



An
Bord
Pleanála

Board Direction
ABP-317200-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/07/2024.

The Board decided, as set out in the following Order, as follows:-

WHEREAS by order dated the 6th October, 2005, An Bord Pleanála, under appeal reference number PL04.212515 (04/7674), confirmed Condition no. 80 and amended Condition no. 81 attached to the planning permission granted to Ruden Homes Ltd. for the construction of a total of 554 no. residential units comprising:

- (a) 45 no. five-bed detached, 8 no. three-bed detached, 26 no. four-bed semi-detached, 144 no. three-bed semi-detached, 8 no. four-bed terraced, 292 no. three-bed terraced and 31 no. two-bed apartments,
- (b) 1 no. creche (586sq.m)
- (c) 1 no. shop (163.8sq.m)
- (d) Associated car parking
- (e) 3 no. electricity sub-stations
- (f) Construction of a new vehicular and pedestrian entrance from the existing road on the northwestern frontage of the site,
- (g) A second entrance for vehicular and pedestrian access from the existing road at the western frontage of the site onto Matthew Hill crossroads, and
- (h) Provision of bin storage, plant, landscaping/recreational amenities and all other site development and ancillary works.

On a site of 49.9 acres at Lehenagh Beg and Lehenagh More, Pouladuff, Togher, Cork.

AND WHEREAS condition 81 attached to the said permission required the developer to pay a special contribution in respect of road improvement works for an amount to be offset by the cost of works pursuant to condition 52, which directly overlaps with the said road improvement scheme.

AND WHEREAS the developer and the planning authority have failed to agree on the amount of contribution that is payable under condition 81 and the amount of contribution that should be refunded to the developer, and so the matter has been referred to the Board on the 12th of May 2023 for determination.

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) The planning history of the site, including conditions attached to the relevant planning permission and the decisions of the Board relating to those conditions,
- (b) Sections 48, 48(2)(c) and 48(12) of the Planning and Development Act, 2000, as amended,
- (c) Submissions made by the referrer and the planning authority on the matters referred

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 34(5) of the Planning and Development Act, 2000, as amended, hereby determines that the special contribution in respect of the road improvement works as required under condition 81 (part b) of the permission granted under 04/7674, and amended by the Board under PL04.212515, is:

- (i) payable in full and
- (ii) that the only reduction that should apply is in respect of the cost of the works to be offset against the works required by condition 52 and which overlap

the road improvement works to be carried out on the L2455 by the local authority.

The Board agrees that the amount of refund payable within the terms and conditions of the permission in respect of these offset works is €551,221.06 in accordance with the terms of Condition 81, as amended by An Bord Pleanála under PL04.212515 on the 6th day of October 2005.

Board Member: Stewart Logan *Stewart Logan* **Date:** 22/07/2024