

Planning and Development Acts 2000 to 2020

Planning Authority: Fingal County Council

Planning Register Reference Number: F20A/0712

Appeal by Mark Lennon and Nadia Pitt of Glenaveena, Stella Maris Convent, Carrickbrack Road, Howth, 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 condition number 10 of its decision made on the 1st day of June, 2021.

Proposed Development: Permission and retention permission is sought for (a) proposed removal of the existing pre-fab building, which was formerly in residential institutional use, to the south of the main house and external painting of the house, and change of use of existing chapel to residential (ancillary to main house); and (b) retention of demolition of out-buildings and links, external staircase and part of porch to the north side of the existing house and (c) retention and completion of external alterations to the existing house as follows:- (i) formation of new, and enlargement of existing openings in the south and west side of the house, and the closing up of other openings, (ii) installation of new windows and external doors throughout the house, (iii) reconstruction (5 sq.m) of sun porch to east of house. Proposed external landscaping includes altered hard surfacing (including gravel finish to flat

surfaces in lieu of tarmac) and planted east boundary between house and site to east, and all associated landscaping and site development works; all at site at "Glenaveena" (formerly Stella Maris Convent), Carrickbrack Road, Howth, County Dublin.

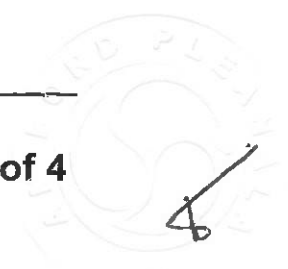
Decision

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 not been properly applied in respect of condition number 10 and directs the said Council to REMOVE condition number 10 and the reason therefor.

Reasons and Considerations

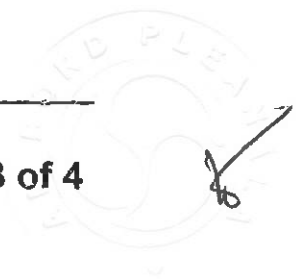
Having regard to:

- (a) the Fingal County Council, Development Contribution Scheme 2021 – 2025 made under Section 48 of the Planning & Development Act, 2000, as amended, and as adopted on the 14th day of December, 2020,
- (b) the nature, scale and extent of the development,
- (c) the planning history of the site, including the evolution of buildings and their uses since the construction of 'Glenaveena' in the 1860s,
- (d) an inspection of the site, including the interior of the subject chapel building,



- (e) the fact that section 3(b) of the Fingal County Council Development Contribution Scheme 2021-2025 specifically sets out that existing developments may not be included in any such determination where a benefit has accrued in relation to public infrastructure and facilities,
- (f) the fact that the terms of the Fingal County Council Development Contribution Scheme specifically sets out under section 11(i)(v) that changes of use are exempt unless the revised usage of the building or service constitutes intensification,
- (g) the fact that no intensification of the chapel building or the residential use of the site would arise by way of the proposed development for which permission is sought under this application,
- (h) the fact that Section 11 of the Fingal County Council Development Contribution Scheme specifically sets out for the exemption allowed for under section 11(i)(a) to (v) to be applied where permission subsequently is granted to convert an exempt structure to habitable accommodation, and
- (i) the fact that the grant of permission includes a condition limiting the use of the chapel building to use solely incidental to the enjoyment of the dwellinghouse, and sets out that it cannot be sold, rented, or leased independently of the house or used for the carrying on of any trade or business (condition number 2 of planning register reference number F20A/0712),

it is considered the terms of the applicable Development Contribution Scheme with respect to a contribution in respect of change of use of the chapel building was not correctly interpreted and applied by the planning Authority in respect of a contribution towards public infrastructure and facilities benefiting development in the area of the planning authority.



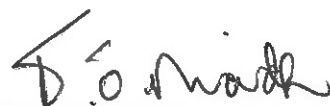
The Board concluded that a financial contribution was not applicable in this instance based on the exemption provided for under section 11(i)(v) of the scheme which indicates that changes of use are exempt unless the revised usage of the building or service constitutes intensification.

The Board considered no intensification of use has occurred in this instance having regard to the overall nature, scale, extent, and scope of development for which permission is sought under planning register reference number F20A/0712.

The Board, therefore, directs the planning authority to omit condition number 10 of planning register reference number F20A/0712 on the basis of the Development Contribution Scheme being incorrectly applied.

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 Ó Niadh

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



Dated this 29th day of October, 2021.