

An  
Bord  
Pleanála

**Board Direction**  
**BD-010797-22**  
**ABP-312624-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 30/05/2022.

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 to amend condition no. 2 as follows:

2. 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. In this regard, the calculation of the contribution shall be based on the total new floor area proposed for retention, and the applicable rate per square metre shall be 150% of the total rate for Industrial Buildings, made up of the sum of the individual rates for both Roads & Transport and Community & Amenity categories. 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 all other 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.

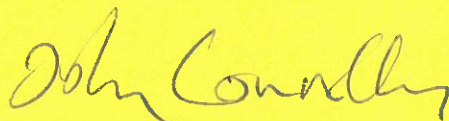
**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

### **Reasons and Considerations**

Having regard to the development to be retained, and the nature of use on the site for pig farming, which is considered an 'intensive agricultural use' for the purpose of calculating the applicable development contribution for such developments, it is considered that the terms of the Kerry County Council Development Contributions Scheme, 2017 were incorrectly applied by the planning authority in the calculation of the amount payable based on the reckonable gross floor area for 'commercial buildings' instead of 'industrial buildings'.

**Note:** The Board noted the Inspector's concerns regarding the floor area used by the Planning Authority for the purposes of calculating the Development Contribution in this case. The Board also noted that the floor areas appeared to have been significantly under-estimated in section 12 of the planning application form. However, based on the information submitted with the application and appeal, and having regard to the nature of the appeal and the amended Condition 2 above, which provides for further referral to the Board in the case of disagreement between the parties in respect of the application of the terms of the Scheme, the Board decided not to pursue this matter further with the parties.

**Board Member:**



**Date:** 30/05/2022

John Connolly