



An
Bord
Pleanála

Inspector's Report ABP-316557-23

Development

Demolition of 1 modular building, relocation of 2 modular buildings, partial demolition production building, construction of a extension to production building, signage, construction of 2 modular buildings for office and welfare use and associated site works . A Natura Impact Statement (NIS) was submitted with the application.

Location

IDA Industrial Estate, Anngrove Townland, Carrigtwohill, Co. Cork

Planning Authority

Cork County Council

Planning Authority Reg. Ref.

234159

Applicant(s)

Fournier Laboratories Ireland (Abbvie).

Type of Application

Permission.

Planning Authority Decision

Grant subject to conditions

Type of Appeal

First Party against special contribution condition and calculation of general

and supplementary development contributions.

Appellant(s)

Fournier Laboratories Ireland (Abbvie).

Observer(s)

None.

Date of Site Inspection

22nd November 2023

Inspector

Niall Sheehan

1.0 Introduction

- 1.1. The nature of the appeal in question is an appeal in respect of financial contributions for special, general and supplementary contributions requested as part of grant of planning permission 235199.
- 1.2. The appeal is being considered under Section 48(10)(c) and Section 48(13) of the Planning and Development Act 2000 as amended and consolidated.

2.0 Site Location and Description

- 2.1. The site size has a stated area of 0.755ha. The site is located in IDA Ireland Carrigtohill Business and Technology Park in Anngrove, Carrigtwohill, Cork c.1.7km west of Carrigtwohill town centre.
- 2.2. The site extends towards the Cork to Middleton railway line to the north (bounds to the north) and is accessed from the IDA estate east to west branch road to the south. The IDA Business Park has been developed as a large area of modern, technology based, industrial development at the western end of Carrigtwohill.
- 2.3. The application site is surrounded by other commercial and industrial buildings within the estate to the south, east and west. GE Healthcare is located to the east and south while Stryker is located to the west. The site is to the west of Carrigtohill Business and Technology Park north to south spine road which extends north servicing cul-de-sacs within the Business and Technology Park to the north/opposite side of the railway line.
- 2.4. The site and business and technology park are located c.600m north of the N25 Cobh Cross Junction 3 for which is due to be upgraded and immediately south of the Cork to Middleton railway line, on which a new station Carrigtwohill West is due to be constructed (c.400m to the north west of the application site with connection to)

3.0 Proposed Development

- 3.1. The application was lodged with the planning authority on 03/02/2023 with a decision to grant permission made on the 30/03/2023. The proposal entails:

- Demolition of 1 no. larger modular building measuring 478sq.m in overall floorarea;
- Relocation of 10 no. smaller linked modular cabins measuring 803sq.m in overall cumulative floorarea;
- Partial demolition of lean to production building south elevation;
- Construction of a 1475sq.m permanent extension to production building (full permission);
- Construction of 2 no. temporary modular buildings (10 year temporary permission) for office and associated uses (974sq.m + 770sq.m = 1744 sq.m cumulative floorarea), all as per drawings) to the east of the production facility(subject to extensions);
- A Natura Impact Statement (NIS) was submitted with the application.

The application is accompanied by:

- Civil Engineering Planning Design Report;
- Flood Risk Assessment Report;
- Mobility Management Plan;
- Appropriate Assessment;
- Bat Survey Report;
- Environmental Impact Assessment Report;

4.0 Planning Authority Decision

4.1. Decision

Grant permission for the above described development subject to 23 conditions. Of note are the following:

Condition No.21 which reads as follows:

The developer shall pay a special contribution of €57,983.00 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, for the provision of interim upgrade measures at Cobh Cross Interchange.

Condition No.22 which reads as follows:

The developer shall pay a general contribution of €27,827.68 to Cork County Council in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority. The value of this contribution is calculated in accordance with the Council's Development Contributions Scheme on 30/03/2023 and shall be increased monthly at a rate of 8% per annum in the period between the date on which this value was calculated, and the date of payment.

