



An
Bord
Pleanála

Board Direction
BD-004589-19
ABP-304996-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on November 22nd, 2019.

The Board decided, generally in accordance with the recommendation of the Inspector, that a development contribution is payable to Westmeath County Council under condition number 14 of planning permission register reference number 12/5109 (An Bord Pleanála reference number PL25M.241681), and that the amount of the development contribution to be paid is €75,067.21.

Board Order as follows:-

WHEREAS by order dated the 7th day of February 2013, a decision was made by Westmeath County Council under register reference number 12/5109 to grant permission subject to conditions to Andrews Construction Limited for the construction of 22 no. dwellings along with all other site development works at Glenmore Wood, Petitswood, Mullingar, Co. Westmeath, and an appeal against the imposition of development contributions under condition numbers 14 and 15 of this decision was made by the applicant to An Bord Pleanála.

AND WHEREAS An Bord Pleanála decided, by order dated 13th of June 2013, to attach these conditions, but to reduce the amount payable under the two conditions, under An Bord Pleanála reference number PL25M.241681

AND WHEREAS an extension of Duration of Permission was subsequently granted by the planning authority on the 24th day of April 2018 to extend the duration of the permission until the 12th of June 2023.

AND WHEREAS condition number 14 of this planning permission required the developer to pay to Westmeath County Council the sum of €100,182 being the appropriate contribution to be applied to this development in accordance with the Supplementary Development Contribution Scheme for Mullingar Main Drainage made under section 49 of the Planning and Development Act 2000, as amended, but that the condition further provided that the amount of the contribution would be subject to any applicable indexation provisions of the Scheme at the time of payment, and that the application of any indexation would be agreed between the planning authority and the developer or, in default of such agreement, the matter could be referred to the Board to determine.

AND WHEREAS the developer and the planning authority failed to agree as to whether this contribution should be paid, and as to the amount of the contribution to be paid pursuant to condition number 14, and the matter was referred by Andrews Construction Limited on the 24th day of July 2019, to An Bord Pleanála for determination:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Sections 34 (5) and 49 of the Planning and Development Act 2000, as amended,
- (b) The provisions of the Westmeath County Council Supplementary Development Contribution Scheme for Mullingar Main Drainage, adopted June 2013 and which was in force up to the 28th day of February 2015,

(c) Circular Letter PS21/2013 *Transfer of water service functions to Irish Water: planning issues*, issued by the Department of the Environment, Community and Local Government in December 2013,

(d) the planning history of the site, and the submissions on file.

AND WHEREAS An Bord Pleanála has concluded that development contributions on all planning permissions granted prior to the 1st day of January 2014 are, in accordance with the Circular Letter, payable to the relevant local authority and after this date are payable to Irish Water, and accordingly that payment of the development contribution required under condition number 14 of planning permission register reference number 12/5109 (An Bord Pleanála reference number PL25M.241681) is payable to Westmeath County Council rather than to Irish Water,

AND WHEREAS An Bord Pleanála has concluded that, as the date of the planning permission under register reference number 12/5109 (An Bord Pleanála reference number PL25M.241681) in 2013, is prior to the expiry of the Westmeath County Council Supplementary Development Contribution Scheme for Mullingar Main Drainage on the 28th day of February 2015, the development contribution under condition number 14 is payable, because the developer in this case has elected to implement the permission concerned and is therefore obliged to comply with all of the conditions of that permission, notwithstanding the fact that the commencement of the development to which this permission relates did not take place until 2018, and notwithstanding the fact that the Mullingar Main Drainage Scheme project had, in the meantime, been completed. In this regard, it is considered that the provision of the Mullingar Main Drainage Scheme by Westmeath County Council represents public infrastructure and facilities that benefits the development in question.

AND WHEREAS, having regard to the provisions within the condition whereas the amount of the contribution in question, which had been set at €100,182 at the date of the permission, was subject to indexation up to the date of payment, and that the planning authority had, in the meantime, implemented reductions in the amounts of financial contributions generally, it is therefore reasonable that the amount of contribution be reduced from €100,182 to €75,067.21.

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, hereby determines that the terms of the Westmeath County Council Supplementary Development Contribution Scheme for Mullingar Main Drainage has been properly applied and that a development contribution is payable to Westmeath County Council under condition number 14 of planning permission register reference number 12/5109 (An Bord Pleanála reference number PL25M.241681), and that the amount of the development contribution to be paid is €75,067.21 (seventy five thousand and sixty seven euro and twenty one cent)

Board Member

Date: 26th November 2019

Philip Jones