



An
Bord
Pleanála

Board Direction
BD-014653-23
ABP-314834-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/11/2023. The Board treated this case under section 48 of the Planning and Development Act, 2000, as amended. The Board also decided that the planning authority be directed, as follows:

- Remove condition number 8
- Amend condition number 7 as follows:

7 Prior to the commencement of development, a payment of a financial contribution shall be paid to the Planning Authority in respect of public infrastructure and facilities benefiting development in the administrative area of Tipperary County Council that is provided, or intended to be provided, by or on behalf of the Authority in accordance with the terms of the Tipperary County Council Development Contributions Scheme 2020 made under Section 48 of the Planning and Development Act, 2000 (as amended) The amount of the development contribution under this condition is €73,221.68

Class	Rate 2020 per sq.m	Area sq.m		Total
8	€23	3566.16	Permission	€82,021.68
Less contribution associated with former agri sheds that are being re-developed - €8,800				€73,221.68

Reason: It is considered reasonable that a contribution be made in accordance with the Tipperary County Council Development Contribution Scheme 2020 made under Section 48 of the Planning and Development Act 2000 (as amended).

Reasons and Considerations

As per the Inspector's recommendation, as follows:

Section 48 (2)(c) provides that a planning authority may require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a development contribution scheme made under Section 48 (2)(a) are incurred by the local authority in respect of public infrastructure and facilities which benefit the proposed development.

The Development Management Guidelines for Planning Authorities (Department of the Environment, Heritage and Local Government, June 2007) requires a special development contribution condition to identify the nature/scope of works, the expenditure involved and the basis for the calculation. The planning authority has not provided the basis of the calculation of the sum required (€23,275) and accordingly has not met the criteria for properly levying a contribution as required by Section 48 of the Act. In respect of condition No. 8, the Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered that the condition failed to meet the requirements of Section 48(2)(c) of the Act and should thus be omitted.

Regarding the amendment to Condition 7, the Board noted the Inspector's calculation in section 7.2.6 of the Inspector's report, and considered it accords with the current Tipperary County Council Development Contribution Scheme (2020).

Note: The Board noted that condition 1(b) of planning permission granted for the proposed development (planning authority reference 2260121) specified that the mitigation measures as set out in the submitted Environmental Impact Assessment report and addendum to same received on 4th July 2022 as further information shall be implemented in full, and that the development shall not become operational until the road widening works at the junction of the L1409 and L14028-0 have been carried out and completed.

Board Member:


Mary Cregg

Date: 5/12/2023