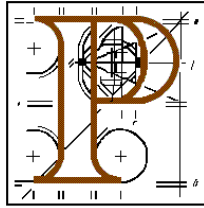


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kildare County

Planning Register Reference Number: 16/82

An Bord Pleanála Reference Number: PL 09.246660

APPEAL by Richard Milligan of Robertstown House, Robertstown, Naas, County Kildare in relation to the application by Kildare County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 16 of its decision made on the 25th day of February, 2016.

PROPOSED DEVELOPMENT: Change of use of an agricultural yard to a commercial yard (area of 490 square metres) and single storey log cabin office (floor area of 17.49 square metres) with a new recessed site entrance and relocation of an existing North Kildare Tourist Route road sign and all associated siteworks. The purpose of the commercial yard and office is for the storage and sale of vans which have been converted into purpose-built horse boxes, all at The Bull Yard, Robertstown House, Robertstown, County Kildare.

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 condition number 16 and directs the said Council to AMEND the said condition number 16 so that it shall be as follows for the reason stated.

16. The developer shall pay to the planning authority a financial contribution of €1,495 (one thousand, four hundred and ninety five euro) 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. The application of any indexation required by this condition 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.

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

The Board considered that the proposed development involves a commercial activity, which would result in an intensification of demand on the local road network. It is therefore considered that the exemption from financial levies provided under section 12(g) of the Kildare County Council Development Contribution Scheme 2015–2022 Scheme does not apply in this instance. The Board considered that the scheme had been properly applied in respect of the cabin office resulting in a levy of €760.00 pursuant to section 8(iii) of the Scheme. The Board considered that the terms of the scheme had not been properly applied in respect of the commercial levy for ‘open’ development under Section 8(xiv) of the Scheme. In this regard to the Board considered that there was no explicit provision under the terms of the Scheme to stipulate that a levy based on a minimum charge equivalent to one hectare should be levied or to stipulate that the levy pursuant Section 8(xiv) cannot be applied on a proportional basis. Accordingly, the Board considered that the applicant/appellant was entitled to have the contribution pursuant to Section 8(xiv) levied on a pro rata basis resulting in a levy of €735.00.

