and site development works above and below ground. Vehicular access will be from Pairc Mhuire to the south. The existing perpendicular public car parking on the north side of Pairc Mhuire will be replaced with four number perpendicular car parking spaces on Pairc Mhuire and two number parallel car parking spaces on the eastern side of Boherboy Road. The site is bounded by Main Street to the north, public open space to the east, Pairc Mhuire to the south and Boherboy Road to the west. It previously accommodated a petrol filling station and a public house (part of which remains on site). All on a site of approximately 0.42 hectares at the junction of Main Street and Boherboy Road, Saggart, County 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 under, directs the said Council, under section 48 (13) of the 2000 Act, to REMOVE condition number 12 and the reason therefor**

## **Reasons and Considerations**

The application of condition number 12 is improper as the works in question, based on the submissions received, do not appear to constitute specific exceptional costs attributable to the proposed development and are works that are covered under the category of 'Roads and Infrastructure Facilities' under the adopted South Dublin County Council Development Contribution Scheme and a development contribution in this regard has been applied under condition number 28.

The application of condition number 12 is not in accordance with the adopted Development Contribution Scheme or Section 48(2)(c) of the Planning and Development Act, 2000, as amended, and would be contrary to Section 7.12 of the Development Management Guidelines.

## **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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**Terry Ó Niadh**

**Member of An Bord Pleanála**

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

**Dated this            day of            2019.**