



An
Bord
Pleanála

Inspector's Report ABP.311195-21

Development	Construction of two industrial/manufacturing units
Location	Coachford Business Park, Clonmoyle East (Td), Coachford Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	20/5710
Applicant(s)	Summerhill Construction Ltd.
Type of Application	Planning permission
Planning Authority Decision	Grant permission
Type of Appeal	First Party
Appellant(s)	Summerhill Construction Ltd.
Observer(s)	None
Date of Site Inspection	11 th March 2022
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located approx. 2.5km north of the village of Coachford, which in turn is located c.29km to the west of Cork City and c.16km to the west of Ballincollig. The village is situated at a crossroads where the R618 and the R619 intersect. The R619 travels N-S and links Farnanes on the N22 with Donoughmore and Mallow to the North, while the R618 travels E-W to the north of the River Lee, and links Ballincollig with Macroom via Coachford. The two regional roads converge in the centre of the village. The site is located in a rural area to the north of the village, off the R619.
- 1.2.** The site is stated as being 2.45ha in area. It forms part of a small established business park which is accessed directly from the R619. It currently contains two large warehouse type buildings which are located close to the public road. These buildings appear to be occupied by Cork Roof Truss Company. The estate is accessed at the south-western end of the lands. Block A is located immediately adjacent to the entrance and Block B is located to the north. The site of the proposed appeal is located to the east of these two blocks.
- 1.3.** The site is bounded to the south by the Dripsey River which is defined by a dense row of mature trees. The eastern section of the site (location of proposed buildings) is currently laid out as a hardstanding area which is in use for the storage of a large number of containers. The containers appear to be associated with a business – Summerhill Containers. There are several houses located to the north of the site and a recorded monument, Clonmoyle House (in ruins).

2.0 Proposed Development

- 2.1.** The proposed development involves the construction of 2 no. detached industrial units. Block C has a stated area of 7,050sq.ft. and Block D 10,255sq.ft. The proposal includes ancillary associated development such as parking, landscaping, boundary fencing and wastewater treatment.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 29 no. conditions. The appeal relates to Condition No. 28 which requires the payment of a special financial contribution. Condition No. 29 requires the payment of a financial contribution under the General Development Contribution Scheme. In summary, these conditions require the following:

Condition 28 – At least one month before commencing development the developer shall pay a Special Development Contribution of €21,000.00 to Cork Co. Co. in respect of specific exceptional costs not covered in the Council's General Development Contribution Scheme in respect of works proposed to be carried out, for the provision of proposed future resurfacing at the entrance to facilitate the development. Standard provisions are included (including refunds, payment of interest etc.) to address scenarios where the Council does not commence the said works within 5 years of payment, have commenced works but not completed within 7 years of payment or decide not to proceed with the works.

Reason: It is considered appropriate that the developer should contribute towards these specific exceptional costs, for works which will benefit the proposed development.

Condition 29 – At least one month before commencing development Financial Contribution of €26,275.20 to be paid in accordance with the General Development Contribution Scheme, which was calculated in accordance with the GDCS and indexed linked.

Reason: It is considered appropriate that the developer should contribute towards the cost of public infrastructure and facilities benefitting development in the area of the planning authority as provided for in the Development Contributions Scheme made in accordance with S48 of the Planning and Development Act, and that the level of contribution payable should increase at a rate which allows for both inflation and for phasing of the target contribution rates, in the manner specified in the scheme.

