



An
Bord
Pleanála

Board Order PL 04.249195

Planning and Development Acts 2000 to 2017

Planning Authority: Cork County Council

Planning Register Reference Number: 17/04176

Appeal by Jim Luby and Tom Rogers care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork in relation to the inclusion of special contribution condition number 38 by Cork County Council in its decision made on the 14th day of August, 2017.

Proposed Development: A seven year planning permission for the construction of 224 number dwellinghouses (54 number dwellings will have an option for house type 2B-1 or 2B-2, with the remaining dwellings comprising house types 1A-1 (two number), 1A-2 (one number), 1A-3 (two number), 1B-1 (39 number), 1B-2 (one number), 1C-1 (12 number), 1D-1 (eight number), 2A-1 (one number), 2A-2 (three number), 2A-3 (one number), 2A-4 (three number), 2B-1 (one number), 2B-3 (one number), 2C-1 (36 number), 2C-2 (12 number), 2D-1 (16 number), 2E-1 (18 number) and 2F-1 (13 number)), the construction of a crèche and all associated ancillary development works including access (including the completion of the inner relief road connecting onto the L2495), bus stops, parking, footpaths, lighting, foul and surface/storm water drainage, landscaping and amenity areas at Castle Heights, Kilmoney, Carrigaline, County Cork.

Decision

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended by section 30 of the Planning and Development Act, 2010, based on the reasons and considerations under, directs the said Council, under section 48 (13) of the 2000 Act, to AMEND condition number 38 so that it shall be as follows for the reason stated.

38. The developer shall pay the sum of €100,000 (one hundred thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of a footpath link. This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. The application of 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 considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Reasons and Considerations

It is considered that the planning authority has not demonstrated that there are specific exceptional costs in terms of the provision of recreation and amenity facilities arising from the proposed development that would benefit the proposed development in this instance. Therefore, it is considered that the special financial contribution as proposed by the planning authority should be amended to only include works to specific footpath infrastructure in order to comply with section 48(2)(c) of the Planning and Development Act, 2000, as amended.

In deciding not to accept the Inspector's recommendation to remove condition number 38, the Board largely concurred with the Inspector's view with regard to recreation and amenity facilities, however, the Board considered that the contribution towards the footpath link was appropriate given the nature, location and extent of the development.

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 2018