



An
Bord
Pleanála

Board Direction
PL04.247704

The submissions on this file and the Inspector's report were further considered at a meeting of all available Board members held on March 21st 2017.

The Board treated this case under section 48 of the Planning and Development Act, 2000, as amended. The Board also decided, on a vote of 4 to 2, that the planning authority be directed, for the reasons and considerations set out below, as follows:

Attach condition 22 and the reason therefor.

Reasons and Considerations

Having regard to the planning history of the site, the pattern of existing and permitted development on the site and in the vicinity, and the documentation submitted as part of the application and appeal, including details of traffic levels and details of costs, the Board is satisfied that the public infrastructure and facilities that are the subject matter of the appeal (that is, the upgrading of the N40 Curaheen Interchange and the CSAIP Infrastructure Phase 1 Infrastructure) would benefit the proposed development, and that the imposition of this condition conforms to the provisions of Section 48 (2)(c) of the Planning and Development Act 2000, as amended.

Furthermore, on the basis of the documentation submitted by the planning authority to An Bord Pleanála on the 13th day of January 2017, including details of costings, the Board is satisfied that the apportionment of the costs of the works in question was reasonable and proportionate as between the various precincts and developments within the Cork Science and Innovation Park that would benefit from the works concerned (including the subject development), and that these works

constitute specific exceptional costs that are not covered by the General Development Contribution Scheme.

In not accepting the recommendation of the Inspector to require the removal of condition 22, the Board was satisfied that the condition accorded with the provisions of Section 48 (2)(c) of the Planning and Development Act 2000, as amended, and was satisfied that the particular works referred to in this condition, while not all required to facilitate the proposed development, would all benefit the proposed development, as they are part of the planned and approved infrastructure within the Masterplan for this overall Cork Science and Innovation Park, of which the subject development is a part, and that the applicable test for the imposition of a special development contribution under Section 48 (2) (c) of the Act relates to whether the public infrastructure and facilities will benefit the subject development, and not whether it is required to facilitate any particular development. The Board noted that the Inspector stated that he was satisfied that the documentation provided by the planning authority adequately addresses what works are required and provides a breakdown of the relevant costs. Furthermore, the Board considered that, while it is for the planning authority to determine whether these costs are to be levied under Section 48 (2)(c) of the Act or under Section 49 of the Act, the works the subject of the condition constitute exceptional costs not provided for in the General Section 48 Development Contribution Scheme.

Board Member:

Date: 13th April 2017

Philip Jones