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. The Area Planner's initial report (02/10/20) noted that the site is situated within a rural area remote from any settlement. There appear to be three businesses operating from the business park, namely Cork Roof Truss Co., Construction and Trade Supplies, and Summerhill Containers. It is stated that two of the existing units are occupied by Cork Roof Truss Co. and the two proposed units would also be occupied by this company. It is noted that the company manufactures timber frame trusses for houses, eco joists and modular flooring.
- 3.2.2. The proposed development was considered to be acceptable in principle. It was considered, however, that the overall use of the industrial lands and the various operations within it, together with the planning status of same, should be clarified given the remote rural location. It was also noted from inspection that a large part of the site has been extended beyond the established industrial curtilage to include the land which will be occupied by the proposed development, with evidence of site clearance works, removal of vegetation, ground excavation works and imported rock materials. Thus, it was considered that the proposed development (Block D) would be outside the established industrial curtilage and would involve lands which are currently in use for the storage of containers by Summerhill Containers.
- 3.2.3. The main issues highlighted in the first Planner's report (02/10/20) incorporated a wide range of issues including extent of the permitted/established use, the layout, access, design, foul drainage proposals and flood risk etc., which resulted in a request for FI. However, as the appeal that is currently before the Board relates to a Special Contribution condition regarding roads and access matters, I will confine the summary of the matters raised to those that are relevant to the current appeal.
- The Planner noted that the existing entrance from R619 is to be utilised, but that sightlines have been highlighted by the Area Engineer as not being adequate. In particular, the sightline to the south is obstructed by an existing fence and hedging adjacent to the bridge.
 - The FI submitted on 27/04/21 clarified the extent of the site and that the containers were being stored temporarily on the site as a result of Covid-19.

- The FI (27/04/21) also addressed the sightlines at the entrance with revised drawings showing the realignment of the entrance to improve sightlines to the south towards the bridge. It also addressed the matter of prevention of surface water runoff from the access road, in that it was proposed to insert a drain (aco-style linear drain) across the entrance, which would be connected to the existing stormwater network on the site access road.
- Reference was made in the second Area Planner's report (20/05/21) to the response regarding the temporary storage of containers. This was not accepted as it appeared to be the site of the company headquarters for Summerhill Containers. In relation to the Area Engineer's concerns regarding sightlines and drainage at the entrance, these matters had been satisfactorily addressed. However, there were still some outstanding matters re wastewater disposal. Clarification was therefore required regarding foul drainage and the use of the site for container storage
- The Area Engineer's report of the 26/07/21 raised the issue of the poor condition of the surface at the entrance from the R619, which is showing signs of fatigue and it was considered likely that it would deteriorate further as a result of the proposed development. Therefore, a special contribution was recommended for the resurfacing of this section of road at the entrance. The area concerned was described as comprising 50m of carriageway around the entrance, which will have to be carried out in the next 5 years.
- The cost of the resurfacing was stated to involve Hot Rolled Asphalt at 50m x 6m x €70 = €21,000.

3.2.4. Other Technical Reports

Area Engineer – Initial report (30/09/20) identified issues with sightline to south which is obstructed by the existing fence and hedging adjacent to the bridge.

Area Engineer - FI Response - 20/05/21 – revised drawing with improved sightline noted. Deferral recommended with regard to site suitability assessment.

Area Engineer – Clarification Response – 26/07/21 - problem identified with the proposed access in terms of the current condition of the existing surface at the entrance from the R619, which was showing signs of fatigue. It was considered that

the road at the entrance would deteriorate further as a result of the proposed development and that a special contribution was required for the resurfacing of the section of road at the entrance (50m x 6m), at a cost of €21,000.00. It is stated “The works relate to a 50m section of the carriageway around the entrance which will have to be carried out in the next 5 years. The cost of this resurfacing with Hot Rolled Asphalt is estimated as follows:

$$50\text{m} \times 6\text{m} \times \text{€}70 = \text{€}21,000$$

3.3. Prescribed Bodies

None relevant.

3.4. Third Party Observations

No third-party observations received.

4.0 Planning History

67/628 – planning permission granted in 1967 for the erection of a factory at the site.

76/2941 – permission granted for retention of an extension to the tyre remoulding plant.

12/6372 – planning permission granted for change of use of existing industrial premises comprising 2 industrial buildings to provide for a recovery/recycling facility for end of life vehicles and a waste recovery facility.

19/D208 – declaration issued for use of existing industrial site for the manufacture of timber framed trusses etc. that it was exempted development.

