

Planning and Development Acts 2000 to 2021

Planning Authority: Kerry County Council

Planning Register Reference Number: 211259

Appeal by Kilfilum Limited care of Frank Coffey of Daly's Lane, Killorglin, County Kerry in relation to the application by Kerry County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 2 of its decision made on the 10th day of January, 2022.

Proposed Development: Retention of (i) two pig welfare sheds, (ii) amalgamations and reroofing to pre-existing sheds, and (iii) four feed silos at Nantinan, Killorglin, Co Kerry.

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 2 and directs the said Council to **AMEND** condition number 2 so that it shall be as follows for the reason stated.

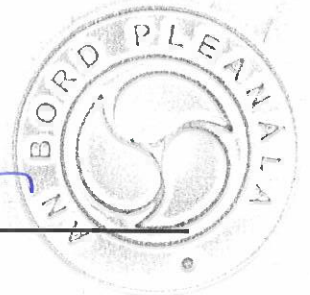
2. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. In this regard, the calculation of the contribution shall be based on the total new floor area proposed for retention, and the applicable rate per square metre shall be 150% of the total rate for Industrial Buildings, made up of the sum of the individual rates for both Roads & Transport and Community & Amenity categories. The contribution shall be paid within three months of the date of this Order 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 all other 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 the development to be retained, and the nature of use on the site for pig farming, which is considered an 'intensive agricultural use' for the purpose of calculating the applicable development contribution for such developments, it is considered that the terms of the Kerry County Council Development Contributions Scheme, 2017 were incorrectly applied by the planning authority in the calculation of the amount payable based on the reckonable gross floor area for 'commercial buildings' instead of 'industrial buildings'.



John Connolly

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this *7th* day of *June* 2022.