



An
Bord
Pleanála

Inspector's Report ABP-309809-21

Question	Point of detail in dispute regarding condition number 23 of previously permitted Strategic Housing Development ABP-304249-19.
Location	Eblana Avenue, Dun Laoghaire, Co. Dublin.
Planning Authority	Dun Laoghaire Rathdown County Council
Referrer	Bartra Property (Eblana) Limited
Type of Referral	First Party regarding Condition No. 23 (Point of Detail)
Observer(s)	None
Date of Site Inspection	N/A
Inspector	Sarah Moran

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1.0 Introduction

- 1.1. ABP-309809-21 is a referral which was received by the Board from Bartra Property (Eblana) Limited. It concerns a point of detail in dispute between the referrer/ developer and the planning authority regarding condition no. 23 attached to a grant of permission under Board order ref. no: ABP-304249-19.
- 1.2. Condition no. 23 of ABP-304249-19 requires the payment of 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 referrer is seeking a determination from the Board on the monetary amount required, to comply with the condition as no agreement was reached with the planning authority Dun Laoghaire Rathdown County Council (DLRCC).

2.0 Site Location and Description

- 2.1. The site, which has a stated area of c. 0.2768 hectares, is located on Eblana Avenue in the centre of Dun Laoghaire, Co. Dublin, close to the junction with Marine Road and opposite the junction with Sussex Street, c. 130 m south of Dun Laoghaire Dart station. The site is to the south of the County Hall and the Harbour Square mixed use development, both of these are at a lower level than the site and front onto Crofton Road. The northern site boundary is also adjacent to the Harbour Master's Lodge, a protected structure. There are residential properties on Eblana Avenue to the west of the site and the rear of properties on Marine Road to the east. The Eblana Club at No. 3 Eblana Avenue is to the immediate west of the site, including a large rear garden area, and is currently in leisure use. St. Michaels Hospital is nearby with an access from the western end of Eblana Avenue. Several of the buildings in the vicinity are protected structures, i.e. Nos. 5-7 Eblana Avenue to the west of the development site and Nos. 2-9 Marine Road to the immediate east of the site. The site originally contained the Old School House, dating to the 19th century, associated structures and a surface car park. The structures on the site have been demolished since the permission of ABP-304249-19 and the site is now vacant.

3.0 Background to Referral

- 3.1. The development permitted under ABP-304249-19 included the provision of a pedestrian link between Eblana Avenue and Crofton Street, as provided for under the Dun Laoghaire Urban Framework Plan. Condition no. 6 of ABP-304249-19 states:

Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority a written statement outlining that members of the public have full right and liberty for the free passage and use of the pedestrian walkway which connects Eblana Avenue and Harbour Square. This public right of way and walkway shall be completed in full and available for public use, prior to the occupation of the development. The existing drainage infrastructure (i.e. raised manhole) at the interface of the proposed pedestrian walkway and Harbour Square, shall be amended so that it does not impede this link.

Reason: In the interests of proper planning and sustainable development of the area.

- 3.2. Condition no. 23, which is the subject of this referral, requires the payment of 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.

4.0 The Referral

4.1. Referrer's Case

- 4.1.1. The referrer is seeking a determination on the amount payable under Condition No. 23, as no agreement has been reached with DLRCC in respect of the section 48 development contribution payable.
- 4.1.2. The Point of Detail relates to a dispute on the quantum of contribution payable in relation to the cost of providing a pedestrian link and public right of way through the site to be open 24 hours a day, as required under condition no. 6 of ABP-304249-19. The referrer notes that the first phase of the pedestrian link between Eblana Avenue and Crofton Road has already been delivered as part of the Harbour Square

development to the immediate south of the site. A pedestrian link through the development site, as described in the statutory notices of ABP-304249-19, will provide the remainder of this connection and will deliver related objectives of the Dun Laoghaire Urban Framework Plan. The referrer states that the proposed link has been designed to meet the requirement for a public right of way 24 hour link, with the same specification as the remainder of the public link, matching the materials of the earlier phase within Harbour Square, to provide a seamless transition. Details and images of the link are provided, such that it consists of a walkway with natural stone paving, bespoke hardwood seating and landscaping with 4m high light pillars to match the existing fittings along the Harbour Square walkway and public realm.

