



An  
Coimisiún  
Pleanála

## Inspector's Report ACP-322884-25

<b>Development</b>	67 social housing apartments with ancillary and associated site development works.
<b>Location</b>	A 0.306 ha site located to the west of St. Aidan's CBS Secondary School, Collins Avenue Extension, Dublin 9
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	WEB1287/25
<b>Applicant(s)</b>	Red Rock Collins Avenue Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission with Conditions
<b>Type of Appeal</b>	First Party v Condition no. 2
<b>Appellant(s)</b>	Red Rock Collins Avenue Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	None
<b>Inspector</b>	Elaine Power

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	4
3.3. Prescribed Bodies .....	5
3.4. Third Party Observations .....	6
4.0 Relevant Planning History .....	6
5.0 Policy Context .....	6
6.0 The Appeal .....	8
6.1. Grounds of Appeal .....	8
6.2. Planning Authority Response .....	9
6.3. Observations .....	9
6.4. Further Responses .....	9
7.0 Assessment .....	10
8.0 Recommendation .....	11
9.0 Reasons and Considerations .....	11
Appendix 1 – Form 1: EIA Pre-Screening	

## **1.0 Site Location and Description**

- 1.1. The appeal site is located on the southern side of Collins Avenue Extension, Whitehall, Dublin 9 on lands within St. Aidan's CBS Secondary School. It is irregular in shape with a stated area of 0.306 ha, which includes a section of the existing footpath and cycle track on Collins Avenue Extension. There is a vacant pre-fabricated building (410sqm), previously used as accommodation for the Christian Brothers, and a shed structure (c. 69sqm) currently within the site.
- 1.2. The site is bound to the north by Collins Avenue Extension, to the south and east by St. Aidan's CBS Secondary School building and St. Kevins's Football Club all-weather pitch and to the west by Dublin City University (DCU). The wider surrounding area is residential in character.
- 1.3. There is an existing vehicular access to the site from Collins Avenue Extension to the north and via the school grounds to the east.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the demolition of the existing vacant building and a shed structure and the construction of a 5 to 6 storey building, comprising social housing for older persons with 67 no. 1-bed apartments and internal amenity space including a multifunctional room, a shared dining / function room, a kitchenette and tea station, a healthcare/wellness consultation room, an exercise room, a meeting room and a reception area. The development includes 7 no. car parking spaces, bicycle parking spaces, boundary treatments and landscaping and all associated development works necessary to facilitate the proposal. The proposed development will be provided in association with FOLD Housing, an Approved Housing Body (AHB).
- 2.2. It is also proposed to construct a replacement single storey shed structure in the southern section of the site for use by the adjoining school.
- 2.3. The works also include the provision of a new entrance onto Collins Avenue Extension and associated upgrade works to the existing footpath and cycle lane.
- 2.4. The number of apartments were reduced to 60 by way of further information.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was granted subject to 23 no. conditions. Of relevance to this appeal is condition no. 2.

2. A development contribution in the sum of €462,951.47 shall be paid to the Planning Authority as a contribution towards expenditure that was and / or is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting development in the administrative area of the Authority in accordance with Dublin City Council's Section 48 Development Contribution Scheme. The contribution is payable on commencement of development an indexation increase is applied to the current Development Contribution Scheme or if a new Section 48 Development Contribution Scheme is made by the City Council the amount of the contribution payable will be adjusted accordingly.

Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development.

**Reason:** It is considered reasonable that the payment of a development contribution should be made in respect of the public infrastructure and facilities benefitting development in the administrative area of the Local Authority.

### 3.2. Planning Authority Reports

#### 3.2.1. *Planning Reports*

The initial planners report dated 3<sup>rd</sup> April 2025 raised some concerns regarding the proposed development and recommended that further information be sought with regard to 5 no. items. These items are summarised below.

1. To reduce the prominence and visual dominance on the streetscape revised drawings should be submitted reducing the height by one floor.

2. Revised elevational drawings which indicate a greater level of detail and texture of brickwork. Details of brick colour should also be submitted.
3. Submit proposals for revised boundary treatments.
4. (a) Revised drawings indicating the location of the PV panels on the roof.  
(b) a Glint and Glare Assessment.
5. Address the concerns raised by the Drainage Section with regard to Green Blue Roofs.

The Planners report dated the 28<sup>th</sup> May 2025 considered that all items of further information had been adequately addressed and recommended that permission be granted subject to 23 no. conditions.

### **3.2.2. Other Technical Reports**

Transportation Planning Division: Report dated 26<sup>th</sup> March 2025 raised no objection subject to conditions.

