



An
Bord
Pleanála

Inspector's Report PL.06S.248585

Development	Equestrian facility including 50 stables, etc.
Location	Rathcreeden, Rathcoole, Co. Dublin.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD16A/0417
Applicant(s)	Lucy McCarthy
Type of Application	First party
Planning Authority Decision	Grant with conditions.
Type of Appeal	Financial contribution (S.48)
Appellant(s)	Lucy McCarthy
Observer(s)	None.
Date of Site Inspection	None.
Inspector	Philip Davis.

Contents

1.0 Introduction	3
2.0 Site Location and Description	3
3.0 Proposed Development	3
4.0 Planning Authority Decision	3
4.1. Decision	3
5.0 The Appeal	4
5.1. Grounds of Appeal	4
5.2. Planning Authority Response	4
6.0 Assessment	5
7.0 Recommendation.....	6
8.0 Reasons and Considerations.....	6

1.0 Introduction

This appeal is by the applicant under Section 48(10)(b) of the Planning and Development Acts, submitting that the development contribution scheme has not been properly applied. It is argued that the proposed development is agricultural, and as such is exempt under the Scheme (Section 10(xiv)).

2.0 Site Location and Description

The site is located in open countryside just south of the Greenogue Business park, about 2km north of the village of Rathcoole in west County Dublin. It is part of a flat field in tillage use, located just off Tay Lane, a minor road just south of the main road linking Newcastle Village to Rathcoole and the M7. It is part of a larger site, all of which is in use for agriculture. The lands are zoned for agricultural use.

3.0 Proposed Development

- 50 no. stables in two adjacent blocks totalling 897 m², 3.75 metres high;
- Indoor exercise area, 940m², 7.1 metres high;
- Machinery park/shelter building, 481m², 6.75 metres high
- Staff welfare building, 107m², 5.1 metres high, to include associated canteen/wc/wash area & tack room
- Outdoor sand arena, 1,800 m²
- Ancillary yard 3320m approximately, for vehicle parking – marshalling-loading-unloading including 6 m access road with new access/egress gate from Tay Lane.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant planning permission subject to 15 no. conditions. Condition 15 set a S.48 Financial contribution of €149,407.50.

5.0 The Appeal

5.1. Grounds of Appeal

- It is argued that under Section 2(1) of the 2000 Act, as amended, 'agricultural' includes the use of lands for 'the training of horses and the rearing of bloodstock'.
- It is noted that the planning authority accepted that the proposed use is consistent with the zoning objective RU 'to protect and improve rural amenity and to provide for the development of agriculture'.
- It is noted that Section 10 of the Development Contribution Scheme sets out categories for exemption, including (xiv) 'Agriculture buildings used for agricultural purposes by persons primarily engaged in farming...'
- The Board is requested on this basis to rule that the proposed development is exempt from development contributions under the scheme, and so order that Condition no.15 be removed.

5.2. Planning Authority Response

The planning authority set out the basis for its calculations – based on development contributions per square metre of industrial/commercial development. It is stated that the application does not fall within any of the categories listed in section 10 'Exemptions and Reductions'.

5.3. Other correspondence

In response to the planning authority, the applicant restates their view that the planning authority are incorrect to determine the proposed use to be commercial. They refer to Board decision **PL06S.241504**, in which the Board decided that a similar equestrian centre came under Article 10 and so is exempt.

6.0 Assessment

The proposed development is subject to a S.48 Development Contribution calculated on the basis set out in the Council letter as follows:

1944 m² by €75 per square meter (for commercial development) = €145,800
481 m² by €7.50 per square meters (for open storage/hard surface area) = €3,607.50.
This leads to a total of €149,407.50.

The calculation is based on the proposed development falling under the category of Industrial/commercial class of development.

Exemptions and reductions are set out in Section 10 of the Scheme. Under S.10 (xiv), an exemption is set out for:

Agricultural buildings used for agricultural purposes by persons primarily engaged in farming to be exempt.

The question arises in this appeal as to whether a development of stables with associated hardstanding should be assessed as industrial/commercial, or if it is subject to the above exemption for agriculture buildings used for agricultural purposes.

The site is at present used for tillage, and the proposal is for stables and associated works for the bloodstock industry. The lands are zoned for agricultural use.

‘Agriculture’ is defined in the Act as follows (Section 2):

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and “agricultural” shall be construed accordingly;

As there seems no ambiguity that the buildings are for the purpose of the ‘training of horses and the rearing of bloodstock’, then I would consider the buildings to be ‘*Agricultural buildings used for agricultural purposes*’. The information on file – and this is not disputed by the planning authority – is that the proposed development is for the local landowner/farmer. As such I would consider that it is for use ‘*by persons primarily engaged in farming*’.

I would therefore conclude that on the basis of the definition of ‘agriculture’ set out in Section 2 (Interpretation) of the Act as amended, and the specific wording of S.10(xiv) of the current Development Contributions Scheme, which sets out exemptions to contributions, the proposed development is exempt in its entirety.

7.0 Recommendation

I recommend that the Board delete condition no. 15 for the reasons and considerations set out below.

8.0 Reasons and Considerations

The Board considers that the requirement to pay the development contribution is not in accordance with the requirements of Section 48 of the Planning and Development Act, 2000, as amended, and the South County Dublin Development Contribution Scheme 2016-2020. It is considered that the proposed development is, under the definition set out under Section 2 of the 2000 Act, for agriculture purposes and is primarily required for a person (the applicant) engaged in agriculture. As such, it is exempt under subsection 10(xiv) of the Development Contribution Scheme 2016-

2020. Accordingly, the Board considers that condition number 15 was unwarranted and directs that it be deleted.

Philip Davis
Planning Inspector

18th September 2017