

An
Bord
Pleanála

Board Direction
BD-015967-24
ABP-316557-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/03/2024.

The Board treated this case under section 48 of the Planning and Development Act, 2000, as amended. The Board decided that the planning authority be directed, as follows:

AMEND conditions no. 22 and no. 23 as follows, based on the Reasons and Considerations set out under (1) hereunder,

22. Within three months of the date of this notice or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay to the planning authority a financial contribution of €14,705.82. (fourteen thousand, seven hundred and five euro and eighty two cents) 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. The application of any indexation required by this condition 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.

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.

23. Within three months of the date of this notice or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay to the planning authority a financial contribution of €60,924.13 (sixty thousand, nine hundred and twenty four euros and thirteen cents) in respect of the Cobh/Middleton to Blarney suburban rail project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under Section 49 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 required by this condition 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.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme may under Section 49 of the Act be applied to the permission.

And to

REMOVE condition no. 21 based on the Reasons and Considerations set out under (2) hereunder.

Reasons and Considerations (1)

Having regard to the adopted Cork County Council Development Plan 2022-2028 and the Contribution Scheme within and the nature and location of the proposed development, the Board considers that the attachment of conditions for both General and Supplementary contributions are warranted. The Board, however, considers that, given the substantive nature of the proposed development, which is an extension to an existing production facility, the "Non-Residential Development (Other)" class of contributions applies. The Board also considers a reduction of 75% of Roads charges applies to the proposed development, given a Supplementary Contribution is applicable. Having regard to the Development Contributions Guidelines for Planning Authorities" (2013), the Board considers that a reduced rate of 66% applies to the 10-year temporary permission for the two modular units. Consequently, conditions reflecting the General and Supplementary contributions should be amended.

Reasons and Considerations (2)

The planning authority has not demonstrated that there are specific exceptional costs (Cobh Cross upgrade, Junction 3 N25) that will be incurred directly in order to facilitate this particular project only. Cobh Cross Upgrade will serve a wide range of developments, including the wider IDA Ireland Carrigtwohill Business and Technology Park Fota Island/Great Island/Cobh Area, the settlement of Carrigtwohill and surrounding area.

The Board is not satisfied, therefore, that the specific financial contribution as proposed by the Planning Authority for such facility does come within the scope of Section 48(2)(c) of the Planning and Development Act 2000 as amended and accordingly would be unwarranted.

Note:

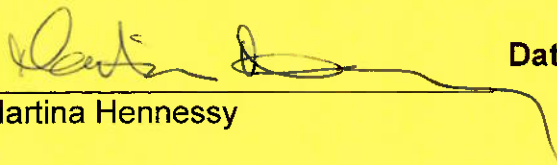
Noting the views of the Inspector, the Board had regard to the adopted Development Contribution Scheme which defines the uses to be considered in the “Offices and Retail Type” category to be comprised of office-based industries, banks etc. The Development Contribution Scheme states that other uses shall be in the “Other Non-Residential” category. Given the nature of the proposed development, which is an extension to an existing production plant and not an office-based industry, the Board considered it more appropriate to apply charges in the “Other Non-Residential” category to the proposed development.

The Board agreed with the Inspector that a reduction of 75% of road charges should be applied in determining the General Contribution to be charged, given a Supplementary Contribution is also applicable. The Board, however, did not agree with the Inspector that the reduced rate of 66% should not be applied to the two modular units. Having regard to the “Development Contributions Guidelines for Planning Authorities” (2013), which states that planning authorities are required to include this reduced rate in their development contribution schemes, the Board concurred with the planning authority that it was appropriate for this reduced rate to be applied to the two modular units.

For clarity, the revised calculations are set out below.

General Contribution					
Subject Area	Floorarea (sq.m)	Permanent/ Temporary	Cost per sq.m (DCS)	Reduced Rate	Total Due
Production Building	1475	Permanent	€5.60	-	€8,260.00
Modular Buildings	1744	Temporary	€5.60	66%	€6,445.82
Total					€14,705.82

Supplementary Contribution					
Subject Area	Floorarea (sq.m)	Permanent/ Temporary	Cost per sq.m (DCS)	Reduced Rate	Total Due
Production Building	1475	Permanent	€23.20	-	€34,220.00
Modular Buildings	1744	Temporary	€23.20	66%	€26,704.13
Total					€60,924.13

Board Member:  Date: 28/03/2024
 Martina Hennessy