

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2010

Kildare County

Planning Register Reference Number: 10/123

An Bord Pleanála Reference Number: PL 09.237361

APPEAL by Sean Taaffe and Declan McKenna care of Brian Connolly Associates of The Studio, Wood's Way, Clane, County Kildare in relation to the application by Kildare County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 5 of its decision made on the 20th day of July, 2010.

PROPOSED DEVELOPMENT: Retention of the reinstatement of lands using inert construction and demolition waste in accordance with classes 2, 4 and 20 of the fourth schedule of the Waste Management Act and all ancillary site works at Russellstown, Kilmeague, County Kildare.

DECISION

The Board considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 5 and directs the said Council under section (10) (b) of section 48 of the Planning and Development Act, 2000 to REMOVE condition number 5 and the reason therefor.

REASONS AND CONSIDERATIONS

The Board considered, in the absence of any specific provision for a requirement to pay a financial contribution in respect of development comprising the raising and restoration of lands for agricultural purposes, that the planning authority, by attaching a condition with a requirement to pay a financial contribution, based on the reckonable floor area of structures, improperly applied the terms of the Kildare County Council Development Contribution Scheme 2004.

Furthermore, on the basis of the submissions made in connection with the planning application and the appeal, it was considered that condition number 5 would not be in accordance with the provisions of section 48(2) (c) of the Planning and Development Act, 2000 with reference to the payment of a “special contribution” and that the said condition had not been justified in this case.

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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2010.