Drainage Division: Report dated 18<sup>th</sup> March 2025 recommended that further information be sought with regard to a lack of information regarding the management of surface water within the site. This formed part of the planning authority's request for further information.

Drainage Planning, Policy and Development Control Section (DPPDC): Undated report raised no objection to the proposed development subject to conditions. The Planners report dated the 28<sup>th</sup> May 2025 notes that that this Drainage Division had no objection to the information submitted by further information. Therefore, it would appear that this report relates to the revised scheme submitted by way of further information.

### **3.3. Prescribed Bodies**

Uisce Éireann: Report dated 14<sup>th</sup> March 2025 notes that the applicant has engaged with Uisce Éireann via a Pre-Connection Enquiry and a Confirmation of Feasibility was issued to the applicant advising that a wastewater connection is feasible without infrastructure upgrade. A water connection is feasible without infrastructure upgrades by Uisce Éireann. However, the exact connection point will be determined at a

connection application stage. If a network extension is required, the Developer will fund the works. All fees will be calculated at a connection application stage.

The report recommends that standard conditions be attached to any grant of permission.

### 3.4. **Third Party Observations**

No third party submissions were received by the planning authority.

## 4.0 **Relevant Planning History**

ABP. 321083-24, Reg. Ref. 3635/24: Permission was granted in 2025 for the demolition of a temporary classroom block (730sqm) to the front of the school and the construction of an extension and external link (4,055sqm) to the school and all associated works at St. Aidan's CBS. While the appeal site was located within the red line boundary of this application the proposed works do not impact on the appeal site.

## 5.0 **Policy Context**

### 5.1. ***Dublin City Council Development Contribution Scheme 2023 - 2026***

Section 9 of the Scheme outlines the level of contributions to be paid, except where no contribution or a reduced contribution applies, in respect of the different classes of public infrastructure and facilities.

Section 10 of the Scheme sets out the circumstances where no contribution or a reduced contribution apply and includes the following:

- Social & Affordable (Purchase & Cost Rental) housing units provided,
  - in accordance with an agreement made under Part V of the Planning and Development Act (as amended).
  - by a voluntary or co-operative housing body, which is recognised as such by the Council.
  - under the Council's Scheme of Priority for Affordable Dwelling Purchase Arrangements under Section 11 of the Affordable Housing Act 2021.

- under Cost Rental Housing as determined under the Affordable Housing Act 2021 (Cost Rental Designation) Regulations 2021.

Note: The above exemption does not apply to housing provided under a leasing arrangement.

## 5.2. **Dublin City Development Plan 2022-2028**

The appeal site is zoned Z15: Community and Social Infrastructure, with the associated land use objective *to protect and provide for community uses and social infrastructure*.

Section 15.2.5 of the Development Plan notes that Dublin City Council may, when granting planning permission, attach conditions requiring the payment of contribution(s) in respect of public infrastructure and facilities, benefiting development in its area. Details of such contributions are set out in the Council's Development Contribution Scheme, and in Supplementary Development Contribution Schemes, where relevant.

## 5.3. **Ministerial Guidelines**

### Development Contributions Guidelines for Planning Authorities (2013)

- 5.3.1. The Guidelines provide guidance on the drawing up of development contributions. Under section 48 of the Act, planning authorities must draw up a development contribution scheme (a general development contribution scheme) in respect of certain public infrastructure and facilities provided by, or on behalf of, the local authority that generally benefit development in the area. All planning permissions granted are subject to the conditions of the development contribution scheme.

### Development Management Guidelines (2007)

- 5.3.2. Section 7.12 of the Guidelines refers to conditions requiring development contributions (Sections 48 and 49 of the Planning Act), advising that development contribution conditions may only be attached if they accord with the provisions of either section 48 or section 49 of the Planning Act and these are based on the application of the terms of one or more development contribution schemes which have been formulated and

adopted in accordance with those sections of the Act, or on the need for a special financial contribution.

- 5.3.3. Although there is no entitlement to appeal against the principle of attaching a condition formulated in accordance with a general or supplementary scheme, the contribution requirements of any such scheme may be the subject of a valid appeal where the applicant considers that the terms of the scheme in question were not properly applied. The planning decision should clearly set out how the relevant terms were interpreted and applied to the proposed development; as well as being best practice this will help to minimise unnecessary appeals.

#### **5.4. Natural Heritage Designations**

The proposed development is not located within or immediately adjacent to any European Site.

#### **5.5. EIA Screening**

The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of this report.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

The grounds of this first party appeal against a Financial Contribution Condition are summarised below.

