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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 17/07332**

**Appeal** by Cumnor Construction Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork in relation to the application by Cork County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 4 of its decision made on the 20<sup>th</sup> day of February, 2018.

**Proposed Development:** Modification to the existing convent building and all ancillary site development works. The proposed works to the former convent building consist of: (i) the development of 18 number apartments including modifications to façade of building and the addition of balconies at first, mezzanine, second and third floor levels, minor extensions to the convent building and the provision of one additional floor at first floor level on part of the building, (ii) minor modifications to the façade and the addition of balconies at first, mezzanine and second floor levels to seven number permitted apartments under planning register reference number 14/6792 and (iii) all associated internal modifications. The proposed development will result in alterations to the residential scheme originally permitted by planning register reference number 04/53026 (An Bord Pleanála appeal reference number PL 65.211819) and planning register reference number 14/6792

which will reduce the total number of apartments permitted from 38-31 units. All at The former Saint Joseph's Convent of Mercy, Town-Plots (Townland), The Ramparts, Kinsale, County Cork.

## **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 4 and directs the said Council to AMEND condition number 4 so that it shall be as follows for the reason stated.**

4. The developer shall pay to the planning authority a financial contribution of €12,469.73 (twelve thousand, four hundred and sixty-nine euro and seventy-three cent) 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 the 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 Kinsale Town Council Development Contribution Scheme made under section 48 of the Act be applied to the permission.

## **Reasons and Considerations**

Having regard to the provisions of the Electoral, Local Government and Planning and Development Act 2013, it is considered that the Kinsale Development Plan 2009 – 2015 remains operative in relation to the subject site, and therefore that the provisions of the Kinsale Town Council Development Contribution Scheme 2002 continues to apply to development within the area of Kinsale town. Accordingly, it is considered that it is this Development Contribution Scheme, rather than the Cork County Council Development Contribution Scheme 2004, that should have been applied in relation to the subject development. Having regard to the absence of any provision for exemption or reduction within the Kinsale Town Development Contribution Scheme that would apply to the subject development, it is considered that the full contribution, under the relevant rate of €64.41 per square metre, as set out in the Kinsale Town Council Development Contribution Scheme 2004, applies to the new floorspace that would be provided under the current proposal for the subject site. It is considered, therefore, that the terms of the correct Development Contribution Scheme had not been applied in this instance, and that the planning authority should be directed to amend condition 4 of this permission 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.

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**Philip Jones**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2018.**