4.1.3. The referrer states that the provision of the public right of way through the development site requires a higher and more costly specification than a connection to serve the permitted development only. This results in a significant additional cost to the referrer beyond that of a private space within the development. The referrer's costs are detailed in a Magnitude of Costs prepared by quantity surveyors, copy of same is submitted as Appendix D and E of the referral. As detailed in the costings, there is a difference of €183,706.00 between the costs of providing a fully accessible public right of way and the cost of landscaping the area as if it was not required as a public right of way. The referrer is looking to offset this amount against the total section 48 sum of €468,355.85 as currently agreed with DLRCC.

4.1.4. The referrer considers it reasonable that the extra cost in providing a public right of way for the wider Dun Laoghaire area should be offset against the section 48 development contributions that have been applied to the development. The following reasons are cited in support of this contention:

- The proposed right of way is not an established right of way on the deeds of the site but was an aspiration set out in the Dun Laoghaire Urban Framework Plan. As such, it is not a significant piece of the public realm that is required for the development, but is of significant benefit to the wider area, linking into the existing link which was constructed by DLRCC from the development site through Crofton Square onto Crofton Road.
- The pedestrian right of way in question is not necessary to facilitate the development. DLRCC will not take the right of way in charge as the basement of

the development extends under the link. The referrer therefore will bear the ongoing costs for all future maintenance and insurance of the space even though it will be a public right of way.

- Appendix II of the DLRCC Section 48 Development Contribution Scheme lists projects that the section 48 contributions will be used for, including 'Public Realm' under the category of Community and Parks and 'Walking and Permeability' under Roads. The referrer is therefore being charged twice for this piece of infrastructure as they are paying for the full cost of this piece of the public realm as well as paying for further public realm works under the contribution scheme. This double charging would appear contrary to the principles of fairness and natural justice.
- Refers to section 34(4)(m) of the 2000 Act (as amended), as set out below, which states that conditions requiring the provision of facilities in excess of the immediate needs of the local authority can be attached 'subject to the local authority paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities'. The referrer notes that the public right of way is not required for the development and thus is in excess of the immediate needs of the development. It is also stated that the referrer has entered into an agreement with DLRCC with respect to the provision of these public facilities, copy of related correspondence is submitted. The referrer therefore submits that DLRCC should pay for the costs of the public right of way in accordance with section 34(4)(m) and it is only fair and reasonable that as the referrer is completing these works, the cost of the works should be offset against the full amount of the section 48 contribution.
- The recent planning application Reg. Ref. D20A/0919, relating to the Eblana Lodge club on lands to the immediate west of the development site, sought permission for works including a two storey extension, modifications to the existing club building and the construction of twelve apartments comprising nine one bedroom apartments on three floors and three duplex two bedroom apartments, to the back of the Club. The development depended on both infrastructure along the subject right of way (pipework/service connections along

the right of way down to Harbour Square) and the daylight provided by the right of way for proposed units fronting onto it. D20A/0919 was ultimately refused for reasons relating to (1) adverse impacts on visual and residential amenities and on the setting of a protected structure, and (2) contravention of development plan Policy UD1: Urban Design Principles due to, *inter alia*, poor interface with the subject pedestrian right of way. However, the referrer submits that the development proposed under D20A/0919 relied on the subject right of way to provide light to overlooking windows, thus enhancing the development potential of that site, as acknowledged in the stated refusal reason of DLRCC.

- 4.1.5. It is submitted that the referrer and the planning authority are in agreement that the overall contribution applicable to the permitted development is €468,355.85, based on the DLRCC Development Contribution Scheme and on the floor area of the development, along with index linking. An invoice for same from DLRCC, dated 2nd January 2020, is enclosed. Page 3 of the invoice states:

It is noted that this payment plan may be amended in the event of the agreed offset regarding a the [sic] provision of a public Right of Way through the development being applied to the account.

