



An
Bord
Pleanála

Board Order
ABP-309508-21

Planning and Development Acts 2000 to 2020

Planning Authority: Cork County Council

Planning Register Reference Number: 20/04522

Appeal by Paudie Sheahan of behalf of Mallow Contracts Limited of The Island, Burnfoot, Mallow, County Cork in relation to the inclusion of special contribution condition number 44 by Cork County Council in its decision made on the 28th day of January, 2021.

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 farm trackway/haul road, at Ballymorisheen, Grenagh, 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 **REMOVE** condition number 44 and the reason therefor.

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Reasons and Considerations

It is considered that the special development contribution of €53,299 imposed under condition number 44 of the planning authority's decision, for the provision of future road improvements which will be required as a result of damage to the public road due to the operations of the site, is not in accordance with the provisions of Section 48(2)(c) and Section 48(12)(a) of the Planning and Development Act 2000, as amended, as the condition fails to specify to a sufficient level of detail, the particular works which are envisaged to fall within the scope of the condition. Furthermore, it is considered that the condition is an unnecessary duplication in light of condition number 11 which requires that "any part of the public road damaged during the proposed works shall be resurfaced by the developer to the satisfaction of Cork County Council". In this regard it is considered that the terms of Section 48(2)(c) and Sections 48(12)(a) have not been properly applied and it is determined, therefore, that the condition should be removed.

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.


Chris McGarry

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this 29th day of July 2021.