



Planning and Development Acts 2000 to 2020

Planning Authority: Carlow County Council

Planning Register Reference Number: 06/1177

WHEREAS by Order dated the 21st day of November, 2008, An Bord Pleanála, under appeal reference number PL 01.228507, granted subject to conditions a permission to Liam Tedford care of CAD Architectural Design of 1A Southcourt, Wexford Road Business Park, Carlow for a housing development comprising of 198 dwelling units consisting of 178 number three-bedroom semi-detached two-storey houses, 18 number two-storey three-bedroom terraced townhouses, a two-storey building comprising of a crèche on the ground floor with two number two-bedroom apartments over, site entrance, foul water pumping station and all associated site works and services at Tullow Road, Carlow (as revised by further public notices received by the planning authority on the 16th day of June, 2007 and the 30th day of January, 2008):

AND WHEREAS condition number 12 attached to that permission required the developer to pay to the planning authority a financial contribution 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. The contribution to be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and be subject to any applicable indexation provisions of the Scheme at the time of payment, and the condition required that details of the application of the terms of the Scheme were to be agreed between the developer and the planning authority or, in default of agreement, the matter was to be determined by An Bord Pleanála:

AND WHEREAS the developer and the planning authority failed to agree on the application of the terms of the Scheme in compliance with the terms of the condition and the matter was referred by the developer to An Bord Pleanála on the 3rd day of April, 2020 for determination:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 34(5) of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, hereby determines that -

- (a) The Board did not identify any specific exceptional costs not covered by the Carlow County Council Development Contribution Scheme over and above the standard contribution payable under the 2003 contribution scheme and therefore no special contribution towards water supply is payable by the developer to the County Council in accordance with the permission granted under PL 01.228507.
- (b) The Board did not identify any specific exceptional costs not covered by the Carlow County Council Development Contribution Scheme over and above the standard contribution payable under the 2003 contribution scheme and therefore no special contribution towards wastewater infrastructure is payable by the developer to the County Council in accordance with the permission granted under PL 01.228507.

- (c) There is no provision in the Carlow County Council Development Contribution Scheme 2003 for a land use levy and therefore no such levy is payable by the developer to the County Council in accordance with the permission granted under PL 01.228507.
- (d) The Board did not identify any specific exceptional costs for flood related works not covered by the Carlow County Council Development Contribution Scheme over and above the standard contribution payable under the 2003 contribution scheme and therefore no special contribution towards flood related works is payable by the developer to the County Council in accordance with the permission granted under PL 01.228507.
- (e) When considering matters referred to it for determination under section 34(5) of the 2000 Act, the Board is constrained to consider only the condition the subject of disagreement between the developer and the planning authority in relation to the proposed development. Where a planning authority makes a Development Contribution Scheme under section 48 of the Act, the Board has no function in assessing the reasonableness or otherwise of the provisions of that Scheme. In the present case the adopted Scheme states that it shall be indexed in accordance with the House Building Cost Index from a base year of 1st May 2008. The Board has no function in determining if this provision is in accordance with section 48 of the 2000 Act.

Reasons and Considerations

The Board granted permission for 182 houses, 2 apartments (a total of 184 units) and a creche on foot of an original application for 196 houses, two apartments and a creche at Tullow Road, Carlow, County Carlow on the 24th day of November 2008. The applicable development contribution scheme at that time was the Carlow County Council Development Contribution Scheme 2003 and the Board's Order referred solely to a requirement to make a contribution under that scheme.

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.

Paul Hyde

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

Dated this day of 2021.