Prior to the issuing of the invoice, the referrer formally requested an offset of the contributions in a letter to DLRCC dated 22nd November 2019, noting that the construction costs associated with the delivery of the public right of way are €202,132, not including any other land costs or any other development costs. The referrer did not receive any response to this correspondence. The referrer issued a second letter to DLRCC on 27th January 2021, again seeking an offset against the section 48 development contribution. They received an email from DLRCC, dated 4th February 2021 (copy of same submitted) stating the following:

Further to our telephone conversation in December I have not found any reason or examples to justify offset of costs regarding the ABP 304249029 Condition No. 6 Public Right of Way.

The Public Right of Way was condition and was an objective (CDP) from the outset. The Public Right of Way is required is to facilitate the permitted development and is not to be taken in charge. Even if it was to be taken in charge a reason to accept offset of construction costs for this commercial development seems unusual.

4.2. Planning Authority Response

- 4.2.1. A response was sought by the Board from the planning authority on 30th March 2021, no response has been received.

5.0 Planning History

- 5.1. Under ABP-304249-19, the Board granted permission for the demolition all existing buildings on site and the construction of a part-four to part-six storey over part-basement/ part-lower ground floor Build-to-Rent shared living residential development comprising 208 number single occupancy bed spaces (including four number accessible rooms) with circulation core (6,501 square metres); and a kiosk fronting Eblana Avenue for the sale of food and beverages to the public (16.7 square metres) with associated external seating area. The development also included the provision of communal kitchen/dining/living and library spaces at each floor level to serve the residents of each floor; communal resident amenity space for all residents at lower ground and ground floor levels including the provision of a lounge/games room, multi-purpose/dining space, gymnasium/fitness space and television/cinema room; a roof garden at fifth floor level (348.8 square metres) facing north, east and west; landscaped amenity areas at lower ground/ ground floor level (206.7 square metres); resident facilities including launderette, linen room and concierge/administration management suite; bicycle parking spaces; car parking incorporating four number visitor car parking spaces, one number disabled car parking space, one number car share parking space and a short-term set down area; bin storage; boundary treatments; green roofs; hard and soft landscaping; provision of a pedestrian link between Eblana Avenue and Croften Square; storage areas; plant; photovoltaic panels at roof level; switch room; substation; lighting; and all other associated site works and service connections above and below ground.

6.0 Legislative Context

6.1. Planning and Development Act 2000 (as amended)

- 6.1.1. Section 34(4)(m) of the Planning and Development Act, 2000, as amended, states:

Conditions under subsection (1) may, without prejudice to the generality of that subsection, include all or any of the following—

(m) conditions for requiring the provision of roads, including traffic calming measures, open spaces, car parks, sewers, watermains or drains, facilities for the collection or storage of recyclable materials and other public facilities in excess of the immediate needs of the proposed development, subject to the local authority paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities;

6.1.2. Section 34(5) of the Act states:

The conditions under subsection (1) may provide that points of detail relating to a grant of permission may be agreed between the planning authority and the person carrying out the development; if the planning authority and that person cannot agree on the matter the matter may be referred to the Board for determination.

6.1.3. Section 48 of the Act allows for the payment of a contribution or contributions as follows:

48.—(1) A planning authority may, when granting a permission under section 34, include conditions for requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority and that is provided, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities).

(2) (a) Subject to paragraph (c), the basis for the determination of a contribution under subsection (1) shall be set out in a development contribution scheme made under this section, and a planning authority may make one or more schemes in respect of different parts of its functional area.

(b) A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.

(c) A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local

authority in respect of public infrastructure and facilities which benefit the proposed development.

