



An  
Bord  
Pleanála

**Board Direction**  
**BD-001591-18**  
**ABP-301748-18**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/11/2018.

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, as follows:

Amend condition 15 (ii), (iii) and 18 as follows.

15(ii). All necessary works for the upgrade of the northern side of Bay Lane between the eastern boundary of the site and the roundabout to the west, including road widening, drainage, footpath and cyclepath, public lighting and road marking and signage shall be agreed with the Planning Authority and those works located within the site boundary shall be carried out at the expense of the developer. The developer shall also pay to the Planning Authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, towards said upgrade works relating to the extent of Bay Lane between the western boundary of the appeal site and the roundabout to the west. The amount of the contribution 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 for determination. 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.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

15(iii). The proposed development shall not commence operation until such time as the works required for the upgrade of the northern side of Bay Lane (the public road) between the eastern boundary of the site and the roundabout to the west are substantially complete to the satisfaction of the Planning Authority.

**Reason:** In the interests of the proper planning and sustainable development of the area.

18. The developer shall pay to the planning authority a financial contribution of €283,808 (two hundred and eighty three thousand eight hundred and eight euro) 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, as per Inspector's recommendation as follows.

## **Reasons and Considerations**

Having regard to:

the provisions of the Fingal Development Plan 2017-2023;

the provisions of the Cherryhound Local Area Plan 2012-2018;

the provisions of the Fingal County Council Development Contribution Scheme 2016-2020; and

the submissions made in this appeal;

the Board considered it appropriate that the applicant make a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, towards the costs of upgrading the length of public road between the appeal site and the roundabout to the west which will benefit the proposed development and that Condition 15(ii) should be amended accordingly. The Board also considered that requiring said upgrade works to be completed prior to the commencement of development on the site was unreasonable, and that Condition 15(iii) should be amended to instead relate to commencement of operation of the proposed logistics complex. With regard to Condition 18, the Board considered that the terms of the Development Contribution Scheme had not been properly applied by the Planning Authority, and considered that the Condition should be amended to reflect the correct contribution rate for non-residential development.

**Board Member:**

**Date:** 12/11/2018

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Paul Hyde