

An
Bord
Pleanála

Board Order
ABP-318831-24

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 23/516

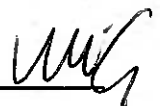
Appeal by Green Urban Logistics Naas Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dún Laoghaire, County Dublin in relation to the application by Kildare County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 27 of its decision made on the 6th day of December, 2023.

Proposed Development: A seven year permission comprising, inter alia, development works to the public realm. Proposed development works occur primarily on Lime Drive and Rowan Tree Road and adjacent to Elm Road and consist of the following: reduction of the carriage width from nine metres to seven metres at selected locations as a traffic calming measure with central line marking used elsewhere as a traffic calming measure along the primary circulation route - Lime Drive and Rowan Tree Road; provision of cycle infrastructure along Lime Drive and Rowan Tree Road comprising of a two-way cycle track (three metres wide) on the northern sides of Lime Drive for the first 200 metres and cycle tracks (two metres wide) on both sides of Lime Drive and Rowan Tree Road thereafter; two metres footpath on both sides of Rowan Tree Road and a two metres footpath on both sides of Rowan Tree

Road to include eight number crossing facilities at key points along the main carriageway; public lighting along Lime Drive and Rowan Tree Road; three number landscaped amenity nodes, with hard and soft landscape features within; seating areas with hard and soft landscape features within; seating areas with featured canopy/shelter at nodes 1 and 2; earth mounding, tree removal, tree planting and paving; parking provision for cyclists (15 number spaces) at proposed nodes as well as vehicle parking (six number spaces) at node 1; provision of outdoor exercise facilities at node 2; amenity area at the southern end of the Enterprise Park located adjacent to Elm Road, functioning also as an attenuation pond with a capacity of approx. 19,250 cubic metres; a second attenuation pond northwest of Rowan Tree Road with a capacity of approx. 4,280 cubic metres and all associated landscaping and site development works including substation provision. The site area of this proposal is approximately 8.43 hectares, all at Naas Enterprise Park, Naas, County Kildare.

Decision

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 27 and directs the said Council to REMOVE condition number 27 and the reasons therefor.



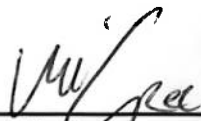
Reasons and Considerations

Having regard to the fact that the planning authority:

- (a) proposed to levy a charge in respect of only part of the proposed development while deeming the remainder of the development to be exempt from development contributions,
- (b) demonstrated inconsistency in the recent application of development contributions in respect of surface water attenuation ponds in Naas Enterprise Park, and
- (c) failed to justify the levying of development contributions in respect of amenity areas in circumstances where some of the areas involved are already laid out as landscaped open areas,

the Board considered that the terms of the Kildare County Council Development Contribution Scheme 2023-2028 were not properly applied in respect of condition number 27 of the planning authority's decision to grant planning permission reference 23/516.

In deciding not to accept the recommendation of the Planning Inspector to reduce the amount of the development contribution, the Board concluded that any reduction in the amount of the contribution would amount to an arbitrary application of the terms of the Kildare County Council Development Contribution Scheme 2023-2028, in circumstances where certain elements of the proposal were deemed exempt while others were being charged a rate per hectare, which could not be justified given the absence of any material change in use of parts of the subject site which were already laid out as open landscaped areas where permission was sought for additional hard and soft landscaping and associated public realm works.



Liam McGree

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this 28 day of JANUARY 2025.