Condition No.23 which reads as follows:

The developer shall pay a supplementary contribution of €94,677.50 to Cork County Council in respect of the Cobh/Middleton - Blarney Suburban Rail Project. The value of this contribution is calculated in accordance with the Council's Supplementary Development Contributions Scheme in respect of this project on 30/03/2023 and shall be increased monthly at a rate of 8% per annum in the period between the date on which this value was calculated, and the date of payment.

4.2. Planning Authority Reports

4.2.1. Planning Reports

4.2.2. The **Executive Planner's** Report dated 30/03/2023 recommends grant of planning permission.

4.2.3. The **Senior Executive Planner's** Report dated 30/03/2023 recommends Grant of Planning Permission. Development Contributions Section details the final calculations of the following general, supplementary and special development contributions:

General (Condition No.22):

Other non-residential uses 1475sq.m x €5.60 = €8,260.00

Offices 1744sq.m x (€16.83 x 66%) = €19,565

Total general: €27,825

Supplementary(Condition No.23):

Other non-residential 1475sq.m x €23.20 = €34,220

Offices 1744sq.m x (€52 x 66%) = €60,458

Total Supplementary: €94,678

Total Special: €57,983.00 (breakdown detailed below in 4.2.4 'HIIT')

4.2.4. Other Technical Reports

Cobh Municipal District Area Engineer a report dated **01/03/2023** (*sic*) details a schedule of conditions should permission be granted.

Housing Infrastructure Implementation Team (HIIT) a report dated **30/03/2023** details a condition to be attached should permission be granted.

- HIIT recommend a special contribution towards the upgrade of Cobh Cross Interchange(interim measures) of €57,983. Breakdown is as follows:
- Proposed production facility = 1475sq.m x €22.08 (full rate) = €32,568.00
- Proposed temporary modular units (temporary offices and canteen): 1744sq.m x (€22.08 x 66%) of full rate (66% based on OPR reduced rate for temporary permissions upto 10 years) = €25,415.
- €32,568.00 + €25,415.00 = Total Special: €57,983.00
- HIIT have stated special development contribution relates to overall preliminary design cost of €4.8m (inc. VAT) for Cobh Cross Junction Interim measures (estimated by Atkins Consulting Engineers) which will facilitate development in Carrigtwohill for c.1650 residential units and 45,000sq.m of non-residential floorarea.
- HIIT state they have based their rate of €22.08 on c.115sq.m average unit area for both residential and non-residential based on aforementioned totals.

Environment Section a report dated **29/03/2023** details a schedule of conditions should permission be granted.

Water Services a report dated **13/03/2023** details a schedule of conditions should permission be granted.

Traffic and Transport a report dated **28/03/2023** details a schedule of conditions should permission be granted.

Ecology a report dated **29/03/2023** details a schedule of conditions should permission be granted.

4.3. **Prescribed Bodies**

Health and Safety Authority produced a report dated **20/02/2023**. Does not advise against.

Uisce Eireann produced a report dated **24/03/2023** details a schedule of conditions should permission be granted.

Iarnrod Eireann produced a report dated **22/03/2023** details no objections in principle to the proposed development.

4.4. **Third Party Observations**

None.

5.0 **Planning History**

Planning Reference: 22/5197: Gilead Science Ireland UC, c.250m north of appeal site.

Construction of new warehouse (5,176sq.m) including connection corridor, site security building, logistics yard, extension to existing staff car park, access road to western site boundary.

The Special development contribution for the interim upgrade of Cobh Cross was applied here. It's application was not appealed in this instance.

6.0 Policy Context

6.1. Legislation

6.1.1. Planning and Development Act 2000 (as amended and consolidated)

Section 48: General Development contributions.

Of note Section 48(2)(c) Special Contributions, also Section 48 (12).