5.0 Policy Context

5.1. Cork County Development Plan 2014

5.1.1. Chapter 6 – Economy and Employment – Policy Objective EE 9-1 Business Development in Rural Areas.

5.1.2. **Chapter 10** – Transport and Mobility – Policy Objective TM 3-1 National Road Network

5.2. Blarney - Macroom Municipal District Local Area Plan 2017

5.2.1. Coachford is one of four Key Villages in the Municipal District area. It is described in the LAP as a large attractive village with a predominantly linear form. The vision for the village is to encourage development within the settlement boundary, to consolidate the settlement as a provider of a range of important local services and to promote sympathetic development in tandem with the provision of infrastructure and services. The role of Key Villages is as the primary focus for development in rural areas and for the provision of local services by encouraging and facilitating population growth, by supporting the retention and improvement of key facilities, including social and physical infrastructure and public transport. The site is outside the development boundary.

5.3. Natural Heritage Designations

The closest designated site is The Gearagh SAC (000108) and the Geragh SPA (004109), which are located c.12km to west.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal was submitted by McCutcheon Halley Planning Consultancy on behalf of the applicant. The appeal is against Condition No. 28 only, which requires the payment of a Special Contribution of €21,000 in respect of works involving the resurfacing of an area of 50m x 6m at the entrance to the site. The main points raised may be summarised as follows:

- **Not 'Specific' or 'Exceptional'** - The Council has not demonstrated that the costs incurred are either specific or exceptional to the development as stated in the reason for the condition, and as required by Section 48(2)(c) and 48(12) of the Planning and Development Act 2000. There is an onus on the P.A. to demonstrate that the works are 'exceptional' in the sense that they could not

have been envisaged at the time that the Development Contribution Scheme was approved. It is also required that the P.A. demonstrate that the works are 'specific' to this development and would benefit the permitted scheme rather than the general area, and would not be incurred at all if the proposed scheme did not go ahead.

- The costs incurred in the “future resurfacing at the entrance to facilitate the development” could not be considered to be works that are specific to the proposed development.
- There is no difference between the surface at the entrance to the development and the road condition in the wider area. The works required as described in the Area Engineer’s report are merely road maintenance works and are not specific to the development. Thus, it is submitted that the special contribution is not justified. The P.A. has not demonstrated that the costs incurred under this contribution are either specific or exceptional as required by Section 48(12)(a) of the P & D Act. The condition should therefore be omitted in its entirety.
- **Double charging** - The Council is requiring the payment of this special contribution in addition to the payment of a contribution under the General Development Contribution Scheme. There is no difference between the surface at the entrance and the road condition of the wider area, and the works referred to by the Area Engineer are merely general maintenance works which are not specific to the proposed development. The General Contribution levy is on the basis that all services (including roads) are available and fit for purpose. Thus, a second levy relating to upgrade of roads in the area amounts to double charging. Condition 28 therefore fails to demonstrate that the specific exceptional costs required are not already covered by another scheme (GDCS).
- Reference is made to previous Board decisions whereby the Board stated that the general contribution includes upgrading and improving existing services, including roads. The precedents referred to were PL04.242829 and PL04.229412.

- **Section 139** - It is requested that the appeal be dealt with under Section 139 of the 2000 Act and that Condition 28 be omitted.

6.2. Planning Authority Response

The P.A. responded to the grounds of appeal on the 15th September 2021. The following comments were made:

The existing surface at the entrance to the site is starting to show signs of fatigue. Therefore, it is likely that the road at the entrance will deteriorate further as a result of the proposed development. It is appropriate to impose a special development charge for the surfacing of a 50 m section of the carriageway around the entrance which will have to be carried out in the next 5 years. The cost of this resurfacing with Hot Rolled Asphalt is estimated as follows:

50m x 6m wide x €70 = €21,000.

7.0 Assessment

7.1 Legislation and Guidance

7.1.1. As the appeal is solely against Condition 28 of the planning permission, relating to a Special Financial Contribution, Section 48(13)(a) of the Planning and Development Act 2000, as amended, applies. This requires that the Board shall not determine the relevant application as if it had been made in the first instance, but shall determine only the matters under appeal.

