

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Cork County**

**Planning Register Reference Number: 15/06119**

An Bord Pleanála Reference Number: PL 04.246853

**APPEAL** by Hallmark Building Services Limited care of McCutcheon Halley Walsh of 6 Joyce House, Barrack Square, Ballincollig, Cork in relation to the inclusion of special contribution condition number 65 by Cork County Council in its decision made on the 7<sup>th</sup> day of June, 2016.

**PROPOSED DEVELOPMENT:** A residential development comprising the removal of disused farm buildings and the construction of 61 number dwellinghouses and all associated ancillary development works including vehicular access, parking, footpaths, foul and storm water drainage (including the provision of a storm water attenuation tank at Woodview Drive), landscaping and amenity areas at Annabella (townland), Mallow, County Cork.

## **DECISION**

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended by section 30 of the Planning and Development Act, 2010, based on the reasons and considerations under, directs the said Council, under section 48 (13) of the 2000 Act, to **AMEND** condition number 65 so that it shall be as follows for the reason stated.

65. (a) The developer shall pay the sum of €58,000 (fifty-eight thousand euro) (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), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of the provision of a roundabout at the L1203 (Kennell Hill)/N72/L9000 junction and relocation and upgrade of the N70/N72 (Annabella) roundabout. This contribution shall be paid prior to 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 agreement, the matter shall be referred to An Bord Pleanála to determine.
- (b) The developer shall pay the sum of €7,500 (seven thousand, five hundred euro) (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), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of the provision of public lighting along the public road from the entrance to the Woodview housing estate up to the entrance to the proposed estate. This contribution shall be paid prior to 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 agreement, the matter shall be referred to An Bord Pleanála 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 covered in the Development Contribution Scheme and which will benefit the proposed development.

## **REASONS AND CONSIDERATIONS**

It is considered that the planning authority has not demonstrated that there are specific exceptional costs in terms of the provision of recreation and amenity facilities arising from the proposed development that would benefit the proposed development in this instance. The Board considered that compliance with policy is not an appropriate application of section 48(2)(c) of the Planning and Development Act, 2000 and that costs to be levied under this section are to be specific exceptional costs which are of specific benefit to the proposed development and that these costs should be properly apportioned. It is, therefore, considered that the special financial contribution as proposed by the planning authority for such facilities does not come within the scope of section 48(2)(c) of the Planning and Development Act, 2000 and accordingly, would be unwarranted.

It is considered that it has been demonstrated that there are specific exceptional costs in terms of road improvements arising from the proposed development that would benefit the proposed development in this instance.

The Board considered that there are specific exceptional costs in terms of provision of public lighting as outlined, that these had been properly costed, but that they would benefit a number of schemes and that an apportionment of 30% of the overall costs were appropriate in this instance.

In disagreeing with the Inspector on the matter of allowing costs to be levied in respect of additional public lighting, the Board considered that this would be an exceptional item which would benefit the proposed development.

## **MATTERS CONSIDERED**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this    day of                            2016.**