Section 49: Supplementary Development Contribution Schemes

6.2. National Guidance

6.2.1. National Planning Framework

Urban Regeneration and Development Fund Explanatory Note

‘Bid proposals must be co-funded and will require a minimum 25% stakeholder contribution, which can be from other public or private sources. This may be in the form of a combination of wider exchequer and/or state-sector capital expenditure, local authority investment and/or land, or other asset contributions’.

6.2.2. Planning Guidelines 24, Development Contributions – Guidelines for Planning Authorities

Department of the Environment, Community and Local Government January 2013

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’.

6.2.3. Planning Guidelines 13, Development Management Guidelines 2007

‘Special’ contribution requirements 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. Circumstances which might warrant the attachment of a special contribution condition would include where the costs are incurred directly as a result of, or in order to facilitate, the development in question and are properly attributable to it. Where the benefit deriving from the particular infrastructure or facility is more widespread (e.g. extends to other lands in the vicinity) consideration should be given to adopting a revised development contribution scheme or, as provided for in the Planning Act, adopting a separate development contribution scheme for the relevant geographical area. Conditions requiring the payment of special contributions may be the subject of appeal.

6.3. **Regional Guidance**

6.3.1. **Southern Regional Assembly**

Regional Spatial and Economic Strategy

Cork Metropolitan Area Strategic Plan replacing Cork Area Strategic Plan

6.4. Development Plan

6.4.1. Cork County Development Plan

Chapter 8: Economic Development

Section 8.22 Economic Development Land Use Zonings sets out the appropriate uses for each land use zoning objective included in the County.

Chapter 18: Zoning and Land Use

The site is zoned C2.1 - Industrial, enterprise, employment for which seeks to maintain existing industrial uses.

Objective ZU 18-10:

Existing Mixed/General Business/Industrial Uses facilitate development that supports in general the employment uses of the Existing Mixed/General Business/ Industrial Areas. Development that does not support, or threatens the vitality or integrity of the employment uses of these areas shall not be permitted.

Chapter 12: Transport and Mobility

Objective TM 12-13: National, Regional and Local Road Network sets out to support upgrade of Cobh Cross junction.

Appendix D: Core Strategy Critical Infrastructure:

Table D2: Settlement Specific Key Infrastructure lists the improvement of Cobh Cross additional capacity upgrade as key infrastructure to support the delivery of zoned lands in the Carrigtwohill Urban Expansion Area (UEA) 2, Middleton-Water Rock UEA 7.

Table D3: 'Residential Lands NPF Tiering' identifies the need for improvement of Cobh Cross Junction in Carrigtwohill Area within lifetime of plan.

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Section 2.4.70: During the lifetime of the plan, new development in the area and the need to provide additional capacity for future growth, are likely to necessitate the following major road network improvements:

- Cobh Cross Junction (Junction improvement and upgrade of northern roundabout) (relevant);

Table 4.2.7: Carrigtwohill North Urban Expansion Area Core Off-Site Infrastructure Programme for phase 1 up to 1,390 units which includes Cobh Cross additional capacity upgrade;

6.5. Cork County Council Development Contribution Scheme

Adopted 23rd February, 2004. Rates adjusted 01st January 2014 and until further notice.

Stated scheme for period of twenty years in line with time periods of the Cork Area Strategic Plan(now replaced by Cork Metropolitan Area Strategic Plan)

The terms of the scheme such that ‘a planning authority may, when granting a permission under Section 34, include conditions for requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority and that is provided, intended to be provided, by or on behalf of a local authority’.

The Cork County Council Development Contribution Scheme outlines three types of contributions provided for under the 2000 Act for which include:

General Contribution (under Section 48 - non-refundable): Indicates contribution paid in respect of the different classes of infrastructure and facilities which are provided, and make provision for payment of different contributions in respect of classes of development.

