



An
Bord
Pleanála

Board Direction
BD-010978-22
ABP-309810-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/07/2022.

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 2 as follows.

Condition 2

- (a) Within 6 months of the date of this order, the developer shall 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 in respect of the proposed construction of a footpath to the south-west of the site along public road R278. The contribution shall be in accordance with the breakdown of costs provided by the planning authority with the exception to the public lighting element of the cost breakdown.
- (b) No house shall be occupied until such time as the contribution has been paid in full and the footpath to the south-west of the site along the public road has been constructed.

Reasons and Considerations

Having regard to the nature of the subject application, which comprises the retention of alterations to the development granted under PL04/1514, the Board considered that Condition 2 requiring the payment of a special development contribution for the

construction of a footpath to the southwest of the site along the R279 public road is in accordance with the provisions of Section 48(2)(c) of the Planning and Development Act 2000, as amended, as it constitutes a specific exceptional cost to be incurred by the planning authority in the provision of the footpath which will benefit the proposed development in relation to this particular amended development. In the interests of clarity, the contribution shall be in accordance with the breakdown of costs provided by the planning authority with the exception to the public lighting element of the cost breakdown provided at Appendix 1 to the response to the appeal submission from the planning authority dated 23rd April 2021.

In deciding not to accept the Inspector's recommendation to omit the condition, the Board noted that the construction of a footpath along the public road was a condition of the parent permission PL04/1514 for which retention and alterations are sought and considered that the footpath in question was a specific exceptional cost which would benefit the proposed development. Furthermore, the Board did not concur with the Inspector that the proposed footpath would be of general benefit to other houses in the vicinity and in noting that the site is now subject to a strategic zoning reserve where no development can take place during the plan period, concluded that it would not be appropriate in these circumstances that the contribution be reduced on a pro rata basis.

Board Member: Maria Fitzgerald Date: 15/07/2022
Maria FitzGerald