- The applicant welcomes the grant of permission. However, it is considered that the inclusion of a financial contribution condition (Condition no. 2) was erroneous, unreasonable and not in accordance with the development contribution scheme.
- The application was submitted in association with Fold Housing which is an Approved Housing Body with Charitable Status. Fold Housing are specifically referenced within the public notices and a letter of support to the application was submitted by Fold Housing.



- As per the agreement between Fold Housing and the applicant the scheme will be constructed by the applicant and acquired and operated by Fold Housing.
- The scheme comprises a social housing scheme specifically designed for older persons.
- Section 10 of Dublin City Council's Development Contribution Scheme 2023-2026 confirms that Social and Affordable (Purchase and Cost Rental) housing units will not be required to pay development contributions under the scheme where they are provided by a voluntary housing body, which is recognised by the Council.
- The proposed scheme fully adheres to the criteria set out in Section 10 of the scheme. Therefore, no contribution should apply.
- Details of 2 no. similar applications (Reg. Ref. 4067/24 and Reg. Ref. 2892/16) within the Dublin City Council administrative area have been provided. A development contribution was not applied to these decisions.
- The removal of the condition would represent the correct and fair application of the Development Contribution Scheme.

## **6.2. Planning Authority Response**

In response to the first party appeal the planning authority state that on review of the application it is concluded that the development contribution was applied incorrectly. The proposal states specifically that the development is for social housing which is exempted under the current Section 48 Development Contribution Scheme 2023-2026.

## **6.3. Observations**

None

## **6.4. Further Responses**

The applicant's response to the planning authority's submission welcomes the confirmation that the contribution was applied in error.

## 7.0 Assessment

7.1. This first party appeal is solely against Condition no. 2 of Reg. Ref. WEB1287/25, which relates to a financial contribution. Therefore, this appeal is not considered 'de novo' and the only issue in this case relates to whether the Dublin City Council Development Contribution Scheme 2023 -2026 was properly applied.

7.2. Condition no. 2 states *A development contribution in the sum of €462,951.47 shall be paid to the Planning Authority as a contribution towards expenditure that was and / or is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting development in the administrative area of the Authority in accordance with Dublin City Council's Section 48 Development Contribution Scheme. The contribution is payable on commencement of development an indexation increase is applied to the current Development Contribution Scheme or if a new Section 48 Development Contribution Scheme is made by the City Council the amount of the contribution payable will be adjusted accordingly.*

*Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. Applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development.*

**Reason:** *It is considered reasonable that the payment of a development contribution should be made in respect of the public infrastructure and facilities benefitting development in the administrative area of the Local Authority.*

7.3. The first party appeal considers that Condition no. 2 is erroneous, unreasonable and not in accordance with the development contribution scheme.

7.4. Section 9 of the Dublin City Council Development Contribution Scheme 2023 - 2026 sets out the circumstances where no contribution or a reduced contribution applies. These circumstances include Social & Affordable (Purchase & Cost Rental) housing units provided *inter alia* by a voluntary or co-operative housing body, which is recognised as such by the Council.

7.5. The proposed development comprises a social housing scheme, specifically designed for older persons. It would be constructed by the applicant and acquired and operated by Fold Housing, which is an Approved Housing Body with Charitable Status. It is

noted that Fold Housing are specifically referenced within the public notices and a letter of support by Fold Housing was submitted with the application.

- 7.6. In response to the first party appeal the planning authority state that on review of the application it is concluded that the development contribution was applied incorrectly as the proposal states specifically that the development is for social housing which is exempted.
- 7.7. Having regard to the nature of the scheme, which comprises a social housing scheme for older people which would be acquired and operated by Fold Housing an Approved Housing Body, and the submission from the planning authority, which acknowledges that the development contribution scheme was incorrectly applied, it is my opinion that the proposed development satisfies the requirements of Section 10 of the Dublin City Council Development Contribution Scheme 2023 – 2026 and, therefore, no development contribution applies in this instance.

## **8.0 Recommendation**

I recommend that the planning authority be directed to REMOVE Condition no. 2.

## **9.0 Reasons and Considerations**

The Commission considers that the terms of the Dublin City Council Development Contribution Scheme 2023-2026 were incorrectly applied in this instance.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Elaine Power

Senior Planning Inspector

22<sup>nd</sup> September 2025

## Appendix 1 - EIA Pre-Screening

<b>Case Reference</b>	322884-25
<b>Proposed Development Summary</b>	Demolition of existing building and construction of 67 no. social housing apartments.
<b>Development Address</b>	Lands to the west of St. Aidan's CBS Secondary School, Collins Avenue Extension, Whitehall, Dublin 9.
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.  <input checked="" type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	

<p><b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b></p>	
<p><b>Yes</b> <input type="checkbox"/></p>	
<p><b>No</b> <input type="checkbox"/></p>	

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_