Supplementary Contribution (under Section 49). Provision of project must benefit development for which the permission is granted. Scheme is area specific. Proposed for scheme in relation to the Cork Area Strategic Plan Suburban Rail Project for which the Supplementary Development Contributions Scheme - Cobh/Middleton - Blarney Suburban Rail Project now exists with further stations planned. This includes all areas

within 1 kilometre of a station (existing or new - applies to application site), and also areas served by main roads (including the new and old N20 and N25 routes)

Reductions: Developments which are liable for supplementary contributions under Section 49 for proposed Cork Suburban Rail Project eligible for conditional 75% reduction in Roads Contributions (recognises rail project may mitigate need for roads investment).

Special Contributions: A Special Contribution may also be required, under Section 48(2)(c) where specific exceptional costs not covered by the Cork County Council Development Contribution Scheme are incurred by any Local Authority in respect of public infrastructure (not covered by General Scheme).

Reduction: If no substantial works have been carried out, or have been commenced, by a date ten years after the date of receipt, contribution will be returned to developer, but less an amount corresponding to the 75% reduction in roads contributions under the General Contributions Scheme, which applies to developments liable to contribute to the Supplementary Scheme, together with the appropriate interest.

6.6. Natural Heritage Designations

The application site is located c.500m north west of Cork Harbour Special Protection Area, the Great Island Channel Special Area of Conservation, the Great Island Channel Special Area of Conservation and Proposed Natural Heritage Area respectively.

6.7. EIA Screening

As per the planning application screening conclusion, the proposal is for a type of development under Parts 1 & 2 of Schedule 5 of Article 93 of the Planning and Development Regulations (as amended and consolidated) that is a project and a class but is sub-threshold.

Under Section 48 (10) the Board's consideration is confined solely to whether the terms of the scheme have been properly applied. Section 48(13) of the Planning and Development Act further states that where an appeal received relates solely to a

condition dealing with a special contribution and no appeal is brought by any other person, An Bord Pleanála shall not determine the application as if it had been made in the first instance but only matters under appeal (i.e. financial contributions).

7.0 The Appeal

7.1. Grounds of Appeal

The submission by McCutcheon Halley on behalf of the 1st party refers. The appeal is against financial contribution conditions No.21 (Special Financial Contribution), No.22 (General) and Condition No.23 (Development Contributions)

Condition No.21 – Special Financial Contribution of €57,983 detailed as follows:

- This is to contribute towards the upgrade of Cobh Cross Junction 3 on/off the N25 including the roundabout to the north of the N25 serving the R624 Cork to Cobh Road;
- An overall preliminary design cost of €4.8m (including VAT) is estimated by Atkins Consulting Engineers for the construction of the Cobh Cross interim measures.
- A breakdown has been provided on how the Development Contribution calculation was reached. This breakdown is detailed in 3.2.2 earlier in the report.
- With regard to Condition No.21, the agent has contended that the council has not demonstrated costs incurred under the Special Contributions for provision of interim upgrade measures at Cobh Cross Interchange are either specific or exceptional (to approved development under 234159) as required by section 48(2)(c) of the Planning and Development Act 2000.
- In calculating the Special Contribution, different rates should have been applied to the office and production uses, similar to the general scheme.
- The agent further contends that the Planning Authority has double charged the applicant and not provided sufficient justification to warrant the special contribution. The agent is of the view that double charging is taking place by way of levying development contributions for road improvements as both a

general contribution (condition no.22), and, also as a special contribution (condition no.21).

- Under Section 48(2)(c) of the Planning and Development Act 2000 there is an onus on the planning authority to demonstrate that the 'provision of interim upgrade measures at Cobh Cross Interchange' under the special contribution are exceptional in the sense that they could not have been envisaged when the planning authority's Development Contribution Scheme was approved (and rates amended).
- The agent further states that the planning authority must demonstrate that the costs are specific to this development in the sense that they would benefit the permitted scheme rather than the general and wider area and would not be incurred if the development did not proceed.
- The agent considers the provision of interim upgrade measures at Cobh Cross are neither exceptional nor specific to this development and would be taking place irrespective of the proposed permanent extension to the production building and the temporary modular buildings.
- The agent has noted that the Area Engineer's report does not recommend the inclusion of a special development contribution towards road/junction improvements.
- Application of the base rate of €22.08 did not adopt the same approach for the general and supplementary calculations, where the industrial/manufacturing use was subject to a lower rate.
- The agent further contends that the client has already been subject to a general development contribution of €27,827.68 and a supplementary development contribution of €94,677.50 (amounts subject to appeal). An additional special development contribution charge of €57,983 based on a levy of non-residential at €22.08 is very significant and disproportionate increase in development contributions and results in a close to 50% increase on the combined general and supplementary development contributions.

