



## Board Direction

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**Ref: PL26.245359**

The submissions on this file and the Inspector's report were considered at a Board meeting held on February 23<sup>rd</sup> 2016.

The Board treated this case under section 48 of the Planning and Development Act, 2000, as amended. The Board also decided, generally as recommended by the Inspector, that the planning authority be directed, as follows:-

Amend Conditions 3 and 4.

As follows, for the reasons and considerations set out below:-

### Condition 3

In respect of the quarrying as undertaken which this application seeks to retain, the developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities, consisting of the provision or improvement of public roads, 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. The contribution shall be paid on the 1<sup>st</sup> day of April 2016, and shall be based on the level of quarrying extraction that took place over the previous year, at the rate of €0.30 per cubic metre. Details of the application of the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

#### Condition 4

In respect of the quarrying as undertaken which this application seeks to retain, the developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities, consisting of the provision or improvement of recreation and community 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. The contribution shall be paid on the 1<sup>st</sup> day of April 2016, and shall be based on the level of quarrying extraction that took place over the previous year, at the rate of €0.05 per cubic metre. Details of the application of the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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 terms of the Wexford County Council Development Contribution Scheme 2013, which provides in the case of extractive industry for an annual payment on the 1<sup>st</sup> of April of each year, based on the level of extractive activity of the previous year, the Board is satisfied that the Scheme does not provide for retrospective payments beyond one year. Accordingly, it is considered that the terms of the Scheme provide that the amount of contribution in respect of past extraction, for which retention has been sought, should relate only to the period of one year, and not to the level of activity for a multiple period of years during which the subject quarry had operated. The Board is therefore satisfied that the terms of the Scheme had not been properly applied by the planning authority in respect of conditions 3 and 4, and that these two conditions should be amended to provide for one single payment in each case, which will fall due on 1<sup>st</sup> April 2016, based on the extraction undertaken over the previous 12 month period only. The Board noted that conditions 5 and 6 of the permission provide for payment in accordance with the terms of the scheme in respect of future extraction, while conditions 3 and 4 are in respect of past quarrying, for which retention has been sought.

Board Member: \_\_\_\_\_  
Philip Jones

Date: 23<sup>rd</sup> February 2016