



Planning and Development Acts 2000 to 2020

Planning Authority: South Dublin County Council

Planning Register Reference Number: SD20A/0350

Appeal by NCF Partnership care of Savills Commercial (Ireland) Limited of 33 Molesworth Street, Dublin in relation to the application by South Dublin County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 8 of its decision made on the 24th day of February, 2021.

Proposed Development: Change of use of land and building to allow for the storage (internal and external), distribution and direct trade/retail sale of gas and gear products, customer engineering services workshop, new roller shutter on rear elevation, new window and door security shutters, new vehicular gates, new security screens along existing southern boundary fencing, new 63 square metres single storey external storage container, external open storage areas, vehicular parking and all associated works at Unit 10, John F Kennedy Drive, John F Kennedy Industrial Estate, Dublin.

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 8 and directs the said Council to AMEND condition number 8 so that it shall be as follows for the reasons stated.

8. The developer shall 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, 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. Details of the application of the terms of the Scheme 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 proper application of the terms of the Scheme.

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

Having regard to Sections 34(5) and 48 of the Planning and Development Act 2000, as amended and to the provisions of the South Dublin County Council Development Contribution Scheme 2021-2025, and in particular to Section 11 (xxvi) which provides that in respect of a permission for change of use, exemptions and reductions are provided for where development contributions were paid in respect of the former use and that agents/applicants should provide evidence of prior payment at application stage to expedite assessment and avail of this exemption, the Board considered on the basis of the submissions on the file and in particular the absence of evidence of prior payment that the terms of the Development Contribution Scheme have been properly applied by South Dublin County Council and that a development contribution is due in relation to the total floor area comprising the change of use floor areas (1,214 square metres) in conjunction with the floor area of the proposed external storage container (63 square metres).

In deciding not to accept the Inspector's recommendation to amend condition number 8 so as to provide for a financial contribution in relation to the floor area of the proposed external storage container only, the Board had regard to the specific provisions of Section 11 (xxvi) of the South Dublin County Council Development Contribution Scheme 2021-2025 which required evidence of prior payment to avail of the exemptions and reductions related to change of use applications.

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.

DR. Maria FitzGerald

Maria FitzGerald

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this 21st day of July 2021.

