



An
Bord
Pleanála

Inspector's Report

317224-23

Development	Point of detail referral on Section 48 financial contribution in relation to a Primary Health Care Centre (Protected Structure)
Location	Island Mills, Mill Road, Fermoy, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	184750
Applicant(s)	Glencar Healthcare Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party point of detail referral against PA application of s.48 condition.
Appellant(s)	Glencar Healthcare Ltd.
Observer(s)	None
Date of Site Inspection	5 th March 2025.
Inspector	Suzanne Kehely

1.0 Background

- 1.1. This point of detail case pursuant to section 34(5) was initially before the Board under reference ABP 310687-21 and its decision was quashed by Order of the High Court (2023). It has been remitted to the Board to decide afresh. The Board has directed a report for its consideration de novo. The case solely concerns a section 48 financial contribution in so far as a dispute in its application has arisen between the developer and the planning authority. Section 48 of the Planning and Development Act 2000 as amended restricts the Board in the scope of its consideration such that only matters relating to such a financial contribution are valid. The principle of the development or other planning matters are outside the scope of consideration.
- 1.2. In the interest of clarity, the referrer states that the case is against the financial contribution sought under section 48 and cites condition no.43 which was the section 48 condition in the initial decision issued by the planning authority which was appealed. The Board's decision to uphold a grant of permission on appeal reduced the number the conditions such that condition no. 21 of the Board's Order supersedes condition 43 and is the relevant and enforceable condition in relation to requiring a S.48 contribution. The wording is different and notably, the original condition 43 included a stated amount (€4534.33) whereas the Board's condition does not. In its application of condition 21, the planning authority has maintained the rate as used in its condition 43 and which I note was not the subject of specific appeal in ABP 303233.
- 1.3. I have inspected the site and noted that the development has been substantially completed and that the HSE occupies the new building in terms of offering a range of primary health care services in addition to ancillary pharmacy and medical supplies retail areas. The Old Mill structure has been refurbished and is occupied by the HSE and Centric – a surgery-based healthcare provider. While it is a health care facility with consulting and therapy rooms and suites, it is not what I would describe as a hospital – there is no overnight accommodation or form of residential care. The grounds which include the old mill race and flood protection walls and barrier system, are landscaped and incorporate extensive car parking.

2.0 Planning Authority Decisions

2.1. Decision to Grant Permission – PA Ref 184750

On the 20th November 2018, Cork County Council issued a notification of its decision to grant permission subject to 43 no. conditions.

Condition no. 43 states:

At least one month before commencing development or at the discretion of the Planning Authority within such further period or periods of time as may nominate in writing, the developer shall pay a contribution of €43,534.33 to Cork County Council in respect of public infrastructure and facilities benefiting the development in the area of the planning authority. The value of this contribution is calculated in accordance with the council's Development Contribution Scheme on 01/01/15 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.

Reason: It is considered appropriate that the developer should contribute towards the cost of public infrastructure and facilities benefiting the development in the area of the Planning authority as provided for in the Council's Development contributions Scheme made in accordance with Section 48 of the 2000 Planning and Development Act 2000 and that the level of contribution payable should increase at a rate which allows for both inflation and for the phasing in of the target contribution rates in the manner specified in that scheme.

2.2. Decision to grant as upheld by An Bord Pleanála

ABP 303233 (PA ref 184750) - Following a third party appeal permission granted to UHPC International Limited for change of use of building to Primary Healthcare Centre, construction of building, extension of existing building, reconfiguration of car park and erection of signage subject to 21 conditions. (More detailed description under History heading below.)