Conditions No.22 and 23

Condition No.22 is for a General Development Contribution of €27,827.68.

Condition No.23 is for a Supplementary Development Contribution of €94,667.50.

- To facilitate the proposed development, the permitted scheme includes the demolition of 478sq.m and the temporary relocation of 803sq.m of existing modular buildings (comprising of office and staff facilities) which will be removed once construction has been completed and the permanent extension to the manufacturing building is occupied;
- With regard to Condition No.22 and Condition No.23 (Supplementary Development Contribution), the agent contends the development contribution calculations should have been reduced to take account of the demolition of 478sq. of modular office floorspace and temporary relocation of 803sq.m of existing modular buildings (comprising of office and staff facilities) (to be removed following completion of construction and occupation which has taken place);
- The agent calculates that the permitted development therefore only results in a net increase of 463sq.m of office floorspace and the Council's General and Supplementary Development Contributions should have been based on a reckonable office floor area of 463sq.m and not 1,744sq.m.
- The agent calculates that the following development contribution charges should be reduced as follows:
 - Condition No.22 General Development Contribution Charge should subsequently be reduced from €27,827.68 to €16,052.29.
 - Condition No.23 Supplementary Development Contribution for Cobh/Middleton – Blarney Suburban Rail Project should subsequently be reduced to €94,677.50 to €50,110.16.

7.2. Planning Authority Response

The planning authority did not provide a response to the first party appeal.

8.0 Assessment

- 8.1. Section 48(4), 48(10), 48(13) and 49(3) of the Planning and Development Act 2000 as amended and consolidated outlines that An Bord Pleanála shall not determine the application as if it had been made in the first instance but only matters under appeal. The scope of assessment is limited to the application of special financial contribution and calculation of general, supplementary financial contributions under conditions 21, 22 and 23 of Notification of Grant of Planning Permission Reg. Ref. 234159, in respect of construction of permanent extension to the production facility of 1475 sq.m, and construction of temporary 10 year modular buildings measuring 1744 sq.m cumulative.

Condition No.21

- 8.2. As aforementioned, Condition No.21 requires a special financial contribution of €57,983 towards the upgrade of Cobh Cross junction off the N25.
- 8.3. The Cobh Cross upgrade is proposed under the Carrigtwohill URDF Initiative - Public Realm Infrastructure Bundle. In summary, the Cobh Cross Upgrade will contribute towards the upgrade of Junction 3 (Cobh Cross) off the N25 including the roundabout to the north serving the R624 Cork to Fota Island/Great Island/Cobh Area, the settlement of Carrigtwohill and environs including the IDA Ireland Carrigtohill Business and Technology Park.
- 8.4. The Carrigtwohill URDF Initiative - Public Realm Infrastructure Bundle including the Cobh Cross Upgrade is funded under Department of Housing, Planning and Local Government (DHPLG) Urban Regeneration and Development Fund (URDF).
- 8.5. The HIIT report notes that the overall cost of the Cobh Cross upgrade is estimated at €4.8m (including VAT) for the preliminary design (estimated by Atkins Consulting Engineers). I am of the understanding that the proposal is co-funded with a minimum 25% stakeholder contribution as per the terms of the URDF.
- 8.6. As per Section 6.5 in Policy Context above, the Cork County Council Development Contribution Scheme adopted in 2004 with rates most recently adjusted on the 01st

January 2014 is the statutory document for the provision of development contributions. It summarises that Special Contributions may be sought under Section 48 (2)(c) where specific exceptional costs are incurred by local authority in respect of public infrastructure not covered by the general scheme.

