



An
Bord
Pleanála

Inspector's Report ABP313691-22

Development	Construct a readymix concrete batching plant, closed circuit water management system, hardstanding area, aggregate storage bays and all ancillary works within a 0.8ha site.
Location	Heronstown, Lobinstown, Navan, County Meath.
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	22328
Applicant(s)	Langan Materials Ltd
Type of Application	Permission
Planning Authority Decision	Grant with Conditions.
Type of Appeal	First v Financial Contribution
Appellant(s)	Langan Materials Ltd
Observer(s)	None
Date of Site Inspection	None
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The application site has an area of 0.8ha and adjoins an existing quarry at Heronstown, Lobinstown, Navan, County Meath.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a readymix concrete batching plant, closed circuit water management system, hardstanding area, aggregate storage bays and all ancillary works at Heronstown, Lobinstown, Navan, County Meath.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted planning permission subject to several conditions. Condition **number 5** is as follows.

The applicant shall pay the sum of €100,000.00 (updated at the time of payment in accordance with changes in the Wholesale Price Index - Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution towards expenditure that is proposed to be incurred by the planning authority in respect of costs of repairs to the local road network and junctions as a result of increased numbers of HGVs on the road due to the proposed development. The levy will help repair/maintain approximately 1 kilometre of road on either side of the entrance to the proposed development, in accordance with the provisions of section 48(2)(c) of the Planning and Development Acts 2000-2021, unless otherwise agreed in writing with the planning authority. The contribution shall be paid prior to commencement of development on in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the

planning authority and the applicant, or in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme, and which will benefit the proposed development.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The planner's report recommended a grant of permission with the conditions set out in the manager's order.

3.2.2. Other Technical Reports

3.2.3. No additional relevant reports.

4.0 **Planning History**

4.1. ABP-309109-21- permission granted for continuation of existing permitted quarry and a lateral and vertical extension to the existing quarry at Heronstown Townland, Lobinstown, Navan, Co. Meath.

4.2. 17.QD.0017 - Permission granted (under Section 37L of the Act) on 3rd May 2017 for further quarry development at Heronstown, Lobinstown, Co. Meath. Permission was granted subject to 19 No. conditions.

4.3. PL17.204854 Permission granted on 15th March 2004 for construction of an asphalt plant, associated material bays, shipping office, site office and associated development works

5.0 **Policy and Context**

5.1. The **Development Management Guidelines for Planning Authorities (2007)** are issued under section 28 of the Planning and Development Acts 2000, as amended,

and provide guidance in relation to development contribution schemes at paragraph 7.12.

- 5.2. Development Contributions Guidelines for Planning Authorities (DoECLG 2013) issued under Section 28 states that,

Special Development Contributions A special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution

5.3. **Development Plan**

- 5.4. The Meath County Development Plan 2021 – 2027 is the relevant County Development Plan for the area. In relation to the extractive industry the plan states that the Council recognises the contribution of the extractive industry in supporting jobs in the construction and aggregates section of the County.

- 5.5. **Meath County Development Contribution Scheme 2016 – 2021** is the relevant Section 48 Development Contribution Scheme.

5.6. **Natural Heritage Designations**

Not relevant.

5.7. **EIA Screening**

Not relevant.

5.8. **AA screening**

- 5.9. Not relevant.

6.0 The Appeal

6.1. Grounds of Appeal

- Section 48(2)(c) allows for the levying of a special contribution.
- The Development Management Guidelines makes the point that “a condition requiring a special contribution must be amenable to implementation under the terms of section 48(12) of the Planning Act; therefore, it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development.”
- Condition 5 does not meet the requirements of Section 48 or the standards out in the Development Management Guidelines. The condition is imprecise and references to help to repair/maintain does not specify the works being charged for.

6.2. Planning Authority Response

- The proposed development complies with the County Development Plan policies.
- The traffic associated with the proposed development will significantly reduce the design lifetime of the local road network as it was not anticipated that a concrete batching plant would be proposed for the site.
- The works to approximately 1km of public road will include but not be limited to levelling out damaged sections of road, surface dressing the road, traffic management and diversions to facilitate road repairs, digging out and re-instatement of sunken sections of public road damaged by increases in HGV volumes, upgrading and maintenance of roadside drains.
- The Board should attach the condition.

6.3. Further Responses

None

7.0 Assessment

- 7.1. Section 48 of the Planning and Development Acts 2000-2021 provides that a planning authority should adopt a development contribution scheme which must provide the basis for contributions from persons who have received planning permission under Section 34 and where that development would benefit from public infrastructure and facilities in the area of the planning authority and that is provided, or that it is intended will be provided, by or on behalf of a local authority.
- 7.2. Section 48(2)(c) provides that a planning authority may, in addition to the terms of the general scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by the general development contribution scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.
- 7.3. Additional provisions in relation to the circumstances where a special development contribution may be required are set out in section 48(12) the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates, and where such works are not carried out or only carried out in part within particular periods the contribution or part thereof shall be returned to the developer.
- 7.4. The Development Management Guidelines for Planning Authorities (2007) are issued under Section 28 of the Act. In relation to special development contributions the Guidelines (see paragraph 7.12) provides that a 'special' contribution requirement in respect of a particular development may be imposed under section 48(2)(c) of the Planning Act where specific exceptional costs not covered by a scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. A condition requiring a special contribution must be amenable to implementation under the terms of section 48(12) of the Planning Act; ***therefore, it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that***

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

- 7.5. It could be argued, even though the applicant does not agree, that the planning authority has identified the nature/scope of works by referencing the type of road repairs/maintenance it would carry out to the road within 1km of the site entrance. There is a page attached to the planner's report on file which (at the bottom) reads 'special contribution of costs of repair to the local road network and junctions as a result of the increased number of HGVs on the road due to the proposed development - €100,000'. However, this is not a sufficient ***basis for the calculation*** either on its own or combined with the planning authority's response to the grounds of appeal for the figure of €100,000. Therefore, it would be impossible to fulfil the terms of section 48 (12) which would allow reimbursement of some or part of the contribution by reference to the fraction of works carried out by the planning authority. Additionally, the planning authority has not set out how it is apportioned to the particular development as required by the Guidelines.

8.0 Recommendation

- 8.1. I recommend that the Board remove condition 5 and the reason therefor for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Section 48 (2)(a) of the Planning and development Acts 2000 to 2021 provides that a planning authority shall levy contributions in accordance with a development contribution scheme made under that section. Section 48 (2)(c) provides that a planning authority may require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a development contribution scheme made under Section 48 (2)(a) are incurred by the the local authority in respect of public infrastructure and facilities which benefit the proposed development. Section 48 (12) requires the reimbursement of part or all of the contribution to the developer in the event of works not being carried out or being carried out only in part within specific periods of time. The Development

Management Guidelines for Planning Authorities (Department of the Environment, Heritage and Local Government, June 2007) requires that a special development contribution condition identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development and be amenable to implementation under Section 48(12).

The planning authority has not provided the basis of the calculation of the sum required (€100,000.00) and accordingly has not met the criteria for properly levying a contribution as required by Section 48 of the Act.

Hugh Mannion
Senior Planning Inspector

28th November 2022.