



An
Bord
Pleanála

Board Order

ABP-314834-22

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 22/60121

Appeal by Milltown Composting Systems Limited care of Walsh and Walsh Architects of The Square, Cahir, County Tipperary in relation to the application by Tipperary County Council of the terms of the Development Contribution Scheme made for the area in respect of condition numbers 7 and 8 of its decision made on the 20th day of September, 2022.

Proposed Development: Reconstruction and extension of existing agricultural storage structure, including use as organic material maturation, and extension to existing storage facility, increase in allowed intake of organic material from 50,000 to 75,000 tonnes per annum to the processing facility, air handling bio-filter installation and associated extract and input fans, all necessary site works, all at Milltownmore, Fethard, County Tipperary.

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 numbers 7 and 8 and directs the said Council to AMEND condition number 7 so that it shall be as follows for the reason set out and to REMOVE condition number 8 and the reason therefor.

7. Prior to commencement of development, a payment of a financial contribution shall be paid to the planning authority in respect of public infrastructure and facilities benefiting development in the administrative 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 Tipperary County Council Development Contribution Scheme 2020 made under Section 48 of the Planning and Development Act 2000, as amended. The amount of the development contribution under this condition shall be €73,221.68.

Class	Rate 2020 per sq.m	Area sq.m		Total
8	€23	3,566.16	Permission	€82,021.68
Less contribution associated with former agri sheds that are being re-developed - €8,800				€73,221.68

Reason: It is considered reasonable that a contribution be made in accordance with the Tipperary County Council Development Contribution Scheme 2020 made under Section 48 of the Planning and Development Act 2000, as amended.

Reasons and Considerations

Condition number 7:

Regarding the amendment to condition 7, the Board noted the Inspector's calculation in section 7.2.6 of the Inspector's report, and considered it accords with the current Tipperary County Council Development Contribution Scheme (2020).

Condition number 8:

Section 48(2)(c) of the Planning and Development Act 2000, as amended, provides that a planning authority may require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a development contribution scheme made under Section 48(2)(a) are incurred by the planning authority in respect of public infrastructure and facilities which benefit the proposed development. The Development Management Guidelines for Planning Authorities (Department of the Environment, Heritage and Local Government, June 2007) requires a special development contribution condition to identify the nature/scope of works, the expenditure involved, and the basis for the calculation. The planning authority has not provided the basis of the calculation of the sum required (€23,275) and, accordingly, has not met the criteria for properly levying a contribution as required by Section 48. In respect of condition number 8, the Board, in accordance with section 48 of the Planning and Development Act 2000, as amended, considered that the condition failed to meet the requirements of Section 48(2)(c) of the Act and should, therefore, be omitted.



Mary Cregg

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

Dated this 5th day of December 2023.