

**Board Order**  
**ABP-306256-19**

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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Wexford County Council**

**Planning Register Reference Number: W2013111**

**WHEREAS** by Order dated the 27<sup>th</sup> day of January, 2015 An Bord Pleanála, under appeal reference number PL 26. 243875, granted subject to conditions a permission to Adamar Properties Limited care of Cunnane Stratton Reynolds of 3 Molesworth Place, Dublin for development comprising: (a) permission for the proposed installation of new road, footpaths and services and associated site works, together with the proposed alterations to existing road to improve traffic safety and (b) outline permission for the proposed erection of 10 number fully serviced dwellinghouses together with all associated site works and ancillary services on site, all at Mulgannon, (E.D Wexford Rural), Wexford, County Wexford. The proposed development was revised by further public notices received by the planning authority on the 23<sup>rd</sup> day of July, 2014:

**AND WHEREAS** conditions numbers 7 and 8 of An Bord Pleanála decision PL 26.243875 (planning register reference number W2013111) required that prior to the commencement of development the developer shall pay to the planning authority a special contribution under Section 48(2)(c) of the Planning and Development Act, 2000, as amended, in respect of the provision of footpath and lighting to link with existing facilities on Mulgannon Road (condition number 7) and 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, (condition number 8 refers). In the event of a default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme:

**AND WHEREAS** the developer and the planning authority failed to agree on the amount of development contributions to be paid in accordance with conditions numbers 7 and 8:

**AND WHEREAS** the matter was referred by the developer to An Bord Pleanála on the 23<sup>rd</sup> day of December, 2019 for determination:

**AND WHEREAS** An Bord Pleanála is satisfied that the matter at issue is the amount of development contributions to be paid:

**AND WHEREAS** An Bord Pleanála had particular regard to the provisions of Section 34(5) of the Planning and Development Act 2000, as amended, the Development Contributions Guidelines for Planning Authorities (2013), the Wexford County Council Development Contribution Scheme 2013 in place from the 14<sup>th</sup> day of October, 2013 and the documentation submitted by the referrer:

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 34(5) of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, hereby determines that condition number 7 on foot of this referral results in a nil charge and condition number 8 on foot of this referral results in a nil charge.

## **Reasons and Considerations**

Having regard to:

- (a) section 34(5) of the Planning and Development Act 2000, as amended,
- (b) the provisions of the Wexford Town and Environs Development Plan 2009 – 2015 (as extended) and the Wexford County Council Development Contribution Scheme 2018,
- (c) section 48 of the Planning and Development Act 2000, as amended,
- (d) the submissions on file, and the planning history of the site, and
- (e) the fact that outline permission under W2013111 (An Bord Pleanála appeal reference number PL 26.243875) for the proposed erection of 10 number fully serviced dwellinghouses, together with associated site works and ancillary services on site, has withered, and that an application for the extension of duration of the permission W2013111 (An Bord Pleanála appeal reference number PL 26.243875) is currently before Wexford County Council, insofar as it relates only to permission for the proposed installation of new road, footpaths and services, together with the proposed alterations to existing road to improve traffic safety.

The Board considered that, in the absence of any form of consent providing for outline permission for housing at this site on the date of this Order, that the appropriate quantum of monies due under conditions numbers 7 and 8, appropriate to the development which may remain permissible under W2013111 is, therefore, nil.

In deciding not to accept the recommendation of the Inspector to attach a charge of €41,803.61 (forty-one thousand, eight hundred and three euro and sixty-one cent) with respect to condition number 7, the Board determined that the fact that outline permission for 10 dwellinghouses under planning register reference number W2013111 (An Bord Pleanála appeal reference number PL 26.243875) was confirmed as having withered, meant that the particular development which would benefit from a special contribution under section 48(2)(c) was now different from that at the time the original permission was made.

## **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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**Chris McGarry**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2020.**