



An  
Bord  
Pleanála

**Board Order  
06F.RP.2141  
(appeal reference number  
PL 06F.242233).**

**Planning and Development Acts 2000 to 2018**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F13A/0146**

**WHEREAS** by order dated the 22<sup>nd</sup> day of November, 2013, An Bord Pleanála, under appeal reference number PL 06F.242233, granted subject to conditions a permission to Brian Wallace and Kevin Thompson care of Stephen Little and Associates of 6 Upper Mount Street, Dublin for development comprising the construction of four number 1.5 storey, split level, five bedroom detached houses (circa 262 square metres gross floor area each) and one number single storey, split level, four bedroom detached house (circa 234 square metres gross floor area); and all associated site development works, including access from Carrickbrack Road via one number existing site entrance upgraded to serve house plots 1, 2 and 3, and via one number new site entrance to serve house plots 4 and 5; site excavation, landscaping and boundary treatments, lighting and service connections all on a site measuring circa 0.98 hectares, bounded to the north by a graveyard associated with Saint Fintan's Church, to the west by South Hill housing estate, to the east by Carrickbrack Road and to the south by a detached dwelling at Carrickbrack Road, Sutton, Dublin:

**AND WHEREAS** condition number 12 attached to the said permission required the developer to lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development and the condition required that the form and amount of the security were to be agreed between the developer and the planning authority or, in default of agreement, the matters were to be determined by An Bord Pleanála:

**AND WHEREAS** condition number 13 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, and the condition required that the contribution prior to 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 and 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** condition number 14 attached to the said permission required the developer to pay to the planning authority a financial contribution in respect of the shortfall in the provision of public open space 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, and the condition required that the contribution prior to 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 and 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 above details in compliance with the terms of the said condition and the matters were referred by the developer to An Bord Pleanála on the 15<sup>th</sup> day of December, 2016 for determination:

**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 under **condition number 12**, the appropriate type and amount of security would be a bond of an insurance company for €40,000 (forty thousand euro) or a cash deposit of €25,000 (twenty five thousand euro) and that the amount payable under **condition number 13** is €120,414 (one hundred and twenty thousand, four hundred and fourteen euro) and under **condition number 14** is €25,675 (twenty five thousand, six hundred and seventy five euro).

## Reasons and Considerations

Having regard to:

- (a) the nature and scale of the development as described in permission granted under appeal reference number PL 06F.242233 and the submissions and documentation on file,
- (b) the specific wording of condition number 12 of the permission granted by the Board under PL 06F.242233 which required the payment of security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development and the Managers Order Number PBN/31/01 dated 24<sup>th</sup> day of July 2001 and amended rates under the Chief Executives Order Number PL/GEN/05/14 dated 22<sup>nd</sup> day of June 2014 which set the applicable rates for security,
- (c) the specific wording of condition number 13 (public infrastructure and facilities) and condition number 14 (shortfall in the provision of public open space) of the permission granted by the Board under PL 06F.242233 which required the payment of financial contributions under the terms of the Development Contribution Scheme prior to the commencement of development or in such phased payments as the planning authority may facilitate, and in default of agreement that the matter should be referred to the Board, and
- (d) section 48 of the Planning and Development Act 2000, as amended, and the terms of the applicable Fingal County Council Development Contribution Scheme 2013-2015 at the date of the grant of permission,

