



An
Bord
Pleanála

Inspector's Report ABP-314045-22

Development	Modification to the solar farm permitted under planning ref no. 15/6625 and extended under 21/4505.
Location	Curraleigh, Inniscarra, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	22/04909
Applicant(s)	Amarenco Solar Inniscarra Ltd.
Type of Application	Permission
Planning Authority Decision	Grant permission (37 no. conditions)
Type of Appeal	First Party
Appellant(s)	Amarenco Solar Inniscarra Limited
Inspector	Conor McGrath

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1.0 Site Location and Description

1.1. The appeal site comprises a stated area of 10.5ha, located at Curraleigh, Inniscarra, approx. 5km northwest of Ballincollig, Co. Cork. Inniscarra Lake and the River Lee lie approx. 700-800m south of the site and the lands are elevated above the valley. The lands are currently in agricultural use but have permission for the construction of a solar energy development thereon. Access is via a local road / cul-de-sac to the south of the site which runs east toward the R618, approx. one kilometre from the site. This road serves a number of residential and farm properties, and an existing 38kV substation on the southeastern boundary of the site.

2.0 Proposed Development

2.1. Permission was previously granted on the lands under PA ref. 15/6625 and extended under PA ref. 21/4505, for a 5MW solar farm and associated development. The development the subject of this application and appeal comprises modifications to that permitted development, comprising:

- Changes to the dimensions of the permitted solar (PV) panels, with an increased ground cover from 35,774-sq.m. to 37,639-sq.m (1,895-sq.m. / 5.3%). The revised panels are lower in height (2.8m) than those permitted (3.6m).
- Associated changes to the layout of the permitted development.
- Replacement of two permitted transformers (87.5-sq.m.) with one smaller transformer station, and a storage unit of equal size (combined 29.54-sq.m.).
- Modifications to the design of the delivery station, increasing the floor area of the permitted building from 28-sq.m. to 53.3-s.m.

The application is stated to arise from technological advances in solar panel design since 2015 and clarification of ESB Networks requirements for the design of the delivery system. Documentation accompanying the application included updated assessments in respect of the permitted development, including:

- Updated Archaeological, Architectural and Cultural Heritage Impact Assessment.
- Updated Landscape and Visual Impact Assessment.
- Updated Ecological Impact Assessment.

- Updated AA Screening Report.
- Updated Glint and Glare Report.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission for the proposed development on 15/06/2022 subject to 37 no. conditions, including the following:

15. At least one month before commencing development, the developer shall pay a special contribution of €9330.00 to Cork County Council, updated monthly in accordance with the Consumer Price Index from the date of grant of permission to the date of payment, in respect of specific exceptional costs not covered in the Council's General Contributions Scheme, in respect of works proposed to be carried out, for the provision of 10% of the cost of resurfacing the road with a 100 to 150mm layer of CL 804 material and double surface dressed.

The payment of the said contribution shall be subject to the following: : -

- (a) where the works in question— (i) are not commenced within 5 years of the date of payment of the contribution (or final instalment if paid by phased payment), (ii) have commenced but have not been completed within 7 years of the date of payment of the contribution (or final instalment if paid by phased payment), or (iii) where the Council has decided not to proceed with the proposed works or part thereof, the contribution shall, subject to paragraph (b) below, be refunded to the applicant together with any interest which may have accrued over the period while held by the Council.
- (b) Where under subparagraphs (ii) or (iii) of paragraph (a) above, any local authority has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works which have not been carried out.
- (c) payment of interest at the prevailing interest rate payable by the Council's Treasurer on the Council's General Account on the contribution or any

instalments thereof that have been paid, so long and in so far as it is, or they are retained unexpended by the Council.

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

3.2. **Planning Authority Reports**

Planning Reports: Recommend that permission be granted subject to conditions.

Area Engineer: The site is served by tertiary road L-68131 which is in fair condition and where 60m sightlines are required. PA ref. 15/6625 was subject to a bond condition to ensure no damage to the road during development. Since 2015, the road has deteriorated, and large construction traffic volumes could lead to a further decline in the condition of the roadway.

The road is a tertiary cul-de-sac and cannot be included in the normal DoT funded road restoration programme but could be included in the Community Involvement Scheme. The Community Involvement Scheme is 90% funded by the DoT with 10% raised locally by residents / users. As the proposed development will have a detrimental effect on the condition of the road, over and above the impact of current traffic levels, it is proposed to levy the full 10% local contribution onto this development.

