



An
Bord
Pleanála

Inspector's Report PL93.248706.

Development	Extension to girls dormitory and associated works.
Location	Annamur, Newtown School, Newtown, County Waterford.
Planning Authority	Waterford City and County Council.
Planning Authority Reg. Ref.	16/705.
Applicant	The Board of Management of Newtown School.
Type of Application	Permission.
Planning Authority Decision	Permission with conditions.
Type of Appeal	First party
Appellant	The Board of Management of Newtown School.
Observer	None.
Date of Site Inspection	None.
Inspector	Philip Davis

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1.0 Introduction

This appeal is by the applicants, arguing that the Development Contribution Scheme has been incorrectly applied. It is submitted that as the applicant enjoys charitable status it is exempt from development contributions under Section 7 of the Scheme.

2.0 Site Location and Description

Newtown School, founded 1798 by the Society of Friends, is a small primary school located within Waterford City, some 1-km south-south-east of the city centre. It is within a larger complex which includes a boarding secondary college (this is part of the overall landholding). The primary school is a small modern two storey structure. The school includes a number of protected structures – including a school building dating from around 1825 – and rated as of regional importance in the NIAH.

3.0 Proposed Development

The construction of a dormer style extension to the existing girls dormitory building. This will include a total of 22 twin student bedrooms all with en-suites, 3 no. teachers self-catering accommodation, 2 no. stairwells, 01 disabled accessible lift along with various steel double gates to the proposed enclosed courtyard. The works are within the curtilage of a protected structure.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 11 conditions. Condition no. 11 set a Section 48 development contribution of €42,938.80.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The planning report, in relation to development contributions, notes that there are no exemptions set out for student accommodation. It is considered that Section 6(B) of

the Scheme 'non-residential development not in any of the above classes' at a rate of €40 per sq.m. should apply.

5.0 Planning History

None relevant on file.

6.0 Policy Context

6.1. Development Plan

The site is on lands zoned for Community Facilities. The adjoining building (outside the red line area but within the overall land ownership) is a protected structure.

There are a number of designated amenity trees in the lands.

6.2. Natural Heritage Designations

The closest Natura 2000 site is the Lower River Suir SAC, site code 002137 which is approximately 350 metres to the east. The planning authority carried out a screening which concluded that no AA was required.

7.0 The Appeal

7.1. Grounds of Appeal

It is stated that the school enjoys charitable status, ref no. CHY 79 and therefore claims exemption from the charges under section 7 of the Waterford City and Council Development Contribution Scheme, i.e. '*Developments by voluntary not for profit, non-statutory groups / organisations for non-commercial related developments*'.

7.2. Planning Authority Response

No response to the grounds of appeal were received.

8.0 Assessment

The financial contribution was set by the planning authority on the basis that it is a 'non-residential development' (Section 6(b)) of the Scheme (see Section 3 of the planners report on file). It does not seem to have been considered if the applicant is subject to the exemptions set out in section 7 of the Scheme. The exemptions are set out as follows:

7. EXEMPTIONS

Exemptions and reduced rates in the current schemes were reviewed and a number of additional exemptions and reductions are proposed having regard to the need to stimulate economic activity and also the Development Contribution Guidelines issued by the Department of the Environment, Community and Local Government.

General Exemptions

- 1) Developments by voluntary not for profit clubs, non-statutory groups/organizations for non-commercial community related developments.
- 2) Restoration/refurbishment of buildings on the record of protected structures including the conversion to apartments.
- 3) Permission for a change of use in the designated City centre, and also the Town Centres of Dungarvan and Tramore where the change of use does not lead to the need for new or upgraded infrastructure/services or where there is no additional demand placed on existing infrastructure.
- 4) The appropriate refurbishment/redevelopment of buildings within the designated Living City Initiative Areas shall be exempt from development contributions.

The applicant states that they are a registered charity. Newtown School is a long established multid denominational independent school, so while there is no definitive proof on file of the applicant's charitable status, I have no reason to question this. Section 7(1) does not require the applicant to be legally a charity, it is sufficient to be a not-for-profit organisation, and I am satisfied from the information available that this is the case. While Newtown School is a fee paying school, I am satisfied that the proposed development is not a commercial development. I note that the school is on lands zoned for 'Community' uses and it was not considered to be a non-conforming use. I would consider that the exemption set out in Section 7(1) of the Scheme therefore should have applied.

I would therefore conclude that the applicants are exempt from any development contribution under the adopted scheme by way of their non-profit status and the non-profit non-commercial related nature of the proposed development and as such condition 11 should be deleted.

9.0 Recommendation

I recommend that the Board deletes condition no. 11 as the applicants are exempt from development contributions under section 7(1) of the Scheme, as adopted.

10.0 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 Waterford Development Contribution Scheme 2015-2021. It is considered that the proposed development is by a not for profit organisation and is for the purpose of non-commercial community related development. As such, it is exempt under subsection 7(1) of the Development Contribution Scheme 2015-2021. Accordingly, the Board considers that condition number 11 was unwarranted and directs that it be deleted.

Philip Davis
Planning Inspector

20th October 2017