6.2. Planning and Development (Housing) and Residential Tenancies Act 2016

- 6.2.1. Section 9(7) of the Planning and Development (Housing) and Residential Tenancies Act 2016, allows the Board to attach conditions that concern a contribution or contributions as follows:

Without prejudice to the generality of the Board's powers to attach conditions under subsection (4), the Board may attach either or both of the following to a permission for the development concerned:

(a) a condition with regard to any of the matters specified in section 34(4) of the Act of 2000;

(b) a condition requiring the payment of a contribution or contributions of the same kind as the planning authority or authorities in whose area or areas the proposed strategic housing development would be situated could, but for this Part, require to be paid under section 48 or 49 (or both) of the Act of 2000 were that authority to grant the permission (and the scheme or schemes referred to in the said section 48 or 49, as appropriate, made by that authority shall apply to the determination of such contribution or contributions).

7.0 Policy Context

7.1. Dun Laoghaire Rathdown County Development Plan 2016-2022

- 7.1.1. The previous County Development Plan was in force when the subject permission was granted on 26th July 2020. Under that plan the site had the zoning objective 'MTC' which seeks to 'protect, provide for and/or improve Major Town Centre facilities'.

7.1.2. Dun Laoghaire Urban Framework Plan

Appendix 12 of the 2016-2022 development plan comprised the Dun Laoghaire Urban Framework Plan. The Framework Plan included the following objectives, which are relevant to the subject development:

- Improve physical linkages and accessibility between the Town Centre and the Waterfront.
- Encourage and provide for increased pedestrian and cycle permeability between George's Street and Crofton Road.
- Encourage development of buildings of the highest architectural quality and appropriate to context.
- Provide a network of attractive urban spaces and public realm.
- Improve and enhance existing visual amenity and streetscape within the Framework Plan area.
- Seek to ensure a balanced development of the Town Centre through the development management process, and to require appropriate uses at ground floor level and at corner sites which contribute to the vibrancy of the town centre.

Section 2.3 of the Framework Plan stated an objective that the open space at the junction with Eblana Avenue, adjoining the former Senior College and St. Michael's Church, be upgraded to sustain interest for pedestrians as they move along Marine Road. Section 2.5 relates to the connection between Crofton Road and Sussex Street and states:

The first phase of a pedestrian link between Sussex Street and Crofton Road has been delivered on foot of the redevelopment of the Harbour Yard – now Harbour Square. The completion of this route shall form part of any redevelopment proposals for the Old School House site. When complete, this route will allow direct access from the Town Centre along Sussex Street of the DART and bus interchange. At Crofton Road, a new pedestrian signal crossing has already been installed to facilitate improved and safer pedestrian movements to and from the DART station. This route will ultimately link to future east-west routes through the St. Michael's Hospital and Convent lands, and a mix of uses with active street frontages will be encouraged along it.

7.2. Dun Laoghaire Rathdown Development Contribution Scheme 2016-2020

- 7.2.1. The 2016-2020 Development Contribution Scheme applies, subject to indexation.

7.3. Development Contributions Guidelines for Planning Authorities (2013)

- 7.3.1. The principal aim of these guidelines is to provide non-statutory guidance on the drawing up of development contributions to reflect the radical economic changes that have impacted across all sectors since guidance last issued in 2007. It is stated that the primary objective of the development contribution mechanism is to partly fund the provision of essential public infrastructure, without which development could not proceed.

8.0 Assessment

8.1. Scope of Referral / Role of Board

- 8.1.1. This referral on a 'point of detail' is made under Section 34(5) of the Planning and Development Act, 2000, as amended. Section 34(5) states: 'The conditions under subsection (1) may provide that points of detail relating to any grant of permission may be agreed between the planning authority and the person to whom the permission is granted and that in default of agreement the matter is to be referred to the Board for determination'. The point of detail request in this case relates to condition no. 23 of ABP-304249-19. This permission was granted by the Board on 26th July 2019 following a strategic housing development application submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

8.2. Consideration of Condition No. 23

- 8.2.1. I note that the planning authority have not submitted a response to the current point of detail referral. This is not a significant issue, as I note from the correspondence submitted by the referrer, that ongoing contact has failed to yield an agreement. I am satisfied that there is enough information on the file for the Board to make a reasoned decision. In particular, I note the CE Report of ABP-304249-19, which states that the provision of a pedestrian link between Eblana Avenue and Harbour Square meets a specific objective of the Dun Laoghaire Urban Framework Plan and is considered to be a significant planning gain. The CE report submitted on ABP-304249-19, including the report of DLRCC Parks and Landscape Services section,

recommended specifications for the pedestrian link, as well as a condition requiring unrestricted public access to the walkway. These requirements were incorporated into the conditions of ABP-304249-19, including condition no. 6, as set out above. I also note the correspondence between the referrer and DLRCC, as summarised above, a copy of which is on file.

