



An  
Bord  
Pleanála

Board Order  
ABP-321526-24

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## Planning and Development Acts 2000 to 2022

Planning Authority: Cork County Council

Planning Register Reference Number: 6033

**WHEREAS** by Order dated the 21<sup>st</sup> day of November, 2023, An Bord Pleanála, under appeal reference number ABP-313827-22, granted subject to conditions a permission to BAM Property Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork for development comprising the construction of a strategic housing development of 716 number units comprising 224 number houses, 284 number duplex units and 208 number apartments provided in seven number apartment building blocks. A two number storey creche building is also provided, at Castlelake, Terry's-land and Carrigtohill (Townlands), Carrigtwohill, County Cork.

**AND WHEREAS** condition number 31 attached to the said permission required that prior to commencement of development the developer shall pay to the planning authority a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, 'in respect of infrastructure to upgrade Station Road and other junctions in the vicinity which will benefit the proposed development', and that 'the amount of the contribution shall be agreed between the developer and the planning authority or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination':

**AND WHEREAS** the developer and the planning authority failed to agree on the amount of the contribution in compliance with the terms of the said condition and the matter was referred by the developer to An Bord Pleanála on the 11<sup>th</sup> day of December, 2024 for determination:

**AND WHEREAS** the Board is satisfied that the matter at issue is the amount of development contribution to be paid:

**AND WHEREAS** the Board had particular regard to the provisions of Section 34(5) of the Planning and Development Act 2000, as amended, Section 48 of the Planning and Development Act 2000, as amended, the Development Contributions Guidelines for Planning Authorities published by the Department of Environment, Community and Local Government in 2013, the Development Management Guidelines for Planning Authorities published by the Department of Environment, Heritage and Local Government in 2007, the Cork County Development Plan 2022-2028, the Cork County Council Development Contribution Scheme, adopted by Council on 23<sup>rd</sup> February, 2014 (with rates adjusted 1<sup>st</sup> January 2014), and the documentation submitted by the referrer and the planning authority:

**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, and based on the Reasons and Considerations set out below, hereby determines that condition number 31 on foot of this referral results in a total special contribution payable of €497,538 (four hundred and ninety-seven thousand, five hundred and thirty-eight euro) based on a breakdown as follows:

<b>Measure</b>	<b>Planning Authority's Total Cost for 716 units (as applied for)</b>	<b>Planning Authority's Cost Per Unit</b>	<b>Total Cost for 633 number Units (as permitted)</b>
Wise's Road/Oakbrook link junction	€33, 294	€47	€29,751
Wise's Road/Main Street junction	€77, 570	€108	€68,364
Station Road Upgrade	€228,295	€319	€201,927
Station Road/Main Street junction	€80,000	€112	€70,896
Castlelake Avenue/Main Street junction	€143,000	€200	€126,600
<b>Total Payable</b>			<b>€497,538</b>

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## Reasons and Considerations

Having regard to:

- (a) Section 34(5) of the Planning and Development Act 2000, as amended,
- (b) the provisions of the Cork County Development Plan 2022-2028, and the Cork County Council Development Contribution Scheme, adopted by Council on the 23<sup>rd</sup> day of February, 2004 (with rates adjusted the 1<sup>st</sup> day of January 2014),
- (c) Section 48 of the Planning and Development Act 2000, as amended,
- (d) the submissions on file, and
- (e) the planning history of the site,

the Board was not satisfied that the proposed Cobh Cross Interim Works would constitute specific and exceptional works that would benefit the proposed development, and as a result concluded that the levying of a special contribution relating to same does not fall within the provisions of Section 48 (2)(c) of the Planning and Development Act 2000, as amended. In this regard, the Board noted that the Cobh Cross Interim Works would not be specific exceptional costs that would be incurred directly in order to facilitate this particular project only and would instead benefit development in the wider area.

Furthermore, the Board was not satisfied that that the imposition of a special contribution relating to underpass works at Carrigtwohill conforms to the provisions of Section 48 (2)(c) of the Planning and Development Act 2000, as amended, noting that the levying of same would appear to relate to a previous legal agreement that is unrelated to the permitted development.

The Board was satisfied that there was sufficient information on file to calculate the appropriate apportioned amount payable towards each of the remaining applicable specific infrastructure upgrade works that are the subject of condition number 31 of An Bord Pleanála appeal reference number ABP-313827-22 and it was determined that the appropriate quantum of monies due under condition number 31 of the grant of permission is therefore, €497,538 (four hundred and ninety-seven thousand, five hundred and thirty-eight euro).

In disagreeing with the Inspector in part, specifically in relation to the attachment of a special contribution of €1,476,789 for the Cobh Cross Interim Works an element of the Inspector's recommended amended condition number 31 (and which element the Board decided to omit), the Board concluded that the planning authority has not demonstrated that there are specific exceptional costs that would be incurred directly in order to facilitate this particular project only. Cobh Cross Upgrade will serve a wide range of developments and the town as a whole and not just the appeal site. The Board also noted that the part funding of these works are capable of being captured in a general Section 48 Development Contribution Scheme (or a separate Section 49 Development Contribution Scheme) and Section 48(2)(c) is not an appropriate mechanism to be used in its place.

The Board was not satisfied, therefore, that the specific financial contribution of €1,476,789, for the Cobh Cross Interim Works as proposed by the planning authority comes within the scope of Section 48(2)(c) of the Planning and Development Act, 2000, as amended, and accordingly omitted this element of the amended condition.

The Board agreed with the Inspector's assessment and findings and amount payable towards each of the remaining applicable specific infrastructure upgrade works that are the subject of condition number 31 and also agreed with the Inspector that a special contribution relating to underpass works at Carrigtwohill is not warranted.

*Patricia Calleary*

**Patricia Calleary**

**Member of An Bord Pleanála**

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



Dated this *14* day of *April* 2025.