



An
Bord
Pleanála

Inspector's Report 312914-22

Development	Change of use of part of from Bar and Restaurant use to Office and Services
Location	Ballynoe Inn Pub and Restaurant, Rushbrooke Links, Ballynoe, Cobh, Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	216795
Applicant	Brian Miskella
Type of Application	Permission
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	First party vs. s.48 condition
Appellant	Brian Miskella
Observer	None
Date of Site Inspection	14 th July 2023
Inspector	Suzanne Kehely

1.0 Site Location and Description

The site relates to a two storey public house premises in a small neighbourhood centre in a suburban residential area to the southwest of Cobh in the Rushbrooke neighbourhood. The neighbourhood centre is at the junction of Ballynoe road and Rushbrook Road and has vehicular access on both frontages. The site is noticeably elevated above lands to the west which is characterised by a predominance of two storey housing. The adjacent housing has access to the centre via a stepped pedestrian link. There is a bus service outside the centre on the Ballynoe Road and the train station is about 1.3km away via a pedestrian route to Rushbrook station whereas the Cobh railway line is less than 500m directly to the west across land. It is a more circuitous route via the road network along which there is no continuous footpath to the nearest point on the line. There is a ferry service to Passage West from Carrigaloe to the northwest which is 1km via Ballynoe Road.

2.0 Proposed Development

- 2.1. Permission is sought for change of use of part of the first floor and the access stairs at ground floor) from bar and restaurant to offices and services to include financial, professional, (excluding medical or health services as described in further information) and other services provided principally to visiting members of the public.
- 2.2. The drawings specify the floor area subject of change of use for each floor level. A breakdown of net areas and uses is also provided. The area for changes of use is stated to be 195 sq.m. but increases to 207 sq.m. if the stairwell is included. At first floor level and 12sqm at ground level. The area is shown as hatched in red.
- 2.3. The proposed layout incorporates :
 - the retention of the external elevation and openings on the public facades. (There is a narrowing of an door opening to the internal courtyard/top of fire escape) .
 - the retention of the toilet facilities in situ
 - insertion of partitions to enclose the internal stairwell which provides:

- a segregated entrance from ground level to the first-floor offices
- Three interconnecting offices and a meeting room with access of off newly created corridor .
- The proposed corridor provides access to each of the proposed rooms as well as to the kitchen to be retained at first floor level as part of the existing bar/restaurant . A single door to the external stairwell and double doors at first floor are to remain and are accessible off the proposed corridor.
- The cover letter explains the history whereby previously permitted medical centre and retail outlets was not implemented and the centre is stated to have lost some of its vibrancy with the these uses changing to apartments. It is explained that the change of use will ensure a maintenance of a critical mass of daytime visitors to the complex and will not result in any increase in traffic as that envisaged in the original grant of permission.

3.0 Planning Authority Decision

3.1. Following a request for information and submission of same, the planning authority decided to grant permission subject to 6 conditions.

- Condition no. 2 requires a section 48 contribution of **€7150.35** in respect of public infrastructure and facilities benefitting the development in the area, the value being in accordance with the Development Contribution Scheme of 01/02/2022 increased by 8% p/a applied on monthly form the date of calculation to the date of payment. .
- Condition no. 3 **requires a section 49 supplementary contribution of €6,307.20 in respect of Cobh/Midleton – Blarney Suburban Rail Project as provide for in the ‘council’s** Supplementary Development Contribution Scheme. This amount is payable in year of commencement of development and is subject to a 5% compound interest per annum increased by 8% p/a applied on monthly form the date of calculation to the date of payment. .

3.2. Planning Authority Reports

3.2.1. The report sets out the basis for the contributions

It is based the gross floor area of 219sq.m which includes the meeting rooms, circulation areas, toilets and stairwell.

The general and supplementary contribution schemes apply in this case. It is stated that 'As office carries a higher fee, the difference will be charged at the appropriate rate as per the following calculations.'

General = €48.97 - €16.62 x 219sq.m. =€7,150.35

Supplementary = €52 - €23.20 x 219 sq.m. = €6,307.20

4.0 Planning History

4.1. Table 1 of the Planning report page 2 of13 list planning permissions pertaining to the site and environs. These are PA refs : 05/71244, 07/6101, 06/8876 and 21/5516 which provide for various alteration to the neighbourhood centre.