7.1.2. **Condition 28** requires the payment of a special contribution of **€21,000**

“.....in respect of specific exceptional costs not covered in the Council’s General Development Contribution Scheme, in respect of works proposed to be carried out for the provision of proposed future resurfacing at the entrance to facilitate the development....”

7.1.3. I note that there is also a condition (No. 29) attached to the permission requiring the payment of a financial contribution in respect of public infrastructure and facilities benefitting development in the area under the adopted Cork County General Development Contribution Scheme, made under Section 48(2)(a) of the Act. There are also further conditions attached to the permission which require the applicant to

carry out improve sightlines at the entrance by setting back the road boundary fence and hedge, (Condition 5) and conditions relating to surface water drainage at the interface between the road and the entrance.

- 7.1.4. Section 48(2)(c) of the P&D Act 2000, as amended, provides for the payment of a Special Contribution and further guidance on the matter is provided in the Development Management Guidelines, 2007 (Section 7.12). It is clear from the legislation and the guidance that such a requirement should only be made in respect of a particular development, whereby demands likely to be placed on the public services and facilities are deemed to be exceptional, thereby incurring costs not covered by the General Development Contribution Scheme.
- 7.1.5. It is further clear that such a condition must be amenable to implementation under the terms of S48(12) of the Act. This means that the basis for the calculation should be clear from the planning decision. The Guidelines state that

“this means that it will be necessary to identify the nature/scope of the works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development.”

7.2. Nature and scope of the works

- 7.2.1. The works are not fully specified in detail in Condition 28, but the Area Engineer’s Report (4/02/20) and the Planning Reports (5/02/20) provide more detail on the nature and scope of the works required. It is stated that given that the existing condition of the road surface is showing signs of fatigue, and that the proposed development will accelerate the deterioration of the road surface at this location, it is requested that the developer should pay a special development contribution towards resurfacing a section of the road at the entrance as follows:

Provision for road resurfacing works at entrance from R619 - 50m x 6m =
300m² @ €70 per m² = €21,000.

- 7.2.2. Although the P.A.’s response to the grounds of appeal has not provided any further information regarding the justification for the works, it is considered that the nature and scope of the works and expenditure involved is reasonably clear, and the basis for the calculation and its apportionment to the development has been provided. However, it was noted from my site inspection that the entrance area has been

resurfaced in the meantime. In addition, the adjoining stretch of the R619 has also been resurfaced and lined. Neither party has mentioned this.

- 7.2.3. The grounds of appeal are accompanied by a set of photographs of the entrance and road in the vicinity of the site. It is submitted by the first party that there is no difference between the surface at the entrance and the general road condition and as such, it is considered that the works that the Area Engineer is referring to are simply general maintenance works which are not specific to the development. The Board should note, however, that the condition of the road surfaces on and adjoining the site have been altered since the appeal was lodged.
- 7.2.4. It can be seen from an examination of the photos of my site inspection (March 2022), the photos submitted with the grounds of appeal (August 2021) and the aerial and Streetview photos available on Google Maps (date stated as July 2019), that the condition of the road surfaces within the site, at the entrance to the site and along the R619 adjacent to the site have undergone substantial improvement works in recent months. The photos indicate that this stretch of the R619 has been resurfaced and lined and that the internal road within the site has been resurfaced and a car parking area laid out in front of Block A. In addition, the entrance to the site comprising a wide apron with road markings, new metal fencing, kerbing with gravel contained within the kerbed areas and new screen planting have been introduced at some stage. It is not clear, however, which specific works have been undertaken by the applicant and which by the local authority, although it is assumed that the R619 resurfacing/re-lining would have been completed by the local roads authority.
- 7.2.5. At the time of the planning authority's decision, the condition of the road was showing signs of fatigue. Although the condition of the surface of the road at the entrance has been upgraded since then, it is not clear whether the works have been completed to the required standard. I note that the decision of the planning authority (20/5710) had included several conditions relating to surface water management and drainage at the entrance designed to prevent runoff onto the public road (No. 7) or ponding between the road edge and the boundary fence (No. 6). In addition, Condition No. 12 required the provision of a drainage channel across the full width of the driveway inside the entrance gate and Condition no. 5 required the setback of the roadside boundary. It is not clear whether these conditions have been complied when the resurfacing works were undertaken.