Condition 21 states

The developer shall pay to the planning authority a financial contribution 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

2.3. Decision on application of ABP condition 21

- 2.3.1. Following a submission to Cork county Council by the Glencar Healthcare, the developer of the primary healthcare Centre, through its agent, seeking a reduction of the amount payable in respect of the s.48 financial contribution, the County Council response on 8th October 2020 was that ‘the applicant is a private developer, any exemption, if available would only apply if a registered Charity Organisation was applying in their own name.’ It is further pointed out that ‘in any event contributions are always applied in the case of HSE applications.
- 2.3.2. An explanation is set out in this letter and refers to the tenancy status of the HSE in this case and that that could change in time. It is further pointed out that the applicant has benefited greatly from exemption applied in relation to the preservation of a Protected Structure and in this context, it is considered that the applicant should pay the amount levied and instalment of payments can be considered.

3.0 The Point of Detail referral

3.1. Applicant grounds for determination by An Bord Pleanála

- 3.1.1. Pursuant to the provisions of S.34(5) of the Planning and Development Act and in view of the disagreement between the applicant and the local authority the applicant is seeking a determination by the Borad . the Board is requested to confirm the applicant's position in respect of contributions payable under condition 43.
- 3.1.2. The case is made that the HSE has agreed to lease 91% of the development and that as the HSE has charitable status it therefore qualifies as a category that is exempt from planning fees and therefore meets with the criteria for 100% reduction. A pro-rata reduction is accordingly sought in respect of the HSE occupancy lease. The case is supported by reference to previous Board decisions which are submitted to have regard to end user status rather than that of the developer in terms of liability to contributions. The inspector's report for the Crumlin case is cited in respect of the Board determining the end user as a liable basis for payment. The following cases are cited in support of referrer's position:
- ABP refs PL29N.241384 and PL29N.248773 – contributions reduced based on proportion of HSE occupation in the case of Edenmore Primary Care Centre, Dublin 5 (Dublin Coty Council)
 - ABP ref PL06S.243622 contributions reduced based on proportion of HSE occupation in the case of Ballyboden primary Care Centre, Dublin 16. (South Dublin County Council)
 - ABP ref PL29S.241889 Primary Care Centre Armagh Road, Crumlin, Dublin 12. (Dublin Coty Council)
- 3.1.3. The submission encloses the following documents:
- Submission to Cork County Council September 2020 which clarifies the HSE floor area occupancy amounting to 3871sq.m. out of a total granted floor area of 4245 sq.m.
 - Cork County Council Response of 8th October 2020. [See section 2.3 of this report for synopsis]

- Letter from Bail, Homan, Smith , McVeigh, June 2021 confirming that they hold the funds (€43,534.33) to discharge upon the decision by An Bord Pleanála.
- DCC Letter confirming reduction of contributions
- SDCC letter confirming reduction of contributions.

3.2. Planning Authority Response

3.2.1. The planning authority responded to the first party submission to the Board on 22nd July 2021 by way of a letter setting out the rationale for the financial contribution sought and this is appended with technical reports pertaining to the original decision (PA ref 18/04750).

3.2.2. The letter dated 20th July 2021 makes the following points.

- Condition 21 of the Board's decision requires payment of a general contribution.
- The permitted development floor area of 4112 sq.m. is confirmed. Of this 3003 sq.m. relates to an old mill building which is a Protected Structure. A further 220 sq.m. is acknowledged as being subject of demolition.
- It is confirmed that the contribution for Protected Structures is 100% discounted where works contribute to the conservation or restoration of the protected structure.
- The demolished floor area of 220 sq.m. has been discounted and subtracted from the new floor area and for the purposes of a financial contributions the net floor is calculated at 889 sq.m. (1109 minus 220)
- It is contended that the proposed development is commercial in nature and not purpose built by or on behalf of the HSE and the occupancy lease is irrelevant to the calculation and rate of contribution to be applied.
- It is further pointed out that the application was by a private company incurring the planning application fees in accordance with Article 157 (1).
- While acknowledging the charitable status of the HSE it is not accepted as a voluntary organised as described in Article 157.
- The HSE is not exempt from planning fees.

- Contributions are based on development type (which is by a private developer in this case) and not occupancy. A wide variety of tenants could occupy the development over time.
- The contribution sought is thought to be in accordance with the terms of the Council's Scheme.

