

An
Bord
Pleanála

Board Order
ABP-312462-22

Planning and Development Acts 2000 to 2021

Planning Authority: Fingal County Council

Planning Register Reference Number: F21B/0356

Appeal by Orly McCarthy and Michael McCarthy of 23 The Avenue, Robswall, Malahide, County 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 6 of its decision made on the 9th day of December, 2021.

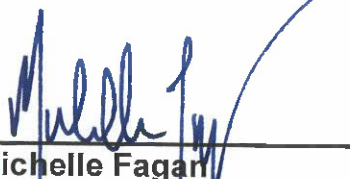
Proposed Development: Retention of single storey garden room in rear garden for use ancillary to the house at 23 The Avenue, Robswall, Malahide, County Dublin.

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 6 and directs the said Council to REMOVE condition number 6 and the reason therefor.

Reasons and Considerations

A development contribution is not payable, as per the Fingal County Council Development Contribution Scheme 2021-2025, on foot of a grant of planning permission for the retention of a non-habitable garden room development where section 11 subsection (a) of the aforementioned scheme specifically provides for an exemption of contributions for extensions that do not exceed 40 square metres. Furthermore, the retention rate is only applicable to the area of a development in excess of the exemption in this case any area above 40 square metres. As the development comprises 19.83 square metres, it is within the remit of the exemption and does not exceed the area to which the exemption applies for the purposes of (a) applying a contribution, and (b) applying a retention rate. The planning authority has therefore erred in its application of the scheme and condition number 6 should accordingly be removed.


Michelle Fagan

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

Dated this 24th day of May 2022.

