

An
Bord
Pleanála

Board Direction
BD-009165-21
ABP-309959-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/09/2021.

The Board decided to treat this case under section 139 of the Planning and Development Act, 2000. The Board also decided, based on the Reasons and Considerations set out below / set out on the attached copy of the Inspector's report, that the planning authority be directed, as follows:

Attach condition number 2

Remove condition number 3

Amend condition number 4 as follows.

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, in respect of the provision of a pedestrian crossing on the R552 Regional Road. 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 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.

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.

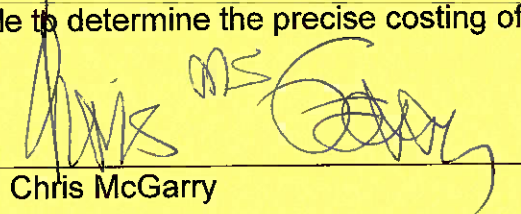
Reasons and Considerations

In respect of condition number 2 the attachment of this condition is based on the following. The imposition of a condition requiring the lodgement of a bond to secure the provision and satisfactory completion of roads and other services required in connection with the development is considered necessary and reasonable.

In respect of condition number 3 the omission of this condition is based on the following. The planning authority failed to apply the terms of adopted development contribution scheme correctly, and in this instance the imposition of condition would constitute double charging.

In respect of condition number 4 the amendment of this condition is based on the following. The imposition of a contribution under Section 48(2)(c) is considered reasonable in this case as a specific exceptional cost incurred by the planning authority which is not covered in the Development Contribution Scheme and which will benefit the proposed development, with regard to the provision of a pedestrian crossing of the R552 Regional Road. However the Board determined that the requirement to construct a public footpath 'from the main entrance to the pedestrian entrance/pedestrian crossing' was not reasonable in the context of the current proposed development and noting also that the location of the pedestrian crossing is yet to be determined and that even should a location further south along the R552 be chosen, that such a location would not require the above mentioned pedestrian crossing for the purposes of the proposed development, as a new pedestrian path from the proposed development to the R552 is provided towards the southern end of the subject site. In addition, the amended condition number 4 is unspecified in terms of the contribution due for the pedestrian crossing as from the documentation on file the Board is not able to determine the precise costing of such a pedestrian crossing.

Board Member:


Chris McGarry

Date: 28/09/2021