



An
Bord
Pleanála

Board Direction
BD-008697-21
ABP-309778-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/07/2021.

The Board treated this case under section 48 of the Planning and Development Act, 2000, as amended. The Board decided by a majority of 2:1 that the planning authority be directed, to amend condition 8 as follows:

Amend condition 8 as follows.

8. The developer shall 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.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Reasons and Considerations

Having regard to Sections 34(5) and 48 of the Planning and Development Act 2000, as amended) and to the provisions of the South Dublin County Council Development Contribution Scheme 2021-2025, and in particular to paragraph 11(xxvi) which provides that in relation to permissions for changes of use exemptions and reductions are provided for where development contributions were paid in respect of the former use and that agents/applicants should provide evidence of prior payment at application stage to expedite assessment and avail of this exemption, the Board considers on the basis of the submissions on the file and in particular the absence of evidence of prior payment that the terms of the scheme have been properly applied by South Dublin County Council and that a development contribution is due in relation to the total floor area comprising the change of use floor areas (1214 sq.m) in conjunction with the floor area of the proposed external storage container (63 sq.m).

In deciding not to accept the Inspector's recommendation to amend Condition No. 8 so as to provide for a financial contribution in relation to the floor area of the proposed external storage container only, the Board had regard to the specific provisions of Section 11(xxvi) of the South Dublin County Council Development Contribution Scheme 2021-2025 which required evidence of prior payment to avail of the exemptions and reductions related to change of use applications.

Board Member:

Maria FitzGerald
Maria FitzGerald

Date: 13/07/2021