- 8.7. As part of consultation during the planning application stage, the Cork County Council Housing Infrastructure Implementation Team (HIIT) report have outlined details of the proposed Cobh Cross Upgrade c.600 south and how it may affect the proposed development site (or visa versa). They have stated that the proposed development will increase the number employed at the facility by 75 staff over 3 no. shifts resulting in an increase of 25 no. vehicles at any given time at the campus. The Planning Authority have concurred with HIIT concluding a special contribution should be sought.
- 8.8. HIIT have provided a rate of €22.08 to be applied to both the production facility extension, and, also the temporary 10 year modular units (subject to 33% reduction given temporary nature). The rate of €22.08 appears to be drawn from the overall cost of €4.8m (estimated by Atkins Consulting Engineers) weighted against the anticipated development of 1650 residential units and 45,000sq.m of non-residential floorarea in Carrigtwohill settlement boundary (average unit area for both categories of 115 sq.m applied), drawn from a base year (does not appear to be specified). The Executive Planner's Report or the Senior Planner's Report have not further commented on the rate applied.
- 8.9. I note that a special contribution was charged on a similar basis under reg. ref. 225917 (as per 'Planning History' above). This was not subject to appeal.
- 8.10. The contribution shall be assessed against the requirements of Section 48 (2) (c) and (12) of the Planning and Development Act (as amended and consolidated) as outlined in 'Policy Context'
- 8.11. Firstly, as per HIIT report, the contribution in respect of Cobh Cross Junction Interim improvement measures do not relate to a particular development but to categories of development (i.e. commercial and/or residential units) which are situated within the town and environs of Carrigtwohill (settlement boundary). These categories and quantities have been detailed just earlier.

- 8.12. Secondly, given the HIIT report rationale, the Cobh Cross Junction improvement interim measures are not considered to be sufficiently specific or exceptional to the proposed development to be compatible with Section 48(12)(a) and are not incapable of incorporation within the terms of the development contribution scheme in accordance Section 48(12)(1) of the Planning and Development Act 2000 (as amended and consolidated).
- 8.13. Thirdly, the costs involved with respect to provision of junction improvement interim measures are not specific, hence apportionment of special contributions as formulated and applied by the planning authority is not appropriate in this instance. Cobh Cross Upgrade will serve a variety of different stakeholders including the wider IDA Ireland Carrigtwohill Business and Technology Park, the settlement of Carrigtwohill and surrounding area, Fota Island, Great Island and the wider Cobh Area.
- 8.14. Fourthly, I consider that the interim upgrade measures at Cobh Cross would be taking place irrespective of the proposed permanent 1475sq.m extension to the production building and the temporary modular buildings (1744sq.m now in situ).
- 8.15. This was in fact demonstrated in aforementioned other grant of planning permission 225917 where the special development contribution condition/charge was applied.
- 8.16. From the information provided, I do not consider that the basis for the contribution meets the legislative requirements under 48(2)(c). I consider that the planning authority has not provided sufficient justification to warrant application of a special contribution condition. Condition No.21 shall therefore be omitted.

Conditions 22 and 23

- 8.17. For the purposes of assessment, to reiterate the development subject of general and supplementary development contribution charges comprise of a permanent extension to the production facility measuring 1475sq.m of floorarea, the construction of 2 no. temporary 10 year modular buildings measuring 1744sq.m cumulatively. The temporary relocation of 803 sq.m of existing modular buildings and the demolition of 1 no. larger modular building measuring 478sq.m in overall floorarea were not included in the calculations of the contribution.
- 8.18. With regard to Condition No.'s 22 and 23, the first party contends that the general development contribution charge (Condition no. 22) should be reduced from