8.2.2. The Invoice issued by DLRCC to the referrer on 22nd January 2020, which states a total amount of €468,355.85, derives this sum from specific figures for Surface Water, Transportation and Community & Parks, as provided for under the section 48 DLRCC Development Contribution Scheme 2016-2020 (as amended). Appendix II of the Scheme sets out a list of projects that will be funded by the Scheme and provided by DLRCC, which includes the following:

- Public realm under Class 1: Community and Parks
- Walking and permeability under Class 2: Roads

The referrer contends that the provision of a pedestrian right of way at the development site would come within the scope of the works provided for under the Development Contribution Scheme and that imposing a condition requiring a section 48 development contribution while the applicant will bear the cost of the provision of the pedestrian right of way, which comes within the scope of the projects referred to in the section 48 scheme, would amount to double charging.

8.2.3. The pedestrian right of way in question was included as part of the development proposed under ABP-304249-19, on foot of pre-application discussions. It is referred to in the first item of the pre-application opinion notification issued pursuant to article 285(5)(b), which stated:

Additional details of the layout and design of the proposed pedestrian walkway/urban realm linking the town centre with the waterfront and the desire to ensure that this is an attractive, accessible area that is conducive to social interaction/engagement and offers high amenity value for all users. Details relating to 24 hour accessibility, or otherwise, of this walkway should be included;

The provision of the walkway is considered in section 12.4.3 of the Inspector's Report of ABP-304249-19, which states:

The walkway is to have 24 hour access. This is of critical importance and a condition requiring same should be imposed if permission is granted. I note that the applicant submits that the new pedestrian connection represents a significant planning gain and requests a partial waiver of section 48 development contribution on this basis. The planning authority has not commented on this matter but has recommended a condition requiring the standard section 48 development contribution. I consider that same should be imposed if permission is granted. I consider that the proposed walkway is acceptable overall subject to these requirements.

Having regard to the above, I consider that the referrer/applicant included the pedestrian right of way as part of the overall development, for the purposes of securing planning permission, as it represented a planning gain to the area. There is no specific requirement from my reading of the conditions for the applicant to incur the expense of delivery of the pedestrian right of way, as it forms part of the overall permission. It does not appear that the referrer/applicant sought any agreement with DLRCC to offset costs in advance of including it within their red line boundary and acquiring permission based upon its delivery. Given that the provision of the walkway is integral to the development, I do not consider that the imposition of a section 48 development contribution condition, linked to a section 48 Development Contribution Scheme that sets out projects in the wider county relating to the public realm and to pedestrian permeability, amounts to 'double charging' in this instance.

- 8.2.4. I note the reference to section 34(4)(m), which provides that planning authorities or the Board may apply conditions for requiring the provision of roads, including traffic calming measures, open spaces, car parks, sewers, watermains or drains, facilities for the collection or storage of recyclable materials and other public facilities in excess of the immediate needs of the proposed development, subject to the local authority paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities. I accept that the right of way in question is in excess of the immediate needs of the development, however no such condition has been imposed in this case given that condition no. 6 of ABP-304249-19 does not refer to any such costs or agreement with the planning authority. I therefore consider that section 34(4)(m) does not apply in this instance.