The existing road would not require any intervention for at least 5 years given existing traffic movements. Construction traffic will result in surface deterioration far quicker than would be expected under normal wear and tear. The special development contribution would be used to surface the entire 933m length of the road to the solar farm entrance. The cost of works is estimated to be €93,300 (933m x 4m x €25).

Environment Report: No objection subject to conditions.

Ecology: Concur with the Screening Assessment, that the development will not give rise to significant negative impacts on any Natura 2000 site. Concur with the value assigned to habitats and the assessment of flora and fauna in the Ecological

Impact Assessment. The mitigation measures are acceptable. No objection subject to conditions.

3.3. Prescribed Bodies

- Dept. of the Environment, Climate and Communications / GSI: No comments or observations.
- IAA: The Glint and Glare report should be submitted to DAA Cork Airport and to the IAA Air Navigation Service Provider.
- IAA (Air Navigation Service Provider): No issue identified.
- Cork Airport: No comment.

3.4. Third Party Submissions

No third-party submissions or observations were received on this application.

4.0 Planning History

PA ref. 15/6625: Permission granted for a 5 MW solar farm comprising approximately 22,200 photovoltaic panels on ground mounted frames within a site area of 10.5 hectares, 2 no. single storey inverter/transformer stations, 1 no. single storey delivery station, security fencing, CCTV, and all associated ancillary development works. Conditions included the following:

2. (a) All structures including foundations hereby authorised shall be removed not later than 25 years from the date of commissioning of the development, and the site reinstated unless planning permission has been granted for their retention for a further period prior to that date.
- (b) Prior to commencement of development, a detailed restoration plan, providing for the removal of the solar arrays, including all foundations, anchors, fencing and all lighting and CCTV poles, to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority. On full or partial decommissioning of the solar farm, or if the solar farm ceases

operation for a period of more than one year, the solar arrays, including foundations/anchors, and all associated equipment, shall be dismantled and removed permanently from the site. The site shall be restored in accordance with this plan and all decommissioned structures shall be removed within three months of decommissioning.

- 15 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads that may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination. In the event of the public roads not being reinstated to the initial condition identified in condition no. 16 this bond will be drawn down and utilised to carry out repairs as deemed necessary by the Roads Authority.
- 16 Prior to development commencing the developer shall carry out a road condition survey on public roads L-68131 and L-6813. The results of this survey will be submitted and agreed with the Planning Authority before development commences. Upon commissioning of the development a second road condition survey shall be carried out on the roads in question and submitted to the Planning Authority

The Area Engineer's report calculated the amount of the bond as follows:

"The amount of the bond to be lodged shall cover the full resurfacing of the L-68131 cul de sac from the site entrance to its junction with the L-6813. This is as follows
 $3325\text{m}^2 \times \text{€}18/\text{ms} = \text{€}59,850.$ "

PA ref. 21/4505: Permission granted for an extension of duration of permission under 15/6625 for a 5MW solar farm until 31/05/2026. No new or additional planning conditions were attached as part of the decision to extend the duration of permission.

PA ref. 22/04142: This application for planning permission was described as modifications to development permitted under 15/6625 and extended under 21/4505. The modifications consisted of minor changes to the dimensions of the permitted photovoltaic panels, replacement of 2 transformers stations with 1 smaller transformer station and 1 smaller storage unit, minor change to the design of the delivery station, and associated layout changes. All modifications are within the boundary of permitted development and all associated site works.

The planning authority invalidated this application, on the basis of the full, rather than reduced / Class 13 planning application fees being payable, and a requirement for revised public notices amending the description of the proposed development.

5.0 Policy and Context

5.1. National Planning Framework 2018

National Strategic Outcome 8 refers to the Transition to a Low Carbon and Climate Resilient Society.

NPO 52: The planning system will be responsive to our national environmental challenges and ensure that development occurs within environmental limits, having regard to the requirements of all relevant environmental legislation and the sustainable management of our natural capital.