€27,827.68 to €16,052.29 and the supplementary development contribution charge (Condition no.23) should be reduced from €94,677.50 to €50,110.16

- 8.19. On assessment of the agent's claims, existing and proposed drawings were examined in addition to a site visit taking place. Construction of new permanent extension to production building was taking place on the day of site visit, with both proposed modular buildings (1744sq.m cumulative) in situ and operational. The modular buildings indicated in the planning application to be demolished have since been demolished.
- 8.20. With respect to the relocated modular buildings (803 sq.m), for the purposes of clarity, Cork County Council have not charged for these buildings. From site inspection, these appear to be in use for the duration of the construction period. I therefore consider that these modular buildings (803 sq.m), do not require to be included for the purposes of calculation in either general and supplementary development contributions.
- 8.21. As per 'Policy Context', the Development Contributions Guidelines for Planning Authorities, Planning Guidelines 24, Section 2 'Supporting Economic Development' note that planning authorities are required to include in their schemes inter alia, the 'provision to charge only net additional development in cases of redevelopment projects and apply reduced rate for temporary permission'.
- 8.22. Despite the aforementioned guidelines, Cork County Council Development Contribution Scheme makes no provision for either:
- The reduction of floorarea to be demolished, removed or replaced;
 - A reduced rate for temporary permission;
- 8.23. This indicates there is no subsequent provision for the demolished floorarea, or, indeed the offset/reduced rates applied for the temporary 10 year permission for the 2 no. modular buildings. As aforementioned, Cork County Council Development Contribution Scheme has been adopted, is statutory, live, binding, and therefore must be followed.
- 8.24. Cork County Council have however applied an offset/reduction (33%) for the 10 year temporary permission for the 2 no. modular units despite no apparent provision for such in the Cork County Council Development Contribution Scheme.

- 8.25. As part of the overall assessment relating to the calculations of general and supplementary development contributions, I am required to consider whether or not the Development Contributions Scheme has been properly applied, and, not whether it's terms are appropriate or fair. As per previous paragraphs, having regard to the primacy of the Cork County Council Development Contribution Scheme, I am subsequently of the view that there is no basis for the application of a reduction/offset of 33% for the 10 year temporary permission for the 2 no. modular units.
- 8.26. I therefore consider that the scheme has not been properly applied in this instance ,and a recalculation of the General and Supplementary Contributions shall take place with no reduction/offset applied for the 10 year temporary permission for the 2 no. modular units.
- 8.27. Following on from all of the above, I therefore consider that Council's general and supplementary development contributions shall be amended in tables below. Please note that I have clarified how General Development Contribution cost per square metre figures were arrived at in paragraphs following this table.
- 8.28. General Contribution Table:

General Contribution				
Subject Area	Floorarea (sq.m)	Permanent/ Temporary	Cost per sq.m (DCS)	Total Due
Production Building (Non Office)	1475	Permanent	€5.60	€8,260.00
Modular (Office)	1744	Temporary	€16.825	€29,342.80
Total				€37,602.80

Fig: General Contribution Scheme Table

- 8.29. With regard to the cost per square metre for the extension to the production building, the General Development Contribution Scheme Rates for Non-Residential Other is €14.29 per sq.m for Roads for which a 75% Reduction is available where a

Supplementary Development Contribution is applicable. In this instance, this would mean that there would be a cost of €3.57 per sq.m for Roads (factoring in 75% reduction) with cost of €2.03 for Amenity added. This would result in an overall cost of €5.60 per sq.m which is multiplied by the floorarea for this constituent part.

8.30. With regard to the cost per square metre for modular office buildings, the General Development Contribution Scheme Rates for Non-Residential Office and Retail is €42.86 per sq.m for Roads for which a 75% Reduction is available where a Supplementary Development Contribution is applicable. In this instance this would mean that there would be a cost of €10.715 per sq.m for Roads (factoring in 75% reduction) with a cost of €6.11 for Amenity added. This would result in an rate of €16.825 per sq.m.

