

MEETING OF DÚN LAOGHAIRE-RATHDOWN COUNTY COUNCIL

9TH FEBRUARY 2015

LAND STERILISATION ORDER

Question: Councillor V. Boyhan

"To ask the Chief Executive to set out the various stages and process for removing or amending a Land Sterilisation Order?"

Reply:

Section 47 of the Planning and Development Act 2000 (as amended) deals with restricting or regulating development or use of land.

The procedure for placing a Sterilisation Agreement on land is through the Development Management process. Circular Letter S.P.5/08 from the Department of the Environment, Community and Local Government states that the "Section 47"- "Sterilisation Agreements" be standardised at 7 years.

Section 47 of the Planning and Development Act, 2000 provides that

- (1) A planning authority may enter into an agreement with any person interested in land in the area, for the purpose of restricting or regulating the development or use of the land, either permanently or during such period as may be specified by the agreement, and any such agreement may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the planning authority to be necessary or expedient for the purposes of the agreement.
- (2) A planning authority in entering into an agreement under this section may join with any body which is a prescribed authority for the purposes of *section 11*.
- (3) An agreement made under this section with any person interested in land may be enforced by the planning authority, or any body joined with it, against persons deriving title under that person in respect of that land as if the planning authority or body, as may be appropriate, were possessed of adjacent land, and as if the agreement had been expressed to be made for the benefit of that land.
- (4) Nothing in this section, or in any agreement made thereunder, shall be construed as restricting the exercise, in relation to land which is the subject of any such agreement, of any powers exercisable by the Minister, the Board or the planning authority under this Act, so long as those powers are not exercised so as to contravene materially the provisions of the development plan, or as requiring the exercise of any such powers so as to contravene materially the provisions of the development plan, or as requiring the exercise of any such powers so as to contravene materially those provisions.
- (5) Particulars of an agreement made under this section shall be entered in the register.

The Agreement referred to in a section 47 Agreement is initially included by way of condition in a planning permission requiring the owner to agree to the sterilisation of remaining lands within the ownership of the applicant.

Typically a condition would be along the following lines:

"Prior to commencement of development, the applicant shall enter into an agreement with the Planning Authority, pursuant to section 47 of the Planning and Development Act, 2000(as amended), agreeing to sterilise, free from any future residential development and any non-agricultural development, the remainder of the land outlined on the documents submitted to the Planning Authority.

The procedure is that the applicant submits, for the agreement of the Planning Authority, the Sterilisation Agreement, and when approved the final document is forwarded to Legal Services Department where it is then sealed.

This burden on the land is required to be registered in Land Registry by the owner. Individual landowners may approach the Planning Authority to establish the appropriateness of old sterilisation agreements. The established mechanism for this is through the planning acts by way of a planning application.

In instances where the zoning of the land has changed in accordance with the County Development Plan, and following a written request, a Land Sterilisation Order may be removed or amended with the consent of the Council in accordance with Section 183 of the Local Government Act 2001. The removal of the Land Sterilisation Order is a reserved function of the Council. The procedure in such an instance is that the Planning Department would refer the matter to the Property Management Section who prepare a report for a meeting of the County Council in accordance with Section 183.

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