Ireland's national energy policy is focused on three pillars: (1) sustainability, (2) security of supply and (3) competitiveness. Ireland must reduce greenhouse gas emissions from the energy sector by at least 80% by 2050, compared to 1990 levels, while ensuring security of supply of competitive energy sources. A transition to a low carbon energy future is noted to include a requirement to shift from predominantly fossil fuels to predominantly renewable energy.

NPO 55 promotes renewable energy use and generation.

5.2. National Development Plan 2021-2030

The National Development Plan sets out investment priorities underpinning the implementation of the National Planning Framework. Section 3.7 refers to Investing for low-carbon, resilient electricity systems and identifies a commitment to increasing the share of renewable electricity up to 80% by 2030.

Chapter 13 deals with NSO 8: Transition to a Climate-Neutral and Climate-Resilient Society. Strategic Investment Priorities include the delivery of competitive levels of onshore wind and solar electricity generation through regular Renewable Electricity Support Scheme (RESS) auctions which indicatively could be up to 2.5 GW of grid-scale solar and up to 8 GW of onshore wind by 2030.

5.3. The Climate Action and Low Carbon Development (Amendment) Act 2021

The Act commits Ireland to the objective of becoming a carbon-neutral economy by 2050 and of reducing emissions by 51% by the end of the decade. It amends the principle act such that Section 15(1) requires that

“(1) A relevant body shall, in so far as practicable, perform its functions in a manner consistent with—

- (a) the most recent approved climate action plan,
- (b) the most recent approved national long term climate action strategy,
- (c) the most recent approved national adaptation framework and approved sectoral adaptation plans,
- (d) the furtherance of the national climate objective, and
- (e) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.

“Relevant body” means a prescribed body or a public body.

5.4. Climate Action Plan 2021-2030

This provides a detailed plan to achieve a 51% reduction in overall greenhouse gas emissions by 2030 and setting us on a path to reach net-zero emissions by 2050.

The Plan lists the actions needed to deliver on our climate targets and sets indicative ranges of emission reductions for each sector of the economy.

Chapter 11, notes that we will continue to decarbonise the electricity sector by taking advantage of our significant renewable energy resources, in a competitive cost-effective way, while also ensuring the security of our electricity supply and decreasing dependence on imported fossil fuels.

Climate targets will be delivered through a set of enabling targets by 2030, including increasing the share of electricity demand generated from renewable sources to up to 80% where achievable and cost effective, without compromising security of electricity supply.

5.5. National Energy & Climate Action Plan 2021-2030

The NECP incorporates all planned policies and measures identified up to the end of 2019 and which collectively deliver a 30% reduction by 2030 in non-ETS greenhouse gas emissions (from 2005 levels).

Ireland has excellent renewable energy resources, which will be a critical and growing component of Irish energy supply to 2020 and beyond. Indigenous renewable energy already plays a vital role in our domestic fuel mix. It increases sustainability through the use of clean power sources and enhances energy security by reducing Ireland's dependence on imported fuels. Ireland has a target of increasing reliance on renewables to 70% by 2030

Para 3.1.2. notes that the new Renewable Electricity Support Scheme (RESS) commits to 70% of electricity from renewable sources by 2030 and is expected to support up to an additional 4.5 GW of renewable electricity by 2030.

5.6. National Energy Security Framework (April 2022)

Theme 3: Reducing our Dependency on Imported Fossil Fuels

7.2 notes that the replacement of fossil with renewable energy (such as onshore wind, offshore and solar power) is a key method of reducing Ireland's reliance on imported fossil fuels. The Climate Action Plan commits to increasing the share of electricity demand generated from renewable sources in Ireland to up to 80%, without compromising security of electricity supply, reflecting the national target to

reduce emissions by 51% by 2030, and to achieve climate neutrality by 2050 at the latest.

5.7. **Southern Regional Assembly RSES**

RPO 95 Sustainable Renewable Energy Generation: To support implementation of the National Renewable Energy Action Plan (NREAP), and the Offshore Renewable Energy Plan and the implementation of mitigation measures outlined in their respective SEA and AA, and leverage the Region as a leader and innovator in sustainable renewable energy generation.

RPO 100 Indigenous Renewable Energy Production and Grid Injection: To support the integration of indigenous renewable energy production and grid injection.

RPO 221 Renewable Energy Generation and Transmission Network:

- a. Development Plans shall support the sustainable development of renewable energy generation andto spatially suitable locations to ensure efficient use of the existing transmission network;
- c. The RSES supports the Southern Region as a Carbon Neutral Energy Region.