8.31. As per the table above, I calculate the overall General Development Contribution to be €37,602.80.

8.32. With regard to Supplementary Contribution please see table below:

Supplementary Contribution				
Subject Area	Floorarea (sq.m)	Permanent/ Temporary	Cost per sq.m (DCS)	Total Due
Production Building (Non Office)	1475	Permanent	€23.20	€34,220.00
Modular (Office)	1744	Temporary	€52.00	€90,688.00
Total				€124,908.00

8.33. As per the table above, I calculate the overall Supplementary Contribution to be €124,908.00.

8.34. Taking all of the above into consideration, Condition No.22 and Condition No.23 shall be amended as follows.

8.35. Condition No.22 shall therefore be amended to read (summarised):

Within three months of the date of this notice, the developer shall pay to the planning authority a financial contribution of €37,602.80 in respect of public benefiting

development in the area 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 phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme.

8.36. Condition No.23 shall therefore be amended to read (summarised):

Within three months of the date of this notice, the developer shall pay to the planning authority a financial contribution of €124,908.00 in respect of the Cobh/Middleton to 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 phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme.

8.37. Note: Having regard to the increase in contributions payable arising from the above analysis, the Board may wish to consider seeking the views of the parties on the validity of applying a reduction for temporary development which is not otherwise provided for in the Development Contribution Scheme.

9.0 Recommendation

9.1. Having regard to the foregoing I recommend the following:

- (i) The Council be directed to OMIT Condition No.21 for the following reasons and considerations:

The planning authority has not demonstrated that there are specific exceptional costs (Cobh Cross upgrade, Junction 3 N25) that will be incurred directly in order to facilitate this particular project only. Cobh Cross Upgrade will serve wide range of development including the wider IDA Ireland Carrigtwohill Business and Technology Park Fota Island/Great Island/Cobh Area, the settlement of Carrigtwohill and surrounding area.

The Board is not satisfied therefore that the specific financial contribution as proposed by the Planning Authority for such facility does not come within the scope of Section

48(2)(c) of the Planning and Development Act 2000 as amended and accordingly would be unwarranted.

- (ii) The Planning Authority shall be directed to AMEND Conditions No.22 and 23 for the following reasons and considerations:

The Board considers that the planning authority has not correctly applied the development contribution scheme by way of inclusion of a reduction/offset of 33% towards the construction of temporary modular buildings, which is not provided for in the adopted Cork County Council Development Contribution Scheme.

Condition No.22 and Condition No.23 shall therefore be amended to read as follows:

10.0 Conditions

21.	<p>Within three months of the date of this notice or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay to the planning authority a financial contribution of €37,602.80. (thirty seven thousand, six hundred and two euros and eighty cents) 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. 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.</p> <p>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.</p>
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22.	<p>Within three months of the date of this notice or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay to the planning authority a financial contribution of €124,908.00 (one hundred and twenty four thousand, nine hundred and eight euros) in respect of the Cobh/Middleton to 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 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.</p> <p>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 may under Section 49 of the Act be applied to the permission.</p>
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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.



Niall Sheehan
Planning Inspector

19th December 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference				
Proposed Development Summary	Demolition of 1 modular building, relocation of 2 modular buildings, partial demolition production building, construction of a extension to production building, signage, construction of 2 modular buildings for office and welfare use and associated site works . A Natura Impact Statement (NIS) was submitted with the application.			
Development Address	IDA Industrial Estate, Anngrove Townland, Carrigtwohill, Co. Cork			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No	X	N/A For clarity: Project subject of planning application 234159 is a project and class (6)(e) but sub-threshold	Appealing of financial contributions. Considered that Cork County Council have otherwise dealt	No EIAR or Preliminary Examination required

		Provisions of Section 48 (10) and Section 48 (13) apply.	with screening and environmental assessment of project at planning application stage.	
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: *Nhall Gucho* Date: 19th December 2023