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**Planning and Development Acts 2000 to 2019**

**Planning Authority: South Dublin County Council**

**Planning Register Reference Number: SD19A/0099**

**Appeal** by Ardstone Homes Limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in relation to the application by South Dublin County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 8 of its decision made on the 16<sup>th</sup> day of May, 2019.

**Proposed Development:** Permission and Retention for development on this site of circa 2.29 hectares, identified as numbers 1-39 (consecutive) White Pines Park, numbers 1-15 (consecutive) White Pines Dale, numbers 16-40 (even) White Pines Dale, numbers 16-50 (even) White Pines Crescent and numbers 1-27 (odd) White Pines Crescent located south of Stocking Avenue. The development/proposed development specifically relates to 99 houses permitted under planning register reference number SD17A/0359 (and earlier permissions as appropriate) (on a larger site of 3.35 hectares that included public roads), namely 38 three bedroom houses, 47 four bedroom houses and 14 five bedroom houses; development on foot of that permission has commenced. Permission is sought for works proposed to 34 houses, numbers 33-39 (consecutive) White Pines Park, numbers 1-27 (odd) White Pines Crescent and numbers 20-40 (even) White Pines Dale. Retention is

sought for works proposed to 65 houses, numbers 1-32 (consecutive) White Pines Park, numbers 1-15 (consecutive) White Pines Dale, numbers 16-18 (even) White Pines Dale and numbers 16-50 (even) White Pines Crescent. The house variations are identified as follows: Block Type A, numbers 30-36 (even) White Pines Dale, numbers 13-19 (odd) White Pines Crescent, numbers 16-22 White Pines Crescent (even), numbers 18-21 (consecutive) White Pines Park and numbers 24-27 (consecutive) White Pines Park. Block Type AA, numbers 7-13 (odd) White Pines Dale, Block Type B, numbers 24-30 (even) White Pines Crescent, Block Type C, numbers 32-38 (even) White Pines Crescent, Block Type D, numbers 40-46 (even) White Pines Crescent, Block Type E, numbers 21-27 (odd) White Pines Crescent, Block Type G, numbers 14-17 (consecutive) White Pines Park, Block Type H, numbers 4-7 (consecutive) White Pines Park and 4-10 (even) White Pines Dale, Block Type I, numbers 1-7 (odd) White Pines Crescent, Block Type J, numbers 9-12 (consecutive) White Pines Park, Block Type K, numbers 12-16 (even) White Pines Dale, Block Type L, numbers 30-32 (consecutive) White Pines Park, Block Type M, numbers 37-39 (consecutive) White Pines Park, Block Type O, numbers 38 and 40 White Pines Dale and numbers 48 and 50 White Pines Crescent, Block Type P, numbers 1 and 2 White Pines Park and numbers 35 and 36 White Pines Park, Block Type Q, numbers 20 and 22 White Pines Dale and numbers 9 and 11 White Pines Crescent, Block Type R, numbers 3 and 5 White Pines Dale, Block Type T, numbers 22 and 23 White Pines Park, Block Type U, numbers 28 and 29 White Pines Park, Block Type V, numbers 33 and 34 White Pines Park, Block Type W, number 1 White Pines Dale, Block Type X, numbers 3, 8 and 13 White Pines Park and number 15 White Pines Dale, Block Type Y, numbers 2, 18, 24, 26 and 28 White Pines Dale. The proposed development will consist of the provision of modifications to 34 of the permitted houses including, reduction in brickwork (all Block Types), removal of canopies (all Block Types), alteration of windows (Block Types A, E, I, M and O), removal of windows (Block Types A, E, I and P), addition of a window (Block Type Q), alteration of roof lights (Block Types A, E, I, M, O, Q and Y), non-provision of part of the second floor accommodation and the removal of the associated dormer windows (Block Types I and R), the latter

renders the permitted five bedroom units as four bedroom units. The development for which retention is sought consists of provision of modifications to 65 of the permitted houses including, reduction in brickwork (all Block Types), removal of canopies (all Block Types), alteration of windows (Block Types A, AA, B, C, D, G, H, I, J, K, M, O, W and X), removal of windows (Block Types A, C, D, G, I, J, T and U), alteration of roof lights (Block Types A, AA, B, C, D, G, H, I, J, K, M, O, T, U, W and Y), non-provision of part of the second floor accommodation and the removal of the associated dormer windows (Block Types H, I, K and R), the latter renders the permitted five bedroom as four bedroom units. The scheme of 99 units would, therefore, provide 38 three-bedroom houses, 56 four bedroom houses and five five bedroom houses. The development/proposed development (as appropriate) consist of/will also consist of provision of PVC windows and doors, provision of concrete slates, adjustment of cill heights, addition of mullions to windows and all other associated site development works above and below ground on lands south of Stocking Avenue, Woodtown, Dublin.

## **Decision**

**The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area had been properly applied in respect of condition number 8 and directs the Council to AMEND condition number 8 so that it shall be as follows for the reason stated.**

8. The developer shall pay to the planning authority a financial contribution 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 amount of the contribution shall be agreed between the planning authority and the developer, and shall ensure that no double payment of contributions in respect of the 99 dwellings the subject matter of the present application shall be paid where such contributions had been paid under condition number 8 of planning permission register reference number SD17A/0359 prior to its expiry. In default of such agreement as to amount, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of any further development on the subject site 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme

**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**

It is considered that development contributions under Section 48 of the Planning and Development Act, 2000, as amended, should be paid in respect of all of the dwellings that are the subject matter of this application, and that, while double charging is not appropriate, the documentation submitted with the application and appeal has not provided evidence that the full amount of the contributions under condition number 8 of planning permission register reference number SD17A/0359 were paid prior to the expiration date of that permission. Accordingly, it is reasonable, and in accordance with the provisions of the South Dublin County Council Development Contribution Scheme 2016 – 2020, that condition number 8 of the present planning permission should be amended.

In not accepting the recommendation of the Inspector to direct the removal of the condition, the Board was not satisfied, based on the documentation submitted with the application and appeal, that the full amount of the development contributions due under condition number 8 of planning permission register reference number SD17A/0359 had been paid in respect of the total of 99 houses authorised by that permission, and, therefore, decided to amend the appealed condition so as to prevent double payment of contributions, while ensuring that development contributions for all 99 houses are levied, having regard to the fact that planning permission SD17A/0359 had expired on the 6<sup>th</sup> day of September, 2019, under condition number 2 of that permission.

## **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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**Philip Jones**

**Member of An Bord Pleanála**

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

**Dated this            day of            2019.**