



An
Bord
Pleanála

Board Direction
BD-007898-21
ABP-307037-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/04/2021.

The Board determined this case as set out below, for the following reasons and considerations.

Reasons and Considerations

The Board granted permission for 182 houses, 2 apartments (a total of 184 units) and a creche on foot of an original application for 196 houses, 2 apartments and a creche at Tullow Road, Carlow, County Carlow on the 24th November 2008. The applicable development contribution scheme at that time was the Carlow County Council Development Contribution Scheme 2003 and the Board's order referred solely to a requirement to make a contribution under that scheme. Having regard to the matters referred to the Board for determination under section 34(5) the Board determines the questions as follows.

Is there a provision for the payment of a special contribution for water?

The Board did not identify any specific exceptional costs not covered by the Carlow County Council development contribution scheme over and above the standard contribution payable under the 2003 contribution scheme and therefore no special contribution towards water supply is payable by the developer to the County Council in accordance with the permission granted under PL01.228507.

Is there a provision for the payment of a special contribution for wastewater?

The Board did not identify any specific exceptional costs not covered by the Carlow County Council development contribution scheme over and above the standard contribution payable under the 2003 contribution scheme and therefore no special contribution towards wastewater infrastructure is payable by the developer to the County Council in accordance with the permission granted under PL01.228507.

Is there a provision for the payment of a special contribution in the form of a land use levy?

There is no provision in the Carlow County Council development contribution scheme 2003 for a land use levy and therefore no such levy is payable by the developer to the County Council in accordance with the permission PL01.228507.

Is there provision for the payment of a special contribution towards flood works?

The Board did not identify any specific exceptional costs for flood related works not covered by the Carlow County Council development contribution scheme over and above the standard contribution payable under the 2003 contribution scheme and therefore no special contribution towards flood related works is payable by the developer to the County Council in accordance with the permission granted under PL01.228507.

Is indexation outside the provisions of section 48 of the Planning and Development Act 2000 as amended?

When considering matters referred to it for determination under section 34(5) the Board is constrained to consider only the condition the subject of disagreement between the developer and the planning authority in relation to the proposed development. Where a planning authority makes a development contribution scheme under section 48 of the Act the Board has no function in assessing the reasonableness or otherwise of the provisions of that scheme. In the present case the adopted scheme states that it shall be indexed in accordance with the House Building Cost Index from a base year of 1st May 2008. The Board has no function in determining if this provision is in accordance with section 48 of the Act.

Board Member

Date: 15/04/2021

Paul Hyde