5.0 Policy Context

5.1. Planning and Development Act 2000 as amended

5.1.1. Section 48 subsections apply:

(10) (a) Subject to *paragraph (b)*, no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.

(b) An appeal may be brought to the Board where an applicant for permission under **section 34** considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.

(c) Notwithstanding **section 34**(11), where an appeal is brought in accordance with paragraph (b), and no other appeal of the decision of a planning authority is brought by any other person under **section 37**, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal. provided that the person who takes the appeal in accordance with

paragraph (b) furnishes to the planning authority security for payment of the full amount of the contribution as specified in the condition.

(12) Where payment of a special contribution is required in accordance with *subsection (2) (c)*, the following provisions shall apply—

(a) the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates,

S.48 (13) states where an appeal received by the Board after the commencement of this section relates solely to a condition dealing with a special contribution, and no appeal is brought by any other person under **section 37** of the decision of the planning authority under that section, the Board shall not determine the relevant application as if it had been made to it in the first instance, but shall determine only the matters under appeal.

Section 48 (3C) states' Where the planning authority applies a change in the basis for the determination of a development contribution under *subsection (3A)* it may amend a condition referred to in *subsection (1)* in order to reflect the change.]'

5.1.2. Section 49 provides for supplementary development contributions. Subsection 49 (3) states that:

*Subsections (3), (4), (5), (6), (7), (8), (9), (10), (11) and (15) of **section 48** shall apply to a scheme subject to—*

(a) the modification that references in those subsections to a scheme shall be construed as references to a supplementary development contribution scheme,

(b) any other necessary modifications, and

(c) the provisions of this section.

Amendment F195 refers: [(3A) Notwithstanding subsection (3) and section 48(10), the Board shall consider an appeal brought to it by an applicant for permission under section 34, in relation to a condition requiring the payment of a contribution in respect of a public infrastructure service or project specified in a supplementary

development contribution scheme, where the applicant considers that the service or project will not benefit the development to which the permission relates and section 48(13) shall apply to such an appeal.]

5.2. Development Management Guidelines

5.2.1. Section 7.12 refers to conditions requiring development contributions (sections 48 and 49 of the Planning Act). Development contribution conditions may only be attached if they accord with the provisions of either section 48 or section 49 of the Planning Act and these are based on the application of the terms of one or more development contribution schemes which have been formulated and adopted in accordance with those sections of the Act, or on the need for a special financial contribution. There are three categories of conditions under which the payment of financial contributions may be required and are described as:

- Section 48 (general) schemes relate to the existing or proposed provision of public infrastructure and facilities benefiting development within the area of the planning authority and are applied as a general levy on development.
- Section 49 (supplementary) schemes relate to separately specified infrastructural services or projects – such as roads, rail or other public transport infrastructure – which benefit the proposed development.

The planning decision should clearly set out how the relevant terms were interpreted and applied to the proposed development; as well as being best practice this will help to minimise unnecessary appeals.

5.2.2. Section 8.11 confirms the restriction of matters under consideration in an appeal of conditions attached pursuant to sections 48 and 49.

5.3. Development Contributions Guidelines for Planning Authorities

5.3.1. Section 2 supporting Economic Development states that planning authorities are required to include a range of measures in accordance with overriding principles of proper planning and development . this includes a range of waivers and avoiding double charging which is contrary to the spirit of capturing planning gain.

5.3.2. The range of waivers recommended includes change of use permissions where it does not lead to increased demand on infrastructure. Page 11.

5.4. The Cork County Council S.48 and S.49 Development Contribution Scheme 2004

5.4.1. The General Scheme is part of Development Contribution Schemes Cork County Council adopted by the County Council on 23rd February 2004 as provided for in Section 48, Planning & Development Act, 2000, (as amended). I attach the version as available on the website and also as forwarded to An Bord Pleanála in response to a general query. I note that the Appendix 3 (Map delineating the relevant areas) is not attached in either and was forwarded separately. The most recent rates as published by the County Council date back to 2014 wherein it states that these are the rates until further notice and that Indexation continues to be suspended for the period 1/1/2014 to 31/12/2014.

