

An
Bord
Pleanála

Board Direction
BD-010320-22
ABP-311175-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/03/2022.

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 27 as follows.

27. The developer shall the sum of €18,145 (updated at the time of payment in accordance with the 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 public infrastructure works to be carried out along Railway Road. This contribution shall be paid prior to the 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 an agreement, the matter shall be referred to the Board to determine.

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 governed by the Development Contribution Scheme and which will benefit the proposed development.*

Reasons and Considerations, as per Inspector's recommendation as follows.


Reasons and Considerations

The Board considered that a financial contribution under the provisions of Section 48(2)(c) is warranted and justified in this instance as the works in question seek to improve connectivity between the subject site and the town centre site and to generally improve the public realm on the streets linking the two sites.

However, the Board decided to revise the amount downwards on the basis that:

- (a) The applicant is being requested to contribute towards works to be carried out on the Lough Eske Road which is located to the north of the subject site and as such would not improve the connectivity of the site with the town centre area. Donegal County Council's response to the grounds of appeal clearly states that the rationale for the imposition of the special development charge is based on the requirement and objective to improve connectivity between the site area and the town centre. As the proposed works to be undertaken on the Lough Eske Road would not serve this objective, the Board considered that any financial contribution in respect of these works to be undertaken should be set aside for the purposes of calculating the contribution amount.
- (b) Furthermore, while the Board acknowledged that works to be carried out at Water Street, New Row and Castle Street may well prove beneficial to both the town centre and the subject site in terms of improving connectivity and enhancing links between the site and the town centre, the Planning Authority has failed to provide the basis for the calculation of the cost of these works and as such any financial contribution under the provisions of Section 48(2)(c) would fail to meet the test set out in Section 7.12 of the Development Management Guidelines for Planning Authorities.

Board Member:


Paul Hyde

Date: 22/03/2022