- 7.2.6. The Area Engineer's concerns related to the likelihood that the road surface would deteriorate further as a result of the proposed development. The proposal involves the expansion of the use of the site to include two additional industrial units. This will involve additional trucks and HGVs using the entrance, involving turning movements, which will increase the wear and tear on the recently resurfaced area. In addition, as stated above, it is not clear if the resurfacing has been carried out by the local authority and if not, whether it has been undertaken to the required standard and has included the drainage works specified in the conditions. If the works have been undertaken by the local authority, it is considered reasonable that the investment in these works should be protected from undue wear and tear.
- 7.2.7. The Board may consider it appropriate to seek further information from the parties on these matters. However, it is considered that the nature and scope of the works, in terms of the need for resurfacing of a specific area at the entrance to the site, has been clearly identified, and the costs associated with the works has been clearly set out by the planning authority.

7.3. Specific or exceptional costs

- 7.3.1. The wording of Condition 28 states that the contribution is required in respect of "specific exceptional costs not covered in the Council's General Development Contribution Scheme". This means that the costs incurred should be directly as a result of the development or are required in order to facilitate the development and are properly attributable to the development. Furthermore, the works should be such that they would not have been envisaged as being necessary at the time of the adoption of the GDCS and should not be incurred at all if the development in question did not go ahead.
- 7.3.2. The main purpose of the special contribution as set out in condition 28 appears to relate to the condition of the road at the entrance, which was deemed to be in need of upgrading at the time of the P.A. decision, as it was showing signs of fatigue. As noted above, the roadway at the entrance as well as the adjoining stretch of the R619, were in a poor state of repair and/or were in the process of being resurfaced, but they have been upgraded in the meantime. The planning authority's concerns related to the impact of traffic using the entrance which it was considered would be likely to give rise to more rapid deterioration of the surface, and which would have

necessitated upgrading within 5 years. The existing buildings within the Business Park are occupied by Cork Roof Truss Company and it is stated that the proposed additional blocks will also be occupied by the same operator. Given the industrial nature of the use and the scale of the expansion (doubling the intensity), it is considered that the resurfacing works can be attributable to the proposed development, and that they would not have been covered in the General Development Contribution Scheme. It is clear that the re-surfacing would also benefit the occupiers of the proposed development rather than the general area.

- 7.3.3. It is considered, therefore, that the scope and nature of the works identified by the planning authority, (namely the resurfacing of a 50m length of road at the entrance junction), is reasonable based on the likely impact of the traffic on the road surface at this location, notwithstanding the fact that the condition of the surface has been improved in the meantime. It is considered that the P.A. has demonstrated that the proposed resurfacing works are specific to the development and exceptional.

7.4. Double charging

- 7.4.1. The applicant considers that the P.A. was engaging in the practice of double charging as there is a requirement to pay a contribution under the GDSCS in addition to the payment of a special contribution, which amounts to double charging for the same infrastructural improvements. It is noted that the provision of road works, footpaths, traffic calming etc. are included in the types of works identified as Public Expenditure in S48(17) of the Planning and Development Act (as amended). However, this does not mean that additional specific road improvement works, the need for which can be attributed to the carrying out of a proposed development, cannot also be the subject of a special contribution.
- 7.4.2. As stated previously, I would accept that the traffic impact on the road surface at the entrance to the industrial estate have an impact on the road surface at this location, which is likely to require resurfacing of this area in the future, which can be considered to be specific to the proposed development and amount to exceptional costs. Thus, whilst there is a reasonable expectation that road improvement works such as resurfacing improvements should be provided for by means of the GDSCS, it is considered that in the context of the siting and layout of the entrance and the large volume of heavy traffic turning movements that would be generated by the proposed

development, it would be reasonable to require the applicant to pay a contribution towards the costs of the upgrade of this specific section of road.

