



An
Bord
Pleanála

Inspector's Report ABP309443-21

Development	Three storey apartment building comprising 6 apartments, end of terrace two storey two bed house, landscaping, play area, footpath, bin stores, 8 car spaces, 18 bike spaces and site works.
Location	Colberts Fort, Belgard Road, Tallaght, Dublin 24.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD20A/0050
Applicant(s)	Templemount Developments Limited.
Type of Application	Permission.
Planning Authority Decision	Grant with Conditions
Type of Appeal	First V Contribution Condition.
Appellant(s)	Templemount Developments Limited.
Observer(s)	None
Date of Site Inspection	None
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.1493ha and is located at Colberts Fort, Belgard Road Tallaght, County Dublin.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a three storey apartment building containing 6 apartments, an end of terrace two-storey two-bed house, landscaping, play area, footpath, bin stores, 8 car spaces, 18 bike spaces and site works at Colberts Fort, Belgard Road, Tallaght, Dublin 24.

3.0 Planning Authority Decision

3.1. Decision

Grant permission with conditions.

Condition 18:

The developer shall pay to the planning authority a financial contribution of €111,975 in lieu of the absence of the minimum required public open space for the proposed development in accordance with section 2.7.2 of the Tallaght Town Centre Local Area Plan 2020-2026 and with the terms of the Development Contribution Scheme 2021-2025 under section 48 of the Planning and Development Act 2000 (as amended). The contribution shall be paid prior to the commencement of development or in such phased payments as the Planning Authority may facilitate. Contributions shall be payable at the rate pertaining to the year in which implementation of the planning permission is commenced as outlined in the South Dublin County Council Development Contribution Scheme 2021 – 2025.

Reason: In accordance with the Tallaght Town Centre Local Area Plan 2020-2026 and the proper planning and sustainable development of the area. It is considered reasonable that the payment of a contribution be required in lieu of public open space to contribute towards the provision of public open spaces, and/or to South Dublin County Council's improvements to an existing park and/or enhancement of amenities in the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The initial planner's report sought additional information on matters other than the subject of this appeal.

3.2.2. Other Technical Reports

Irish Water reported no objection subject to conditions.

Environment Section initially sought further information in relation to the location of the residential uses relative to adjoining industrial uses and noise assessment.

Roads Section reported no objection subject to conditions.

Water Services Section reported no objection subject to conditions.

4.0 **Planning History**

ABP304329-19 Permission refused on appeal for inadequate provision for residential amenity of future occupants, inadequate communal open space and not meeting the standards of the Apartment Guidelines.

5.0 **Policy and Context**

5.1. Section 48 of the Planning and Development Act 2000, as amended, requires planning authorities to adopt development contribution schemes(s) under which financial contributions may be required to be paid by developers to planning authorities as contributions towards the costs of the provision of public services and infrastructure in their administrative area which facilitate proposed development.

5.2. **Development Plans**

5.3. The South Dublin County Council County Development Plan 2016 to 2022 is the relevant county development plan for the area.

5.4. The Tallaght Town Centre LAP 2020 is the relevant LAP for the area and refers to public open space as section 2.7.2.

5.5. The South Dublin County Council Development Contribution Scheme 2021-2025 is the relevant development contribution scheme for the area.

5.6. **Natural Heritage Designations**

Not relevant.

5.7. **EIA Screening**

Not relevant.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- Large elements of the site will include a public road, footpaths and cycle paths thereby delivering on the Tallaght LAP.
- The planning authority previously considered the communal open space was acceptable.
- The provisions of public open space on site at 1,493m² exceeds 10% which meets the standards of the County Development Plan and the LAP.
- Condition 18 is unfair.

6.2. **Planning Authority Response**

- The issues raised in the appeal have been covered in the planner's report and the planning authority have no further comment.

6.3. **Observations**

- None

6.4. Further Responses

None

7.0 Assessment

- 7.1. Section 48(1) allows for the application of conditions requiring the making of financial contributions to a planning authority in respect of public expenditure incurred in the provision of infrastructure and facilities within the administrative area of the planning authority. The basis for the contribution sought shall be set out in a development contribution scheme made by the relevant planning authority.
- 7.2. The Development Contributions Guidelines for Planning Authorities (DoECLG 2013) make the point that development contributions are the only statutory mechanism for capturing planning gain and that there are only three types of development contributions; general development contribution schemes, supplementary development contribution schemes and special development contributions.
- 7.3. The South Dublin Development Contribution Scheme 2021 -2025 provides (at point 10) that a special contribution in lieu of public open space within the Tallaght LAP lands shall be payable to the planning authority where the public open space requirement of 10% of a site cannot be met within the site. In that case a payment of €7,500,000 per ha shall be payable on a pro rata basis. The LAP (section 2.7.2) states that public open space is open to all members of the public and should have active and passive recreational value.
- 7.4. The applicant makes the point that 10% of the site is given over to public open space. I have had regard to the site layout (see drawing PL005) submitted as additional information) and while it is the case that communal open space is provided this does not meet the standards of public open space set out in the LAP.
- 7.5. The Guidelines make the point that the development contribution schemes should avoid double accounting. The development contribution scheme includes an element of contribution towards the provision of parks and open space facilities and amenities as set out in Class 4 of Table A in Appendix 1 of the adopted scheme and this payment is reflected in condition 20 attached to the grant of permission.

Condition 18 appears to be an additional payment towards open space provision not required outside the LAP area.

7.6. Notwithstanding any element of double accounting Section 48(10)(b) states that an appeal may be brought to the Board where an applicant for permission considers that the terms of the scheme have not been properly applied. Having regard to the provision of the LAP in relation to what constitutes public open space and paragraph 10 of the development contribution scheme I conclude that the scheme has been properly applied and that the Board should direct that condition 18 should be attached.

7.7. The shortfall is 10% of the site or 0.01493m x €7,500,000 for €111,975.

7.8. **AA screening.**

7.9. Not relevant.

8.0 Recommendation

8.1. In recommend that the Board direct that condition 18 ne attached.

9.0 Reasons and Considerations

Having regard to the provisions (including section 2.7.2) of the Tallaght Town Centre Local Area Plan 2020 in relation to the provision of public open space and the provisions (including paragraph 10) of the South Dublin County Council Development Contribution Scheme 2021 – 2015 in relation to the shortfall in the provision of public open space in developments within the area covered by the LAP it is considered that there is a shortfall in public open space within the proposed development site and that the payment of a contribution as provided for in condition 18 is in accordance with the relevant Development Contribution Scheme.

Hugh Mannion
Senior Planning Inspector

21st June 2021.