3.2.3. The planning authority also forwarded email correspondence from the agents for the developer setting out how the HSE occupancy is not commercial in nature and that the design is based on HSE consultation and its needs in its provision of medical and associated services for the community and in overall terms the development is a major element of integrated primary health care in the locality.

4.0 Relevant Legislation

4.1. Planning and Development Act 2000, as amended

4.1.1. Section 34(5) states:

The conditions under *subsection (1)* may provide that points of detail relating to a grant of permission may be agreed between the planning authority and the person to whom the permission is granted and that in default of agreement the matter is to be referred to the Board for determination.:

The Act was amended by Substituted (17.12.2021) by Planning and Development (Amendment) Act 2018 (16/2018), s. 23(4), S.I. No. 714 of 2021.

The conditions under subsection (1) may provide that points of detail relating to a grant of permission be agreed between the planning authority and the person carrying out the development and, accordingly:

(a) where for that purpose that person has submitted to the planning authority concerned such points of detail, then that authority shall, within 8 weeks of those points being so submitted, or such longer period as may be agreed between them in writing, either:

(i) reach agreement with that person on those points, or

(ii) where that authority and that person cannot so agree on those points, that authority may—

(I) advise that person accordingly in writing, or
(II) refer the matter to the Board for its determination,
and, where clause (I) applies, that person may, within 4 weeks of being so advised,
refer the matter to the Board for its determination,
or
(b) where none of the events referred to in subparagraph (i) or in clause
(I) or (II) of subparagraph (ii) occur within those 8 weeks or such longer period as
may have been so agreed, then that authority shall be deemed to have agreed to
the points of detail as so submitted.

4.1.2. Section 48 of the Planning and Development Act 2000, as amended provides as follows:

(1) 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, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities).

(2) (a) Subject to paragraph (c), the basis for the determination of a contribution under subsection (1) shall be set out in a development contribution scheme made under this section, and a planning authority may make one or more schemes in respect of different parts of its functional area.

(b) A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.

(c) A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

(3) (a) A scheme shall state the basis for determining the contributions to be paid in respect of public infrastructure and facilities, in accordance with the terms of the scheme.

(b) In stating the basis for determining the contributions in accordance with paragraph (a), the scheme shall indicate the contribution to be paid in respect of the different classes of public infrastructure and facilities which are provided or to be provided by any local authority and the planning authority shall have regard to the actual estimated cost of providing the classes of public infrastructure and facilities, except that any benefit which accrues in respect of existing development may not be included in any such determination.

(c) A scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provisions of the scheme.

Section 48(10) provides:

(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.

4.2. Exempted Development Provisions

- 4.2.1. Article 157 of the Planning and Development Regulations 2001 as amended provides for exemptions from planning fees:

(1) Where a planning application consists of or comprises development which, in the opinion of the planning authority, is development proposed to be carried out by or on behalf of a voluntary organisation, and which in the opinion of the planning authority—

(a) is designed or intended to be used for social, recreational, educational or religious purposes by the inhabitants of a locality, or by people of a particular group or religious denomination, and is not to be used mainly for profit or gain,

(b) is designed or intended to be used as a workshop, training facility, hostel or other accommodation for persons with disabilities and is not to be used mainly for profit or gain, or

(c) is ancillary to development referred to in paragraph (a) or (b),
a fee shall not be payable when making any such application

4.2.2. PDR 2001 as amended provide for change of use exemption within the same class of development.

Class 2: Use for the provision of—

(a) financial services,

(b) professional services (other than health or medical services),

(c) any other services (including use as a betting office), where the services are provided principally to visiting members of the public.

Class 3: Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

Class 8 Use as

(a) as a health centre or clinic or for the provision of any medical or health services (but not the use of the house of a consultant or practitioner, or any building attached to the house or within the curtilage thereof, for that purpose),

(b) as a crèche,

(c) as a day nursery,

(d) as a day centre.