5.8. **Cork County Development Plan 2022**

Objective ET 13-1 Energy refers to the contribution to sustainable delivery of a diverse and secure energy supply and the potential of the county to assist in meeting renewable energy targets and managing overall energy demand. A renewable energy strategy for the county will be prepared.

Objective ET 13-2 Renewable Energy, includes

- a) Support Ireland's renewable energy commitments as outlined in Government Energy and Climate Change policies by facilitating the development of renewable energy sources such as wind, solar, geothermal, hydro and bio-energy and energy storage at suitable locations
- b) Support and facilitate renewable energy proposals that bring about a direct socio-economic benefit to the local community.

Objective ET 13-14: Solar Farm Development, include

- a), support will be given to solar farm projects at appropriate locations, ..
- b) Promote the development of solar energy infrastructure in the county...
- c) Require that new solar farm development proposals be assessed against the criteria listed in this Plan until such time as Section 28 Guidelines are published.
- f) All proposed solar developments locating in close proximity to any roads and airport infrastructure will undergo a full glint and glare assessment.
- g) Proposals for development of new solar developments and associated infrastructure including grid connections will be subject to ecological impact assessment and, where necessary Appropriate Assessment.

Paragraph 13.8.5 notes that in the absence of national planning guidelines for solar farm proposals, the Council will assess the appropriateness of individual applications having regard to other statutory requirements and guidelines, environmental sensitivity factors (if any) of the site, similar development guidance internationally, and the overall proper planning and sustainable development of the area. Issues to be considered in solar farms are identified.

Objective GI 14-9: Landscape

- a) Protect the visual and scenic amenities of Cork's built and natural environment.
- b) Landscape issues will be an important factor in all land-use proposals.
- c) Ensure that new development meets high standards of siting and design.
- d) Protect skylines and ridgelines from development.
- e) Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

Objective GI 14-12: General Views and Prospects

Preserve the character of all important views and prospects, particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes, views of historical or cultural significance (including buildings and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

This is identified as a High Value Landscape. Appendix F: Landscape Character Assessment of Cork County identifies the Landscape Character Type as Hilly River and Reservoir Valleys of high Landscape sensitivity and national importance.

6.0 Screening

6.1. EIA Screening

The proposed development is not of a type listed in Annex I or Annex II of the 2014 Directive or of a type identified in Schedule 5 of the Planning and Development Regulations 2001 (as amended). In this regard, the proposed development does not require mandatory EIA and is not subject to the requirements of Art 103 or Schedule 7 of the Regulations in respect of determining whether a sub-threshold development would be likely to have significant effects on the environment.

The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

6.2. AA Screening:

The planning application was accompanied by an AA Screening report. The site is not designated for any nature conservation purposes and there are no European Sites in the vicinity of the proposed development. The nearest European Site is Cork Harbour SPA which lies approx. 18km downstream of the subject lands. There is no ecological or direct hydrological connection between the subject lands and the SPA or any other European Site. I note that the development comprises minor modifications to an extant permission, which development was subject to Screening for AA and found not likely to have a significant effect on any European Site.

Having regard to the minor nature and scale of the proposed development and the absence of pathways to European Sites, it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and that appropriate assessment is not therefore required.

7.0 The Appeal

7.1. Grounds of Appeal

The first party make the following points in their appeal against condition no. 15 of the planning authority decision to grant permission:

- Regard should be had to previous relevant decisions of the Board which have supported the omission of special development contribution conditions. The referenced cases include:
 - PL04.232465 (sic) (232458), a business park at Wallingstown, Little Island, Co. Cork (07/12475).
 - PL04.246853, 61 no. dwellings and ancillary works at Annabella, Mallow, Co. Cork (15/6119).
- The principle of condition no. 15 and the amount levied should be reviewed.
- The planning authority should specify the particular improvement works and a detailed estimate of the costs involved.
- The planning authority should demonstrate that the works are required to serve the particular development rather than being of general benefit to the wider area.
- Planning authority technical reports do not provide detail of how the figure of €93,300 was arrived at of total costs of maintenance works on the L-68131.
- The contribution relates to potential future damage to existing infrastructure rather than specific exceptional works to facilitate the development.
- Any works to the public road can be adequately and more appropriately funded by the general contribution scheme.
- The consumer price index is not the appropriate mechanism for the construction sector, and the Wholesale Price Index should be used.
- There is no objection to the payment of a special contribution in respect of specific exceptional costs to service the development.

