



An  
Bord  
Pleanála

**Board Direction**  
**BD-001128-18**  
**ABP-301194-18**

The submissions on this file and the Inspector's report were further considered at a Board meeting held on September 18<sup>th</sup> 2018.

The Board treated this case under section 48 of the Planning and Development Act, 2000, as amended. The Board also decided, for the reasons and considerations set out below, that the planning authority be directed to amend condition number 4, so that it reads as follows:-

4. The developer shall pay to the planning authority a financial contribution of €12,469.73 (twelve thousand, four hundred and sixty nine euro and seventy three 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 Kinsale Town Council Development Contribution Scheme made under section 48 of the Act be applied to the permission.

## **Reasons and Considerations**

Having regard to the provisions of the Electoral, Local Government and Planning and Development Act 2013, it is considered that the Kinsale Development Plan 2009 – 2015 remains operative in relation to the subject site, and therefore that the provisions of the Kinsale Town Council Development Contribution Scheme 2002 continues to apply to development within the area of Kinsale town. Accordingly, it is considered that it is this Development Contribution Scheme, rather than the Cork County Council Development Contribution Scheme 2004, that should have been applied in relation to the subject development. Having regard to the absence of any provision for exemption or reduction within the Kinsale Town Development Contribution Scheme that would apply to the subject development, it is considered that the full contribution, under the relevant rate of €64.41 per square metre, as set out in the Kinsale Town Council Development Contribution Scheme 2004, applies to the new floorspace that would be provided under the current proposal for the subject site. It is considered, therefore, that the terms of the correct Development Contribution Scheme had not been applied in this instance, and that the Planning Authority should be directed to amend condition 4 of this permission accordingly.

**Board Member**

**Date:** 18<sup>th</sup> September 2018

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Philip Jones