



Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Planning Register Reference Number: F19A/0490

Appeal by Axis Construction Limited care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin in relation to the application by Fingal County Council of the terms of the Development Contribution Scheme made for the area in respect of conditions numbers 18 and 33 of its decision made on the 1st day of October, 2020.

Proposed Development: The proposed development consists of: (i) 26 number two-storey dwellings comprising of two number three bedroom houses, 22 number four bedroom houses and two number five bedroom houses with private rear gardens and two number on-curtilage car parking spaces, (ii) a two-storey building facing Church Road consisting of two number one bedroom apartments at 1st floor level over a 129.7 square metre ground floor retail unit, (iii) a part three/part four-storey nursing home building set around an internal courtyard comprising 90 number nursing bedrooms with staff facilities including: showers, changing rooms and a breakroom, and seven number assisted living apartments (six number one bedroom with study and one number two bedroom at lower ground floor level facing the Broadmeadow River. The nursing home and assisted living apartments are served by 35 number car parking spaces and seven number bicycle spaces

with a servicing yard for deliveries at lower ground floor level, (iv) a single storey building consisting of four number one bedroom assisted living apartments. The development includes a new vehicular and pedestrian entrance from Church Road, public open space, riverside walkway, landscaping, boundary treatments, street lighting, Electricity Supply Board substation, foul drainage pump station, SuDS drainage, piped and other services, and all ancillary site development works necessary to facilitate the development (including the alteration of site levels). All on lands located between Church Road and the Broadmeadow River opposite Rowlestown Drive, Rowlestown, County Dublin. Further public notices were received by the planning authority on the 20th day of May, 2020 and on the 7th day of September, 2020.

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 not been properly applied in respect of conditions numbers 18 and 33 and directs the said Council to REMOVE condition number 18 and the reason therefor and to AMEND condition number 33 so that it shall be as follows for the reason stated.

33. The developer shall pay to the planning authority a financial contribution of €877,993.84 (eight hundred and seventy-seven thousand, nine hundred and ninety-three euro and eighty-four 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

Having regard to:

- (a) section 48(2)(c) of the Planning and Development Act, 2000, as amended,
- (b) the Development Contributions Guidelines for Planning Authorities (2013),
- (c) the Fingal County Council Development Contribution Scheme 2021-2025, and
- (d) the nature and extent of the proposed development.

In respect of condition number 18, the Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered that the condition failed to meet the requirements of section 48(2)(c) of the Act and should, therefore, be omitted.

In respect of condition number 33, the Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered that the terms of the Development Contribution Scheme for the area had not been properly applied and the condition should, therefore, be amended.

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 2021.