



An  
Bord  
Pleanála

**Board Direction**  
**BD-003095-19**  
**ABP-303019-18**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/05/2019.

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 14 as follows.

14. The developer shall pay the sum of € 45,500 (forty five thousand and five hundred euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of the provision of repair/refurbishment to the adjoining public road, for a distance of 1km from the site, as a result of heavy vehicles travelling to and from the site. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of 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.

The payment of the contribution shall be subject to the following:

- a) Where the works in question:

- i. Are not commenced within 5 years of the date of payment of the contribution (or final instalment if paid by phased payment),
  - ii. Have commenced but have not been completed within 7 years of the date of payment of the contribution (or final instalment if paid by phased payment), or
  - iii. Where the Council has decided not to proceed with the proposed works or part thereof, the contribution shall, subject to paragraph (b) below, be refunded to the applicant together with any interest which may have accrued over the period while held by the Council.
- b) Where under sub-paragraphs (ii) or (iii) of paragraph (a) above, any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out.
- c) Payment of interest at the prevailing interest rate payable by the Councils Treasury on the Councils General Account on the contribution or any instalments thereof that have been paid, so long and in so far as it is or they are retained unexpended by the Council.

**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.

## **Reasons and Considerations**

Having regard to:

- 1) The nature and scale of the development works proposed where there will be a significant material increase in trip generation, estimated at maximum 5 heavy vehicle deliveries per day over a period of approximately 5 years, as a result of the proposed works relative to the local road network.

- 2) The provisions of the Cork County Council Development Contribution Scheme (2004) which provides that Special Contributions may be required, under Section 48(2)(c) of the Planning and Development Act, in respect of any specific exceptional costs not covered by the Cork County Council Development Contribution Scheme.
- 3) Planning Charges for Landfilling Sites Document, 13/07/2004

It is considered appropriate to attach a Section 48(2)(c) Special Development Contribution in this instance to cover the costs incurred by Cork County Council in respect of repairs to the public road, as a result of heavy vehicles travelling to and from the site.

In not agreeing with the Inspector, the Board was satisfied that the attachment of a condition under Section 48 (2) (c) is appropriate in this instance, having regard to the specific exceptional costs relating to the road maintenance repair/refurbishment, as a consequence of the proposed development and from which the proposed development will benefit.

**Board Member:**

**Date:** 20/05/2019

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Michelle Fagan