5.4.2. This General Scheme sets out the basis for determination of the scheme. Rates are set out in tabular form in Tables G4, G5 and G6. Table G6 is the initial applicable rate. Reduced Contributions are set out on pages 7 -8

5.4.3. These rates were updated in 2014: Table G6 is revised under the heading Non-Residential Development Contributions for CASP and N & WCSP Areas (excluding within 1km of rail line)

Type	Form 1st Jan 2009 – 31st Dec 2010 € per sq.m.	1st January 2014 until further notice € per sq.m.
Office and Retail	134.69	48.97
Other non- residential	102.04	16.32
Non-residential uses specific – warehousing	n/a	16.32
horticulture enclosed development /intensive animal husbandry rates	n/a	9.17

5.4.4. Developments which are liable for supplementary contribution towards the Suburban Rail Project are eligible for 75% reduction in the roads component of the contributions to be levied under the Council's General scheme of contributions, though may be still liable to special contributions for roads purposes. This reflects the expected lower car usage generated by land uses accessible to a good rail service.

5.4.5. Supplementary Scheme

5.4.6. The scheme sets out the areas to which this scheme applies and refers to it applying to areas within 1km of the Cork-Cobh lines and in the functional area of Cork County Council. It excludes agricultural developments. Table S2 sets out the initial rates and defined 'Office type' as office-based industry, banks, 3rd level education hospitals and surgeries and 'retail type' to include bars and restaurants. The rates were revised with a reduced level for offices from €92.82 to €52

Type of development	Form 1st Jan 2009 – 31st Dec 2010 € per sq.m.	1s January 2014 until further notice € per sq.m.
Residential	26.88	26.88
Office with 1k and retail within 0.5km	92.82	52.00 office 92.82 retail
Other non-residential		23.20

5.5. Cork County Development plan 2022-2028

5.5.1. Section 19.7.13 states: Following the issuing of Development Contribution Guidelines by the Department of the Environment, Community and Local Government, Cork County Council undertook a detailed review and analysis of its existing development contribution schemes to inform the adoption of its future

schemes. The adoption of the National Planning Framework (2018), the realignment of the Cork local authorities' boundaries (2019) and the adoption of the Southern Region RSES (2020) required this work to be paused. It is intended to adopt a new development contribution scheme(s) following the adoption of this County Development Plan.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The applicant is appealing the financial contribution conditions on the basis that the council did not apply the correct rate in discounting the contribution rate.
- 6.1.2. The case is made that the Scheme acknowledges that retail and restaurants and offices are the same in the context of rates and as the change of use falls within the same class of development for the purposes of the scheme, the development contribution should be nil.
- 6.1.3. It is also stated separately that the 75% discount of the road's element due the payment of supplementary levy was not applied but this is submitted to be academic in light of the first point.

6.2. Planning Authority Response

- 6.2.1. The planning authority is of the opinion that all relevant issues have been covered in the technical reports already forwarded and has no further comment.

7.0 Assessment

7.1. Scope of issues

- 7.1.1. This appeal relates to financial contributions under sections 48 and 49 of the Planning and Development Act as amended. Having reviewed the particulars of the appeal I am satisfied that the matter to be considered is whether or not the planning

authority has correctly applied the terms of the development contribution scheme and supplementary scheme.

- 7.1.2. In the first instance the case essentially made is that there is no intensification of use and no material development for the purposes of the development contribution scheme.
- 7.1.3. A view might be that in light of subsequent refinement of uses as advised for schemes generally, the original general scheme simply does not provide for the nature of the proposed development which is a use that is not materially different in terms of infrastructural demands nor does it involve material works or construction and therefore does not apply. This approach would be contrary to the limitations of Section 48 in that the actual application of the scheme is not open to challenge by this section of the Act. It falls into the realm of de novo.
- 7.1.4. The planning authority appears to have applied a convoluted way of applying a discount – by applying a reverse differential rate between office and retail– the basis for which is not fully clear by reference to the provisions of the 2004 scheme. I note that the Development Contribution Guidelines for Planning Authorities (2013) which postdate the adoption of the operational scheme, clearly require a more considered refinement of exemptions and categories of development and uses by reference to planning gain and proper planning and sustainable development of the area. Unfortunately the scheme, notwithstanding section 19.7.13 of the current development plan as cited, has not been updated to reflect this to date.
- 7.1.5. I accept that the ‘office’ development notwithstanding its speculative nature is a change of use that is not likely to cause significant intensification as explained in the cover letter whereby there are no external works and that the nature of the proposed use is daytime bringing a daytime vitality to the area as compared to the existing public house premises. The potential for intensification is further constrained by the restriction of the use initially proposed – by omitting medical, health and other services. The restriction in scope is to that solely within class 2 (PDR 2001) office use as described in the response to request for further information which followed a conversation with planning authority. The scheme has a much broader definition for office type.

