

An  
Bord  
Pleanála

**Board Direction**  
**BD-008514-21**  
**ABP-308273-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/06/21.

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:

Remove condition Nos, 17,18,19 and 20

Amend condition No. 16 as follows.

16. The developer shall pay to the planning authority a financial contribution 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. Details of the application of the terms of the Scheme 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 proper application of the terms of the Scheme.

**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.**

On the basis of the submissions received with the appeal, including the submission from the planning authority received on the 23<sup>rd</sup> day of October 2020, and having regard to the terms of The Dún Laoghaire-Rathdown County Council Development Contribution Scheme 2016-2020 and adopted by Dún Laoghaire-Rathdown County Council on 14 December, 2015 as amended under Section 48 of the Planning and Development Act 2000 as amended it is considered that the terms of the scheme have been incorrectly applied in this instance.

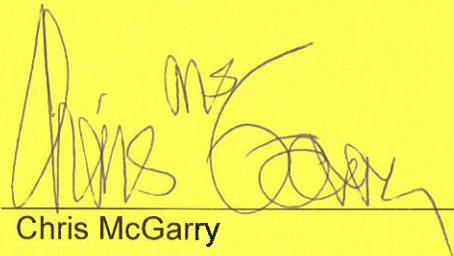
The nature of the proposed development is considered to qualify for a reduction in the overall Section 48 contribution due, in accordance with section 10 g) of the said Scheme and this reduction was not applied to the relevant contributions as set out in the decision of the planning authority to grant permission dated the 31<sup>st</sup> day of August 2020. Accordingly, it is considered that condition numbers 16, 17, 18 19 and 20 shall be replaced by a single condition under the provisions of Section 48 of the Planning and Development Act 2000, as amended, providing for a reduction in the total contribution, to correct the original oversight by the planning authority.



**Note:**

The Board noted the commentary of the Inspector relating to condition no. 22 of the decision to grant permission. That condition relates to a specific financial contribution under Section 49 of the Act, in respect of the provisions of the 'Supplementary Development Contribution Scheme for the Extension of LUAS Line B1 – Sandyford to Cherrywood'. In this regard the Board determined from a reading of the appeal documentation on file, that the full grounds of appeal, including the reasons, considerations and arguments set out thereunder, related to matters pertinent to the Section 48 Scheme and its alleged incorrect application in the relevant conditions and did not include any grounds of appeal in relation to the provisions of the Section 49 Supplementary Scheme as described above, nor to any alleged incorrect application of these provisions by reference to the content of condition no. 22.

**Board Member:**

  
Chris McGarry

**Date:** 11/06/2021