- 7.4.3. I would accept that these works come within the scope of Section 48 (2)(c) of the Act. I would accept that these works come within the scope of Section 48 (2)(c) of the Act. The Special Contribution condition should therefore be attached as it is considered that these matters are specific and exceptional and would not be covered by the terms of the GDCS, and it would not amount to double-charging.

7.5. Precedents

- 7.5.1. The first party appellants have made reference to previous Board decisions in support of their case. These were PL04.242829 and PL04.229412. I have attached the Board Orders and Inspectors' Reports in each case for the Board's convenience. It is considered however that these cases differ from the case that is currently before the Board as follows:

242829 The Board decided to remove the special contribution condition which related to road improvement works on Sarsfield Road in Cork involving road alignment improvement works, junction improvement works, planning existing surface, surfacing macadam and stone, lining, drainage and alteration of existing services, on the basis that it would amount to double-charging. It is noted that the Board had agreed with the Inspector's view that the works did constitute road improvement works that were specific to the proposed development, but as the decision had included a further condition requiring the developer to undertake that said works at his own expense. The Board had noted that the developer was required to assume responsibility for the design and construction of all works relating to the new road infrastructure and all variations/re-alignments to the existing public road network as submitted in the application documentation, and as such, it was considered that this would constitute duplication and amount to double charging. In the current case before the Board, the road works relate to works at the entrance to the site, which are specific to the development.

229412 The special contribution in this case (75 houses at Glebe, Coachford) related to the upgrading of the local road network (€10,000) and to the replacement of an existing stone culvert through the village (€103,930). The Board decided to amend the condition to require the payment of the contribution towards the road improvement works (€10,000 for the upgrade of footpaths linking the site entrance to the village) but omitted the remainder of the contribution in respect of the culvert. The Board stated that the provision of the footpath constituted specific exceptional costs not covered by the contribution scheme, and that the payment of a special contribution was warranted.

7.5.2. I note the following additional Board decisions in the Cork area:

232458 This related to the development of 4 no. buildings at a Business Park at Wallingstown, Little Island. The special contribution related to three specific items of road improvements to the road network which were Dunkettle Interchange Upgrade, Little Island Interchange Upgrade and Little Island Junction Improvement Report. The Board decided that the upgrades to the road system were warranted, would benefit the future proposed development and that the proposed development would generate traffic which would have an impact on the road system, and therefore, that the development should contribute to the upgrade.

300890 The development related to a quarry at Ballyhea, Charleville. The special contribution related to specific exceptional costs associated with resurfacing of the entrance to the site and at another junction nearby on the local road network, due to the turning movements of trucks using the development. The developer considered, inter alia, that the levy would amount to double charging as it was proposed to undertake certain road improvement works to the network including the provision of passing bays. However, the Board considered that having regard to the impact of the quarry traffic on the road surface conditions at the two junctions, it would be appropriate and reasonable to impose a special contribution with respect to resurfacing the junctions in question.

301769 The development involved the construction of 10 houses at Togher Cross and the special contribution related to the modification of a public footpath opposite the site, modification of a zebra crossing and road pavement improvements. The Board decided that the said modifications/road improvement works would amount to specific exceptional costs which are not covered by the GDCS, and which would benefit the proposed development.

7.5.3. The decisions referred to above indicate that road works such as that proposed can be regarded as specific exceptional costs outside of the GDCS.

8.0 Recommendation

8.1. Having regard to the information on the file, the grounds of appeal, the planning and technical reports of the planning authority in relation to the development, and to the assessment above, I recommend that the Board directs the planning authority to **ATTACH** Condition 28 and the reason therefor for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the to the siting and layout of the entrance to the site from the public road and to the traffic turning movements that would be generated by the proposed development which would impact the road surface at the entrance junction, it is considered reasonable that the costs of upgrading the road surface at the entrance ought to be borne by the subject development. It is considered that the planning authority has demonstrated that the need for the resurfacing of the entrance junction arises from traffic associate with the proposed development, which would amount to specific exceptional costs, which are not covered by the General Development Contribution Scheme, and which would benefit the proposed development in this instance.

Mary Kennelly
Senior Planning Inspector

23rd March 2022