7.2. Planning Authority Response

In response to the first party appeal, the planning authority express the view that all relevant issues have been addressed in the technical reports already forwarded to the Board and make no further comment on the matter.

8.0 Assessment

8.1. Scope of the Assessment

S.139(1) of the 2000 Act, as amended, provides that where

- (a) an appeal is brought against a decision to grant a permission,
- (b) the appeal relates only to a condition or conditions of that permission, and
- (c) the Board is satisfied, having regard to the nature of the condition or conditions, that the determination of the relevant application as if it had been made to it in the first instance would not be warranted,

then, subject to compliance by the Board with subsection (2), the Board may give to the relevant planning authority such direction(s) as it considers appropriate relating to the attachment, amendment or removal by that authority either of the condition or conditions to which the appeal relates or of other conditions.

Before considering whether this first party appeal should be considered in accordance with s.139(1), consideration should be given to the nature and scope of the proposed development.

The development is described as modifications to a solar energy development permitted under PA ref. 15/66245 and 21/4505. Having reviewed the planning application documentation including the plans and drawings and the rationale for the development set out in the planning application documentation, I conclude that the subject application and appeal relates to a revision, amendment or variation of an extant permission for development on these lands, and that the application does not relate to a stand-alone development. In support of this conclusion, I note in particular the following:

- The proposed modifications which are clearly identified in the application form and public notices and which are regarded as relatively minor in nature.
- That the modifications occur within the red line boundary of the permitted development.
- The planning application fee paid, and accepted by the planning authority, was a reduced fee, calculated primarily on the basis Class 13.

- Notwithstanding that the current application reflects the development description and application fee previously invalidated by the PA under planning ref. 22/4242, this application has been validated by the PA. This reflects an apparent acceptance by the planning authority that the development is a revision to an extant permission rather than a standalone application.

Notwithstanding this conclusion, the documentation on the planning file is unclear as to whether the planning authority have assessed the application as a revision to an existing permission or as an application for new development. The decision to grant permission does not include conditions requiring that the planning permission be carried out in accordance with the terms of the extant planning permission or linking the duration of permission to that of the extant permission. The decision is not, however, regarded as being inconsistent or in conflict with the extant permission on the site, with the exception of condition no. 15.

Having regard to the conclusion that the subject application and appeal relates to a revision, amendment or variation of an extant permission for development, to the nature of the condition the subject of this first party appeal, to national and regional policies for solar energy development and the policies and objectives of the Development Plan which are considered reasonable and with which the development accords, it is considered that in accordance with s.139(1), the determination by the Board of the relevant application as if it has been made to it in the first instance, would not be not warranted. This assessment therefore restricts itself to the consideration of condition no. 15 of the planning authority decision, which is the subject of this appeal.

8.2. **Condition no. 15:**

The original grant of permission under ref. 15/6625, as extended until 2026, was subject to a number of conditions. Conditions no. 15 and 16 require the payment of a security / bond to secure the reinstatement of the public road that may be damaged by the transport of materials to the site, and the undertaking of structural surveys in respect of the road. These conditions remain valid and applicable to the overall solar energy development to be undertaken on the site and are regarded as sufficient to

secure the satisfactory remediation of any damage to the road arising from the proposed construction activities. I note that these conditions were not varied or added to in the decision to grant an extension of duration under PA ref. 21/4505, as provided for under s.42(2). The proposed special development contribution condition no. 15 would not appear to be wholly consistent with these requirements and would appear to create uncertainty with regard to responsibility for completion of any improvement / remedial works to this road.

The report of the Area Engineer notes that the local road has deteriorated since 2015, but that while large construction traffic volumes could lead to a quicker decline in the condition of the roadway, the road would not otherwise require any intervention for at least 5 years given existing traffic movements. It is proposed that the resurfacing of the road would be carried out under the Community Involvement Scheme, with the subject development paying the whole 10% community contribution in respect thereof. Condition no. 15 clearly sets out the works to be funded by the condition, while internal technical reports are clear with regard to the rationale and basis for the calculation of the special development contribution levied, and I consider that the requirements of s.48(12)(a) are satisfied.

