



An  
Bord  
Pleanála

## Inspector's Report PL09.247646

### Development

One no.2 storey dormer duplex apartment block containing 8 no. apartments, consisting of six 2 bedroom and two 1 bedroom apartments and all associated works in lieu of the apartment block previously granted under Planning reference nos 08/2174 and 14/709.

### Location

Hayfield, Greenfield, Maynooth, County Kildare.

### Planning Authority

Kildare County Council.

### Planning Authority Reg. Ref.

16/248.

### Applicant

Westin Homes Ltd., c/o Clarke and Company.

### Type of Application

Permission.

### Planning Authority Decision

Grant with conditions.

### Type of Appeal

First Party v Development  
Contribution only

### Appellant(s)

Clarke and Company.

**Observer(s)**

None.

**Date of Site Inspection**

No inspection carried out.

**Inspector**

Derek Daly.

## **1.0 Site Location and Description**

1.1. The site is located to the south of Maynooth town centre. The site forms part of an established residential area located off the R406 Maynooth Straffan regional route. The immediate area consists mainly of residential dwellings. The site itself is a corner site roughly rectangular in configuration and has a stated area of 0.1236 hectares.

## **2.0 Proposed Development**

2.1. The application is for a 2 storey dormer duplex apartment block containing 8 no. apartments, consisting of 6 no two bedroom and 2 no one bedroom apartments and all associated works in lieu of the apartment block previously granted under planning reference nos 08/2174 and 14/709.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The decision of the planning authority was to grant planning permission subject to 27 conditions.

Of relevance to this appeal is condition no 27 as follows;

The applicant/developer to pay to Kildare County Council the sum of €32,100 being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 5<sup>th</sup> November 2015 in accordance with Section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in accordance with Section 13 of the Development Contribution Scheme adopted by Kildare County Council on 5<sup>th</sup> November 2015.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planning report dated the 25<sup>th</sup> of April 2016 refers to

- The planning history.
- Policy context.
- An assessment of the proposal in relation to design and layout
- Further information was recommended

The planning report dated the 29th of August requested clarification of further information.

The planning report dated the 3<sup>rd</sup> of November 2016 recommended permission subject to conditions. Condition no.26 refers to contributions and the gross floor space of proposed works-732.4m<sup>2</sup>.

## 4.0 Planning History

### 4.1. P.A Ref No. 08/2174

Permission granted for a housing development of 67 dwellings.

### 4.2. P.A Ref No. 14/709

Permission granted for the extension of the duration of the permission granted under 08/2174.

## 5.0 Policy Context

### 5.1. Development Plan

The operative plan is the Kildare County Development Plan 2011-2017.

There is a local area plan for Maynooth, the Maynooth Local Area Plan and the LAP identifies the site as zoned with objective T “to provide for general development”.

### 5.2. Kildare County Council Development Contribution Scheme 2015-2022.

5.2.1. I refer to the following provisions relevant to this appeal:

5.2.2. Section 8 refers level of general contributions for Kildare County Council effective from adoption of this Scheme.

Subsection (i) residential indicates development contributions for residential development will be applied at the following rates per sq. metre;

- Floor Area 230sqm and under - €50
- 231sqm - 370sqm - €56
- 371sqm and over - €65

5.2.3. Section 12 refers to Exemptions and Reduced Contributions. Subsection (d) indicates “*contributions will not be applied to permissions for the construction of replacement buildings on the same footprint or the same area as the original building following extensive accidental damage in the instance of subsidence, fire or flood. Contributions if applied to previous permissions must be paid in full. A report from a qualified professional must also be submitted confirming extensive accidental damage is due to subsidence, fire or flood. In the instance that the floor area of such a replacement building exceeds the floor area of the original building, development contributions, calculated in accordance with Paragraph 8 (Residential Extension), shall be payable. No exemption will be applied i.e. contributions will be applied to the first 40 sqm*”.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appeal relates to condition no. 27 of the Planning Authority’s decision to grant planning permission the payment of a sum of €32,100 applied to the development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 5<sup>th</sup> November 2015.

