



An
Bord
Pleanála

Board Order
PL 91.248423

Planning and Development Acts 2000 to 2017

Planning Authority: Limerick City and County Council

Planning Register Reference Number: 16/792

Appeal by Mary Immaculate College care of Scott Tallon Walker Architects of 19 Merrion Square, Dublin in relation to the application by Limerick City and County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 2 of its decision made on the 4th day of April, 2017.

Proposed Development: Four-storey library/learning resources centre and basement (with ancillary third level uses) providing a gross floor area of 4,955 square metres. The application includes the phased demolition of the existing library including the removal of 17 number trees, a proposed new paved plaza to the south-west of the new library building and associated landscape works including planting of new trees to replace trees removed, proposed public lighting and associated site works. These works are within the curtilage of a Protected Structure, all at Mary Immaculate College Campus, South Circular Road, Limerick.

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 2 and directs the said Council to AMEND condition number 2 so that it shall be as follows for the reason stated.

2. The developer shall pay to the planning authority a financial contribution of €198,200 (one hundred and ninety-eight thousand, two hundred 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

It is considered that the planning authority did not properly apply the terms of the Limerick City and County Council Development Contribution Scheme 2013-2017. The proposed building to comprise of a library and resources centre is not considered to constitute a commercial development as set out in Appendix A of the Scheme. The application of the contribution rate set out in class 11 'development not previously mentioned in the Scheme' in the Table titled Other Categories of Development in Appendix A is considered appropriate.

The Board decided by a 6:2 majority that the provisions set out in section 12 of the Scheme, dealing with replacement applications, do not apply, as no evidence of the payment of a contribution for the existing library has been provided.

The Board also noted that the Scheme's provision for a discount of five per cent, for a BER rating in excess of A, applies to residential and commercial buildings only.

Condition number 2 of the permission granted under planning register reference number 16/792 should be amended accordingly

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 2017