



An  
Bord  
Pleanála

**Board Direction**  
**PL16.249242**

The submissions on this file and the Inspector's report were considered at a Board meeting held on December 19<sup>th</sup> 2017.

The Board treated this case under section 48 of the Planning and Development Act, 2000, as amended. The Board also decided that the planning authority be directed, for the reasons and considerations set out below, to amend condition number 11, so that it reads as follows.

11. The developer shall pay to the planning authority a financial contribution of €1,642.20 (one thousand, six hundred and forty-two euro and twenty cent) in respect of public infrastructure and 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, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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 absence from the Mayo Development Contribution Scheme 2004, as amended, of a method of calculating the dwelling equivalent of commercial development, it is considered appropriate in this case to use a standard of 150m<sup>2</sup> of commercial floorspace being equivalent to a dwelling, which standard was advocated in the appeal and has previously been used by the planning authority and An Bord Pleanála in similar cases. The permitted development of 346m<sup>2</sup> would therefore be equivalent to 2.3 dwellings.

Furthermore, the terms of the Development Contribution Scheme do not provide for a reduction in the amount of the contribution in respect of buildings that are to be replaced on a site, and the Board's role in appeals under section 48(10) of the Planning and Development Act 2000, as amended, is restricted to a determination of the application of the terms of a Contribution Scheme rather than the imputation of terms into a Scheme that are not contained within it, and cannot take into account the 2013 Guidelines, as no change has been made to the Scheme in this regard.

A charge of €357 per dwelling equivalent is therefore due under each of the categories of Amenities and Community/Open Space/Recreational Facilities under Schedule 1 of the scheme. In the absence of any response by the Planning Authority to the appeal, and the lack of any specification by the Planning Authority of any actual road works or lengths of footpaths under the categories of Roads and Footpaths, it is considered that the amount of the contributions due under these categories should be zero.

It is therefore considered that the terms of the Development Contribution Scheme were not properly applied in this instance, and that a reduced contribution is appropriate.

**Board Member**

**Date:** 19<sup>th</sup> December 2017

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Philip Jones