Section 48(2)(c) of the Planning and Development Act 2000 provides that the payment of a special development contribution may be required in respect of

- (a) a particular development, in circumstances where
- (b) specific exceptional costs are incurred in respect of public infrastructure and facilities which benefit the development,
- (c) and these costs are not covered by a scheme made under this section.

With reference to these criteria, I note that the special development contribution is charged against this particular development and that no other development is contributing to the cost of works. The identified requirement for remedial / reinstatement works to the local road arises from the potential impact of construction traffic associated with the overall solar project. The subject planning application and appeal are however, considered to relate to minor modifications / revisions to the extant permission. I have reviewed the application documentation and planning authority reports and am satisfied that the proposed modifications are minor in

nature and would not give rise to any significant additional construction traffic movements in excess of that arising from the parent permission. I do not therefore consider that the costs identified relate to specific exceptional costs in respect of public infrastructure and facilities which arise from or benefit this particular development. I do not consider therefore that the application of a special development contribution would be appropriate in this case.

Solar energy development is not identified as a category of development in the Cork County Development Contribution Scheme. The Contribution Scheme states that development contributions for windfarms, golf courses, quarries, gravel pits and other non-agricultural developments, which are not specifically allowed for in the General Scheme, will be levied as special contributions (however, buildings will also be levied in accordance with the General Scheme on the gross floor area). The extent of road works funded under the General Contribution Scheme is not clearly identified in the Scheme or the County Development Plan, however, I note the Area Engineers description of the current condition of the road and requirement for resurfacing. The amount of the contribution is calculated in the Area Engineers report on the basis of its inclusion in a Community Involvement Scheme, which would suggest that such works to a local, tertiary cul-de-sac are not funded under the General Contribution Scheme.

While I note the two previous ABP cases cited by the first party, I am not clear that they support the appeal, having regard to the final decision of the Board in those cases rather than the quoted extracts from the planning inspector's reports.

I would generally concur with the first party regarding the use of the Wholesale Price Index - Building and Construction (Capital Goods) rather than the Consumer Price Index, being a more specific measure of prices in the sector. Having regard to the conclusions and recommendations below, however, this matter does not fall to be determined.

Conclusions:

Having regard to the foregoing I conclude the following:

- The application and appeal relate to modifications / revisions to an extant permission, rather than a stand-alone development.
- These modifications would not give rise to any material impacts beyond those likely to arise during construction of the overall permitted development.
- Conditions no. 15 and 16 under 15/6625 / 21/4505 remain valid and applicable to the completion of that development and provide for the remediation of the road on completion of works.
- Condition no. 15, the subject of this appeal, would not appear to be consistent with the application of those conditions.
- It has not been demonstrated that the costs identified constitute specific exceptional costs in respect of public infrastructure and facilities which arise from or benefit this particular development.

It is, therefore, considered that the special financial contribution as proposed by the planning authority for such works does not come within the scope of section 48(2)(c) of the Planning and Development Act, 2000 and accordingly, would not be warranted. I therefore recommend that condition no. 15 be omitted.

The Board may wish to consider the replacement of condition no. 15 with a general condition requiring that the proposed development be undertaken in accordance with the terms of PA ref. 15/6625, as extended by PA ref. 21/4505, however, this may be regarded as being beyond the scope of s.139 of the act and the appeal under consideration.

9.0 Recommendation

That the planning authority be directed to remove condition no. 15 of the decision to grant permission as follows:

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended by section 30 of the Planning and Development Act, 2010, directs the said Council, under section 48(13) of the Planning and Development Act 2000, as amended, to remove condition number 15 for the reason and considerations set out below.

10.0 Reasons and Considerations

The proposed development relates to minor modifications and revisions to an extant planning permission, which is subject to conditions requiring the reinstatement of local roads serving the site to their original condition, and the payment of security in respect thereof. It is considered that the planning authority has not demonstrated that specific exceptional costs in terms of works to the local road network would arise from this proposed development or would benefit the development in this instance. It is, therefore, considered that the special financial contribution as proposed by the planning authority for such works does not come within the scope of section 48(2)(c) of the Planning and Development Act, 2000 and accordingly, would not be warranted.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Conor McGrath
Senior Planning Inspector

31/08/2022