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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 18/349**

**Appeal** by Newbridge Arcade Limited care of Clarke and Company of Highland View Terrace, Fairgreen, 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 9 of its decision made on the 28<sup>th</sup> day of May, 2018.

**Proposed Development:** (a) Subdivision of Unit 13 into three number shop units 10, 11 and 12. (b) Construction of mezzanine floors in Units 10 and 11. (c) Change of use from retail/warehouse to retail on Units 10 and 11, and a family restaurant/pizza restaurant with take-away/home delivery use on Unit 12. (d) Modifications to elevations and internal layout, and (e) All ancillary works on a site formally known as Unit 13, Newbridge Retail Park, Newbridge, Co. 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 9 and directs the said Council to AMEND condition number 9 so that it shall be as follows for the reason stated.**

9. The developer shall pay to the planning authority a financial contribution of €6,420.58 (six thousand, four hundred and twenty euro and fifty eight 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 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 Planning Authority had not properly applied the terms of the Kildare County Council Development Contribution Scheme 2015 – 2022 in requiring the payment of a financial contribution in respect of the entire floor area of the subject development. The Board noted the provisions of Section 12(g) of the Scheme, which stated that a 100% reduction would apply in the case of changes of use planning permissions where the development does not lead to the need for new or upgraded infrastructure/services or significant intensification of demand placed on existing infrastructure. The Board considered that the change of use of part of the existing retail warehouse unit into two individual retail units (proposed units 10 and 11) would not lead to a significant intensification of demand placed on existing infrastructure, in the light of the similarity of the uses, and considered that only the change of use of that part of the retail warehouse to restaurant (proposed unit 12) would involve a significant intensification of demand placed on existing infrastructure, in the light of the increased public use of the restaurant over the previous retail/warehouse use, and therefore decided that the amount of the financial contribution in condition number 9 should be reduced from €27,589.46 to €6,420.58 (representing the floor area of the restaurant only).

## **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.**