- 8.2.5. I note the reference to the planning application on the adjoining site to the west, ref. D20A/0919, and to the statement that the right of way will enhance the development potential of the adjoining site. While I accept that this may be the case, along with the general planning gain associated with the right of way, which will deliver relevant objectives of the Dun Laoghaire Urban Framework, this consideration of condition no. 23 of ABP-304249-19 is limited to matters relating to the application of the relevant section 48 Development Contribution Scheme, and these matters are considered extraneous to same.
- 8.2.6. I note section 10 of the Development Contribution Scheme, which sets out exemptions and reductions. I do not consider that any of the provisions set out in section 10 apply to the referrer or to the subject development.
- 8.2.7. Having regard to all of the above, I recommend that the Board does not amend the contribution applied in this instance.

9.0 Recommendation

- 9.1. Having read the submissions on file, had due regard to the condition attached to ABP-304249-19 (namely Condition number 23, the Dun Laoghaire Rathdown Development Contribution Scheme and all other matters arising. I recommend that the said condition number 23 Not be amended.

10.0 Draft Board Order

- 10.1. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS by order dated the 26th day of July 2019 An Bord Pleanála, under An Bord Pleanála reference number ABP-304349-19, granted subject to conditions a permission to Bartra Property (Eblana) Limited care of Thornton O'Connor Town Planning, Number 1 Kilmacud Road Upper, Dundrum, Dublin 14 for development comprising demolition of existing buildings on site, construction of 208 no. Build to Rent Shared Living Residential Development, cafe/kiosk and associated site works, Old School House, Eblana Avenue, Dun Laoghaire, Co. Dublin:

AND WHEREAS Condition No 23 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 shall be paid 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. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme,

AND WHEREAS the developer and the planning authority failed to agree on the amount of development contribution to be paid in accordance with Condition Number 23,

AND WHEREAS the matter was referred by the developer to An Bord Pleanála on the 10th day of March 2021 for determination,

AND WHEREAS the Board is satisfied that the matter at issue is the amount of financial contribution to be paid,

AND WHEREAS the Board had particular regard to the provisions of Section 34(5) of the Planning and Development Act 2000, as amended, the Development Contributions Guidelines for Planning Authorities (2013), the Dun Laoghaire Rathdown County Development Contribution Scheme 2016-2020 (as amended) and the Dun Laoghaire Rathdown County Development Plan 2016-2022, including the Dun Laoghaire Urban Framework Plan.

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 above, hereby determines that Condition Number 23 was correctly applied,

REASONS AND CONSIDERATIONS

Having regard to:

- a) The Dun Laoghaire Rathdown Development Contribution Scheme 2016-2020 (under Section 48, Planning and Development Act, 2000, as amended), and Dun Laoghaire Rathdown County Development Plan 2016-2022;
- b) Conditions attached to An Bord Pleanála Reference Number ABP-304249-19, under which planning permission was granted for demolition of existing buildings on site, construction of 208 no. Build to Rent Shared Living Residential Development, cafe/kiosk and associated site works;
- c) Section 34 (4) of the Planning and Development Act 2000 – 2020 which states: Conditions under subsection (1) may, without prejudice to the generality of that subsection, include all or any of the following:
 - (m) conditions for requiring the provision of roads, including traffic calming measures, open spaces, car parks, sewers, watermains or drains, facilities for the collection or storage of recyclable materials and other public facilities in excess of the immediate needs of the proposed development, subject to the local authority paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities;
- d) Section 34 (5) of the Planning and Development Act 2000 – 2020 which states: The conditions under subsection (1) may provide that points of detail relating to a grant of permission may be agreed between the planning authority and the person to whom the permission is granted and that in default of agreement the matter is to be referred to the Board for determination.

The Board considered that the point of detail in dispute regarding Condition Number 23 of previously permitted ABP-304249-19 in terms of Section 34(5) and 34(4)(m) and have decided that Condition Number 23 was correctly applied by the planning authority in respect of a contribution towards public infrastructure and facilities benefiting development in the area of the planning authority.

The Board concluded that the application of a financial contribution is applicable in this instance, and can see no evidence of overcharging by reason of class of contribution sought.

MATTERS CONSIDERED

In making its decision, The Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Sarah Moran
Senior Planning Inspector

7th July 2022