



An
Bord
Pleanála

Board Order
PL 11. 248643

Planning and Development Acts 2000 to 2017

Planning Authority: Laois County Council

Planning Register Reference Number: 17/150

Appeal by Shared Access Limited care of 4Site of Keating Road, Raheen Business Park, Limerick in relation to the application by Laois County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 7 of its decision made on the 8th day of May, 2017.

Proposed Development: Retention of existing 20-metre high dual use floodlight and telecommunications support pole, existing plinths, associated works, cabinets and security fencing, and permission for replacement antennae and dishes (for antennae and dishes granted as per previous planning register reference number P11/433) at The Heath Gaelic Athletic Association, The Heath, Portlaoise, County Laois. The development will form part of H3G Ireland's 3G broadband telecommunications network.

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 7 and directs the said Council to REMOVE condition number 7 and the reason therefor.

Reasons and Considerations

Having regard to the fact that in the case of the current appeal a financial contribution has already been paid and there is no proposal to materially alter the structure, the Board concluded that the terms of the scheme had not been properly applied by the planning authority in respect of condition number 7, as attached to the planning authority notification of decision to grant planning permission. In these circumstances, the Board considered that the attachment of the condition would amount to double charging for the same infrastructure and would be unwarranted.

Having considered the provisions of the Laois County Council Development Contribution Scheme 2013-2017, the Board considered that the 'Exclusion' in the case of applications for retention planning permission stated in the final bullet point of Section 6.5 of the scheme in respect of 'Exemptions and Reductions' that might otherwise apply under the terms of the scheme is a general exclusion that does not override nor negate the specific provision contained within Section 6.5 of the scheme as it applies to Telecommunications/Broadband infrastructure (masts and antennae). The specific provision in respect of Telecommunications/Broadband infrastructure (masts and antennae) provides that where a development contribution has already been paid, contributions will not be payable on any subsequent structure unless the existing structure is to be materially altered.

