



Planning and Development Acts 2000 to 2018

Planning Authority: Cork County Council

Planning Register Reference Number: 18/05857

Appeal by Sorensen Civil Engineering Limited care of The Planning Partnership of The Coach House, Dundanion, Blackrock, 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 14 of its decision made on the 24th day of October, 2018.

Proposed Development: The importation of soil and stone for the raising of an agricultural field in order to improve the agricultural output of the field and the construction of a new temporary entrance at Belvelly, Cobh, 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 been properly applied in respect of condition number 14 and directs the said Council to AMEND condition number 14 so that it shall be as follows for the reasons stated.

14. The developer shall pay the sum of € 45,500 (forty five thousand and five hundred 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 the provision of repair/refurbishment to the adjoining public road, for a distance of one kilometre from the site, as a result of heavy vehicles travelling to and from the site. This contribution shall be paid prior to commencement of 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.

The payment of the contribution shall be subject to the following:

- (a) Where the works in question:
- (i) are not commenced within five years of the date of payment of the contribution (or final instalment if paid by phased payment),
 - (ii) have commenced but have not been completed within seven years of the date of payment of the contribution (or final instalment if paid by phased payment), or
 - (iii) where the Council has decided not to proceed with the proposed works or part thereof, the contribution shall, subject to paragraph (b) below, be refunded to the applicant together with any interest which may have accrued over the period while held by the Council,

- (b) where under sub-paragraphs (ii) or (iii) of paragraph (a) above, any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out, and
- (c) payment of interest at the prevailing interest rate payable by the Councils Treasure on the Councils General Account on the contribution or any instalments thereof that have been paid, so long and in so far as it is or they are retained unexpended by the Council.

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

Having regard to:

- (1) the nature and scale of the development works proposed where there will be a significant material increase in trip generation, estimated at maximum five heavy vehicle deliveries per day over a period of approximately five years, as a result of the proposed works relative to the local road network,
- (2) the provisions of the Cork County Council Development Contribution Scheme (2004) which provides that special contributions may be required, under section 48(2)(c) of the Planning and Development Act 2000, in respect of any specific exceptional costs not covered by the Cork County Council Development Contribution Scheme, and

(3) planning charges for Landfilling Sites Document, 13/07/2004,

it is considered appropriate to attach a section 48(2)(c) special contribution of the Planning and Development Act 2000, in this instance to cover the costs incurred by Cork County Council in respect of repairs to the public road, as a result of heavy vehicles travelling to and from the site.

In not agreeing with the Inspector, the Board was satisfied that the attachment of a condition under section 48(2)(c) of the said Act is appropriate in this instance, having regard to the specific exceptional costs relating to the road maintenance repair/refurbishment, as a consequence of the proposed development and from which the proposed development will benefit.

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.

Michelle Fagan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2019.