An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Wexford County

Planning Register Reference Number: 20150549

An Bord Pleanála Reference Number: PL 26.245359

APPEAL by Aidan Egan care of Williams Planning and Environmental of St Roch, Windmill Hill, Rathcoole, County Dublin in relation to the application by Wexford County Council of the terms of the Development Contribution Scheme made for the area in respect of conditions numbers 3 and 4 of its decision made on the 29th day of July, 2015.

PROPOSED DEVELOPMENT: Development consisting of the continuation and retention of a quarry and quarry operations including crushing and screening and sale off site and also site rehabilitation, all at existing quarry at Drumgold, Enniscorthy, County Wexford.

DECISION

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, 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 conditions numbers 3 and 4 and directs the said Council to AMEND conditions numbers 3 and 4 so that they shall be as follows for the reasons stated.

CONDITIONS

3. In respect of the guarrying as undertaken which this application seeks to retain, the developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities, consisting of the provision or improvement of public roads, 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 on the 1st day of April, 2016 and shall be based on the level of guarrying extraction that took place over the previous year, at the rate of €0.30 per cubic metre. 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 the Board to determine the proper application of the terms of the Scheme.

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

4. In respect of the quarrying as undertaken which this application seeks to retain, the developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities, consisting of the provision or improvement of recreation and community 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 on the 1st day of April, 2016 and shall be based on the level of guarrying extraction that took place over the previous year, at the rate of €0.05 per cubic metre. 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 the Board to determine the proper application of the terms of the Scheme.

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

REASONS AND CONSIDERATIONS

Having regard to the terms of the Wexford County Council Development Contribution Scheme 2013, which provides in the case of extractive industry for an annual payment on the 1st of April of each year, based on the level of extractive activity of the previous year, the Board is satisfied that the Scheme does not provide for retrospective payments beyond one year. Accordingly, it is considered that the terms of the Scheme provide that the amount of contribution in respect of past extraction, for which retention has been sought, should relate only to the period of one year, and not to the level of activity for a multiple period of years during which the subject guarry had operated. The Board is, therefore, satisfied that the terms of the Scheme had not been properly applied by the planning authority in respect of conditions 3 and 4, and that these two conditions should be amended to provide for one single payment in each case, which will fall due on 1st April, 2016, based on the extraction undertaken over the previous 12 month period only. The Board noted that conditions 5 and 6 of the permission provide for payment in accordance with the terms of the scheme in respect of future extraction, while conditions 3 and 4 are in respect of past quarrying, for which retention has been sought.

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

2016.