- 7.1.6. While the facts may be that there is no appreciable physical difference in use in the context of the categories of development in the scheme, my reading of the application of the scheme is that as a change of use from restaurant to office constitutes development and that there is no provision for exemption for this change of use and that in the strictest terms, the rates for a new office apply. I say this having regard to the current Cork City Council Scheme (2023), for example, which includes this specific exemption with clauses relating to intensification- although I accept that this scheme relates to a different functional area. Accordingly in my judgement the rate can only be discounted on the basis of the supplementary scheme.
- 7.1.7. The other contextual issues of the duration of and scope for amendments to the scheme are noteworthy. Firstly, the scheme as adopted on 23rd February 2023 is stated to be for a period of 20 years. Is it not clear if the review of rates extends this period. What is practice is that the relevant scheme is that which prevails at the time of the planning authority decision. I also however note that the Act does provide for a subsequent amendment to reflect changes such as reduced contribution levels. I refer to section 48 (3C) and again to more recent provisions in the Cork City Scheme which provides for change of use exemptions and appears to reflect the Guidelines in this regard.
- 7.1.8. In this case I consider by reference to the classes of use in the Planning and Development Regulations and the requirement to apply for permission, the proposed change of use is not exempted for the purposes of requiring permission. In such circumstances the application for offices is more reasonably understood to be subject to development contributions and exemption is only applicable where it is specified. Taking this latter, I set out my considerations and assessment.

7.2. **Application of Section 48 scheme**

- 7.2.1. The general development contribution scheme is applied by the planning authority and is based on a gross floor area of 219 sq.m which includes the first-floor area excluding the remaining kitchen of the pub and the stairwell from ground level. The rate for offices is €48.97/sq.m. and without any discounting, this amounts to

€10,724.43 which is much more than the calculated amount by the planning authority.

- 7.2.2. As the area falls within 1km of the railway route which is part of the Cobh/Middleton – Blarney Suburban Rail Project /Cork suburban railway, the proposed development is subject of a supplementary scheme contribution and is therefore eligible for a 75% discount of the roads element of the General Scheme rate. This reduces the road element to €32.145 which reduces the total rate to €38.255 which would contribution amount to €8,377.85 if applied in this way.
- 7.2.3. Notwithstanding the statement on page 3 of the scheme that the general scheme responds to the differing demand arising from different scales of development and the scheme differentiates between the various development based on the relative demands imposed on the provision of services, there is no explicit category for change of use applications. The planning authority however has compared the bar/restaurant use to a retail use and applied a differential rate as retail is deemed to be lesser than office. It has done this by discounting base ‘office and retail type’ rate of €48.97 by €16.62 giving a total of €7,150.35.
- 7.2.4. The report makes reference to subtracting the retail level from the office level . The rationale and basis for formulating this calculation is not clearly set out in the considerations of the 2004 scheme. I would also query the logic in that the office and retail are the same type of development for the General Scheme rate and only differ in the supplementary scheme in which retail incurs a rate of €92.82 (and defined to include restaurants/bars) while office type is lower at €52.
- 7.2.5. If the Board agrees with the PA approach, I would highlight that this method has not discounted the roads element by 75% as provided for. Although by applying the reduction to the €16.62 rate also and giving a discount of only €5.60, the net amount is the same. The sq.m. rate being €32.6525 (38.255-5.60) giving a total of €7150.90 for 219sq.m.
- 7.2.6. The means for applying a different rate is perhaps by classing the proposed use as ‘other non-residential.’ I say this having regard to the definition of the ‘office and retail type’ in the scheme which states for the purposes of this contribution scheme, offices and retail type uses shall include office-based industry, banks, third level education, hospitals, restaurants, bars and surgeries [and are notably not aligned to the PDR

