



Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: FW20A/0078

An Bord Pleanála Reference Number: ABP-307965-20

WHEREAS by Order dated the 2nd day of February, 2021 An Bord Pleanála, under appeal reference number ABP-307965-20, granted subject to conditions a permission to Bartra Property (Clonross) Limited care of Jim Brogan Planning and Development Consultant of Unit B1 Laurel Lodge Business Centre, Laurel Lodge, Castleknock, Dublin for development comprising the construction of 29 number dwelling units (14 number two-bedroom four-person apartments; two number two-bedroom three-person apartments; 13 number one-bedroom two-person apartments) to be accommodated in five number buildings comprising: a detached building (Block 01) fronting onto the Navan Road, two/three-storey to the front/two and a half storey (mansard)/three-storey to the rear. It will comprise 12 number two-bedroom four person duplex apartments with terraces at ground floor level on the northern (rear) elevation and roof top terraces on the southern (front) elevation at second floor level; and three number one-bedroom two-person apartments with a terrace at ground floor level and balconies at first and second floor levels on the southern (front) elevation; and four number buildings to the rear of the site comprising, from west to east:- a detached three-storey building (Block 02) with external stair access on the south-

eastern corner to first floor level. It will comprise three number one-bedroom two-person apartments at ground, first and second floor levels, respectively, with a terrace at ground floor level and balconies at first and second floor levels on the southern elevation; a detached two-storey building (Block 03) with a pitched roof and an external stair access to first floor level on the western elevation. It will comprise one number two-bedroom four-person duplex apartment with terrace at ground floor level on the eastern elevation, and two number one-bedroom two-person apartments at ground and first floor levels respectively with a terrace at ground floor level and a balcony at first floor level, on the eastern elevation; a detached building (Block 04) with a pitched roof, two and a half storey (dormer) (to the south) and two-storey (to the north) with external stair access to first floor level on the western and eastern elevations. It will comprise two number one-bedroom two-person apartments at ground floor level with terraces on the southern elevation and two number two-bedroom three-person duplex apartments at first/mansard floor levels with balconies at first floor level on the southern elevation; and a detached two-storey building (Block 05) with a pitched roof and external stair access to first floor level on the northern and southern elevations. It will comprise two number one-bedroom two-person apartments at ground floor level with terraces on the western and eastern elevations respectively; one number two-bedroom four-person apartment and one number one-bedroom two-person apartment at first floor level with balconies on the eastern and western elevations respectively; and a bicycle lock-up parking facility on the ground floor; areas of communal open space; an accessible car parking space for the mobility impaired; a secure bin storage facility; a shared vehicular/pedestrian access at the western end and a separate pedestrian access at the eastern end of the site's frontage on the Navan Road; and all site development works required to service the development, all at Clonross, Navan Road, Blanchardstown, Dublin:

AND WHEREAS condition number 9 attached to the said permission required the developer to 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 contribution was to be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and be subject to any applicable indexation provisions of the Scheme at the time of payment, and the condition required that details of the application of the terms of the Scheme were to be agreed between the developer and the planning authority or, in default of agreement, the matter was to be determined by An Bord Pleanála:

AND WHEREAS the developer and the planning authority failed to agree on the application of the terms of the Scheme in compliance with the terms of the said condition and the matter was referred by the developer to An Bord Pleanála on the 6th day of April, 2023 for determination:

AND WHEREAS the Board had particular regard to the provisions of Section 34(5) of the Planning and Development Act 2000, as amended; the Fingal County Development Plan 2017-2023; the Fingal County Development Plan 2023-2029; the Fingal Development Contribution Scheme, 2021-2025 and the documentation submitted by the referrer and the planning authority:

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 that the units in question are social housing units which are provided by an Approved Housing Body and it is not confirmed by the Housing Department of Fingal County Council that the development contributions are not due. The housing units therefore are not exempt from the requirement to

pay development contributions, for the purposes of the applicable Development Contribution Scheme (Sub-Section 11(i)(h) of the Fingal Development Contribution Scheme, 2021-2025) made under section 48 of the Planning and Development Act, 2000, as amended.

Reasons and Considerations

Having regard to Section 34(5) of the Planning and Development Act 2000, as amended, the provisions of the Fingal Development Contribution Scheme, 2021-2025, the submissions on file, and the planning history of the site, the Board considered that the residential units are deemed to be social housing units which are being provided by an Approved Housing Body but for which it is not confirmed by the Housing Department of Fingal County Council that the development contributions are not due, for the purposes of the respective Development Contributions Scheme described above, and that development contributions under condition number 9 be determined on this basis.

The amount of the contribution above is therefore €206,928 (two hundred and six thousand, nine hundred and twenty eight euro) as provided for in the Fingal County Council Development Contribution Scheme 2021- 2025 (under Section 48, Planning and Development Act, as amended) and subject to any exemption provided in accordance with an agreement made under Part V of the Planning and Development Act, as amended.

In disagreeing with the recommendation of the Inspector, the Board noted its role is to determine the proper application of the terms of the Scheme. The term referred to the Board in this regard is Sub-Section 11(i)(h) of the Fingal Development Contribution Scheme, 2021-2025 which states inter alia that social housing units shall be exempt where they are provided by an Approved Housing Body and it is confirmed by the Housing Department of Fingal County Council that the development contributions are not due. The Board had regard to the fact that the Housing Department of Fingal County Council did not confirm that the development contributions are not due. The Board therefore concluded that this term of the Scheme is not met in order to receive an exemption.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

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

Dated this *9th* day of *July*, 2024.