

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

**Cork County**

**Planning Register Reference Number: 16/06301**

An Bord Pleanála Reference Number: PL 04.247704

**APPEAL** by Soltaz Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork in relation to the inclusion of special contribution condition number 22 by Cork City Council in its decision made on the 10<sup>th</sup> day of November, 2016.

**PROPOSED DEVELOPMENT:** Redevelop the former FAI Grounds at Ballineaspig More, Curraheen, County Cork as part of The Cork Science, Technology and Innovation Park. The proposed development includes the demolition of the existing stadium structures and the construction of a four/five storey office building with roof level plant and a single storey café/restaurant. The proposed office building will be constructed in two phases over the 10 year period of the permission. The proposed development includes all associated car parking, new vehicle access and all ancillary landscaping and site development works.

## **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 ATTACH condition number 22 and the reasons therefor.**

## REASONS AND CONSIDERATIONS

Having regard to the planning history of the site, the pattern of existing and permitted development on the site and in the vicinity, and the documentation submitted as part of the application and appeal, including details of traffic levels and details of costs, the Board is satisfied that the public infrastructure and facilities that are the subject matter of the appeal (that is, the upgrading of the N40 Curaheen Interchange and the CSAIP Infrastructure Phase 1 Infrastructure) would benefit the proposed development, and that the imposition of this condition conforms to the provisions of Section 48 (2)(c) of the Planning and Development Act 2000, as amended. Furthermore, on the basis of the documentation submitted by the planning authority to An Bord Pleanála on the 13<sup>th</sup> day of January 2017, including details of costings, the Board is satisfied that the apportionment of the costs of the works in question was reasonable and proportionate as between the various precincts and developments within the Cork Science and Innovation Park that would benefit from the works concerned (including the subject development), and that these works constitute specific exceptional costs that are not covered by the General Development Contribution Scheme.

In not accepting the recommendation of the Inspector to require the removal of condition 22, the Board was satisfied that the condition accorded with the provisions of Section 48 (2)(c) of the Planning and Development Act 2000, as amended, and was satisfied that the particular works referred to in this condition, while not all required to *facilitate* the proposed development, would all *benefit* the proposed development, as they are part of the planned and approved infrastructure within the Masterplan for this overall Cork Science and Innovation Park, of which the subject development is a part, and that the applicable test for the imposition of a special development contribution under Section 48 (2) (c) of the Act relates to whether the public infrastructure and facilities will benefit the subject development, and not whether it is required to facilitate any particular development. The Board noted that the Inspector stated that he was satisfied that the documentation provided by the planning authority adequately addresses what works are required and provides a breakdown of the relevant costs. Furthermore, the Board considered that, while it is for the planning authority to determine whether these costs are to be levied under Section 48 (2)(c) of the Act or under Section 49 of the Act, the works the subject of the condition constitute exceptional costs not provided for in the General Section 48 Development Contribution Scheme.