classes]. 'Other' uses in the non-residential category are defined as including buildings for agricultural, horticulture, quarries and leisure building. In the 2014 rates, the latter class is a separate class incurring €9.17, while additional categories of 'other non-residential uses' and 'non-residential specific – warehousing' are introduced. In this case, the proposed use occupies what I would describe as a secondary space in an existing premises – being part of the first floor level with shared communal areas. With a cellular office layout in a small neighbourhood centre it seems laid for small scale professional services rather than an 'office industry' which is typically defined as regional or national headquarters operation for industrial scale data processing. In bringing a daytime service in the locality it could be seen as an auxiliary services in the neighbourhood.

7.2.7. There is I consider a case that as a class 2 office use in the proposed layout and having regard to page 3 of the scheme, the proposed development could fall more appropriately and reasonably under the 'other' category with less demand use on infrastructure whereby the lower applicable rate is €16.32. In this scenario the contribution under the terms of General Scheme is 219 sq.m. x €16.32.

7.2.8. Aside from the categorisation, I consider there is clear scope to reduce the calculable floor area. As I have identified from examination of the drawings, there is a degree of common areas between the proposed offices and the remaining first floor kitchen area over and as part of the remaining extant public house and restaurant. I refer to the interconnecting door into the corridor leading to the fire escape and public stairwell and also to the toilets. The four offices, which interconnect and meeting room are exclusively office use and this floor area has been broken down in the drawings with the total floor area for offices amounting to 130 sq. I consider it reasonable to use this floor area as the base to apply the rates of the current scheme. This would amount to €2121.60 (16.32 x 130). Applying the 75% discount for the roads element given the supplementary contribution reduces the €16.32 rate to € 5.63 (3.57+2.03).

7.2.9. Applying the office floor area of 130 sq.m. and the other rate of 16.32 and then reducing this by the 75% allowable reduction I calculate the contribution based on the general scheme rates at €732.23.

7.2.10. The following table summarises some alternative scenarios and calculations.

Table: General Contribution Scheme scenarios

Scenario -Type of use/floor area	Base rate/area	Discounting for supplementary scheme	Total € contribution
Applying the full office /retail rate to 219sq.m.	48.97 x 219	@ 75% of roads = 10.715 => total rate = 10.715 + 6.11 => 16.825/sqm	3,684.68
Applying an office floor area of 130sq.m. (13 + 50+ 33+5 31)	48.97 x 130	16.825 x 130	2,187.25
Applying a non-residential other category to a reduced floor area.	16.32 x 130	(75% of 14.29) + 2.03 = 3.57+ 2.03 = 5.60/sq.m.	728.33

7.2.11. While the Board may consider either seeking further clarification or revising the amount as per the planning authority reduction, on balance I consider the most transparent application of the terms is by applying the latest published rate for 2014 to the 130sq.m. office area and discounted in accordance with the scheme.

7.3. Application of Section 49 scheme

- 7.3.1. Condition no. 3 requires a section 49 contribution of €6307.2 towards the cost of the Cobh/Midleton-Blarney Suburban rail Project in line with the provisions of the Supplementary Development Contribution Scheme. This amount is payable at least one month before of commencement of development or within further discretionary timeframes and is subject to a monthly interest at a rate of 8% interest per annum from date of calculation up to the date of payment.
- 7.3.2. The rate in the scheme as amended in 2014 is €52 for office within 1km whereas for retail within 0.5km (which includes restaurant pubs) it is €92.82. This would require

a supplementary contribution of €11,388 if fully applied to the entire development and would significantly exceed the amount specified by the planning authority. While the applicant makes the case that this is a less intense use and the planning authority, to a point acknowledges a difference and applies a reduction of €16.32, this is a general scheme rate and there is similarly no specific exemption for this differential. However by applying the rate of €52 to 130sq.m. the contribution at €6760 would exceed the amount specified by the planning authority. In view of the 2013 guidance and what would appear to be an intention of the planning authority to offset existing development despite the limitations of exemption in the scheme, I consider some latitude could be applied in adopting the category type rates.