The grounds of appeal can be summarised as;

- The planning application is for an additional three units over what was previously granted increasing the number of units from 5 to 8.
- Levies were paid in respect of the 5 units.
- The application of the levies should have taken into account levies paid in previous permissions.

## 6.2. Planning Authority Response

The planning authority in a response dated the 4<sup>th</sup> of January 2017 refers to;

- The contribution of €32,100 was applied in accordance with the 2015-2022 Development Contribution Scheme.
- The calculation of the contribution is based on the floor area of permitted development and was levied in accordance with section 12(d) of the Scheme.
- As the Scheme stipulates that replacement buildings must have contributions, if applied previously, paid in full consideration was given to the previous history on the site and levies applied to same.
- As levies remain outstanding under previous permissions for the apartment block subject to the grant of permission under PI Ref.16/248, the planning authority confirms that the levies applied to 16/248, have been applied in accordance with the DCS 2015-2022.

## 6.3. Further Responses

The applicant in a response to the submission of the planning authority dated the 20<sup>th</sup> of January 2017 indicates;

- The letter from Kildare County Council is satisfactory.
- Levies applied under previous planning permissions 08/2174 and 14/709 that relates to the apartment block does not now apply.
- The Board is asked to consider that the only levies attributed to the apartment block development is that due under condition no.27 of the planning permission ref no.16/248.

## 7.0 Assessment

- 7.1. As this is an appeal against a development contribution only, the Board will not determine the application as if it was made to it in the first instance and will only determine the matters under appeal.

- 7.2. An appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of a Development Contribution Scheme has not been properly applied in respect of any condition laid down by the planning authority. In this appeal the issue to be considered is whether the terms of the Scheme have been properly applied.
- 7.3. The current proposal is for 8 apartments with a stated cumulative floor area of 732.4m<sup>2</sup>. The previous permitted apartment development had a stated area of 665m<sup>2</sup>. In calculating the levy of €32,100, it was based on a levy of €50 per m<sup>2</sup> giving an overall cumulative floor area of 641m<sup>2</sup> based on the provisions stated in section 8(1) of the DCS.
- 7.4. The scheme in section 12 permits exemptions and reductions. The planning authority has indicated that the calculation of the contribution is based on the floor area of permitted development and was levied in accordance with section 12(d) of the Scheme. It is also indicated that as the Scheme stipulates that replacement buildings must have contributions, if applied previously, paid in full consideration was given to the previous history on the site and levies applied to same. Levies remain outstanding under previous permissions for the apartment block and the planning authority confirms that the levies applied to 16/248, have therefore been applied in accordance with the DCS 2015-2022.
- 7.5. The appellant initially referred to levies been paid in respective of previous permissions on the site and that payment of a levy in full on 8 apartments should not apply. No information in relation to payment of levies has been submitted in the grounds of appeal or in the response submission. The appellant in the response submission appears to accept that levies are outstanding and to request that the wording of condition no.27 be amended that levies are attributed to the apartment block development is that due under condition no.27 of PA Ref.16/248.
- 7.6. The application is for an apartment block in lieu of previously granted planning permissions. The levies in respect of previous permissions has not been paid in full and the appellant accepts this. I am satisfied that the DCS has been correctly applied. I am satisfied that the wording of condition no.27 is reasonable and does not require amendment.

## 8.0 Recommendation

8.1. I recommend that condition no.27 should remain as stated by the planning authority.

## 9.0 Reasons and Considerations

Having regard to

- (a) The submissions made in this appeal
- (b) The Kildare County Council Development Contribution Scheme 2015-2022 and in particular sections 8 and 12 of the scheme.

The Board considers that condition no.27 has been correctly applied and determined in accordance with Kildare County Council Development Contribution Scheme 2015-2022.

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Derek Daly  
Planning Inspector

28<sup>th</sup> February 2017