- 7.3.3. I consider the assignment of the 'other non-residential' category in the scheme and for reasons already outlined in my assessment could be more reasonably be applied. Similarly the floor area relating exclusively to the new use would be more appropriate. Accordingly by applying the 'other non-residential uses' rate of €23.20 this would set the contribution at €5,080 for 219 sq.m or €3,016 if allowing for the 130sq.m. of proposed offices.
- 7.3.4. Having regard to the amended provisions in PDA s.49 for consideration of whether or not the scheme benefits the development, there is possibly a case to be made that the premises is 1.3km from the nearest rail station via a footpath or road and therefore does not fall, in practical terms, within the catchment. (If so the 75% discount would need to be removed in the general scheme calculation.) However in the absence of any clarification of this it appears that the catchment relates to the entire linear corridor aligned to the railway and is not time factored. This is notwithstanding the use of such modelling tools as for example referred to in the recent Sustainable Residential Development Compact Settlement Guidelines (2024).
- 7.3.5. In view of the foregoing and in the absence of exemption for change of use I consider there is no basis to exclude or reduce the rates as specified in the scheme. In view of the nature of the proposal I do however consider another category of development type could be used. The other means of reducing the contribution is by applying the development contribution rate to the total floor area that is exclusively subject to a change of use. I consider there is no basis for a further reduction in the current scheme.

7.3.6. I consider this to be a reasonable approach to applying the terms of the scheme for the nature of the site and the proposed development.

8.0 Recommendation

8.1. In view of the foregoing it is my recommendation that in accordance with sections 48 and 49 of the Planning and Development Act, 2000, as amended, and based on the reasons and considerations set out below, that the Board decides that:

a) the terms of the Development Contribution Scheme for the area have not been properly applied in respect of condition number 2 and directs the said Council to AMEND condition number 2 so that it shall be as follows:

2. The developer shall pay to the planning authority a financial contribution of €728.33 (seven hundred and twenty eight euro and 33 cent) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

And

- b) the Supplementary Contribution Scheme for the suburban Rail Project in the area is applicable but the terms of this Scheme had not been properly applied in respect of Condition number 3 and directs the said Council to AMEND condition number 3 so that it shall be as follows.

3. The developer shall pay to the planning authority a financial contribution of €3016 (three thousand and sixteen euro in respect of the Cob/Midleton – Blarney Suburban Rail Project in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any 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 a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Reasons and Considerations

- 1) Having regard to the terms of Cork County Council Development Contribution Scheme 2004 adopted on 23 February, 2004, as amended, under Section 48 of the Planning and Development Act 2000, as amended, it is considered that the terms of the scheme have been incorrectly applied in this instance due to:
- a) the relevant floor area liable for assessment in accordance with the terms of the said scheme is 130 sq.m. based on the exclusive office area proposed having regard to the communal areas with the extant use,
 - b) the nature of the proposed development use as a small scale neighbourhood office use in the first floor of an existing premises is considered to qualify in this instance as an 'other non-residential' type as provided for in the scheme, and

c) the proposed type of development, being liable for supplementary contributions, is eligible for a 75% reduction in the roads component.

Accordingly, it is considered that condition number 2 shall be modified providing for a reduction in the total contribution as calculated by the planning authority .

2) Having regard to the terms of the Supplementary Development Contribution Scheme adopted by Cork County Council on 23 February, 2004, as amended, under Section 49 of the Planning and Development Act 2000, as amended, it is considered that the terms of the scheme have been incorrectly applied in this instance due to :

a) the relevant floor area liable for assessment in accordance with the terms of the said scheme is 130 sq.m. based on the exclusive office area proposed having regard to the communal areas with the extant use, and

b) the nature of the proposed development use as a small scale neighbourhood office use in the first floor of an existing premises is considered to qualify in this instance as an 'other non-residential' type as provided for in the scheme.

Accordingly, it is considered that condition number 3 shall be modified providing for a reduction in the total contribution as calculated by the planning authority.

Note: I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Suzanne Kehely
Senior Planning Inspector

12th February 2024