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

- 4.3.1. The General Scheme is part of the Cork County Council Development Contribution Schemes adopted by the County Council on 23rd February 2004 as provided for in Section 48, Planning & Development Act, 2000, (as amended). 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. G6. Table G6 is the initial applicable rate. Reduced Contributions are set out on pages 7 - 8.
- 4.3.2. The most recent rates as published by the County Council are for 2015 wherein it states that these are the rates until further notice and that Indexation continues to be suspended for the period 1/1/2015 to 31/12/2016.
- 4.3.3. Table G6 is revised under the heading Non-residential Development Contributions for CASP and N & WCSP Areas (excluding within 1km of rail line) as set out in the table below.

Type	From 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	n/a	16.32
horticulture enclosed development /intensive animal husbandry rates	n/a	9.17

On Page 5 it is clarified that ‘for the purpose of the is contribution scheme ‘offices’ and ‘retail type’ uses shall include : office based industry, banks, third level education, hospitals, restaurants, bar and surgeries.’

The Scheme on Page 4 provides for a phasing in of the initial scheme in 2004 by way of an 8% increase on an annual basis starting at 75% of the base rate until the target rate is achieved. The 8% is a cumulative rate of the 3% phasing in rate and the 5% indexation rate reflecting building costs. The average rate of inflation since 1993 has been around 5%.

4.4. **Reduced contribution Rates**

Page 7 of the scheme provides for reduced contributions. This provides for 100% for categories such as

- 1) **Provision of facilities by organisations** which are considered to be exempt from planning fees as outlined in Part 12 Article 157 (1a-c) of the PDR 2001 *

‘where a planning application consists of (a) is designed or intended to be used for social, recreational, educational or religious purposes by the inhabitants of a locality or by people of a particular group or religious purposes by the inhabitants of a locality or by people of a particular group or religious denomination and is not to be used mainly for profit or gain, (b) is designed or intended to be used as a workshop, training facility, hostel or other accommodation for persons with disabilities and is not to be used mainly for profit or gain, or (c) is ancillary to development referred to in paragraph 9a) or 9b) a fee shall not be payable when making any such application.

- 2) Voluntary Organisations

- 3) Works to Protected Structures ***

‘where these works substantially contribute to the conservation or restoration of the protected structure.’

5.0 **Planning History**

5.1. The subject case.

ABP 303233 (PA ref 184750) refers to the appeal case wherein permission was granted in April 2019. The full description for the permitted development is

Change of use of existing buildings on site (older Mill building, which is a Protected Structure and newer office building known as Block A) from a previous office use to use as a Primary Healthcare Centre for the Health Service Executive (HSE) and general medical doctors. The work requires demolition of an existing single storey link, staff catering building adjoining the Mill and sections of Block A (220 square metres). The development will also include a two-storey extension to Block A of (395 square metres) to a total of (2408 square metres), a new double height entrance lobby with coffee shop, five-storey lift serving the Mill and external steps

together with a new two-storey building of (408 square metres), which will be used as a dispensary and medical aid area. Block A will also be altered by the removal of central floor area in the middle of the building to create a light well for improved ventilation and light. (Area included in above demolition calculation). The Mill building, which is a Protected Structure, will be refurbished. Work to the building will include replacement windows, construction of a new slate roof and new service installation. A Natura impact statement will be submitted to the planning authority with the application. The total existing floor area of the buildings on site is 3,223 square metres. Following these changes, it will be 4,112 square metres. The existing surface car park containing space for 274 cars will be resurfaced and laid out with parking spaces for 217 cars. The existing ESB substation will be retained. New building signage and new site signage will be installed. The existing vehicle access will be adjusted to allow for both pedestrian and cycle access and a new Mill Road boundary treatment and landscaping will remain as at present, all at Island Mills (Protected Structure), Mill Road, Fermoy, County Cork

6.0 Assessment

6.1. Issues

- 6.1.1. This assessment relates to the determination of the S.48 financial contribution amount which is required in principle by way of condition 21 in the Board's Order. In the first instance I set out how I consider the first steps in applying the S.48 contribution scheme should be adhered to taking account of the floor area of the development while also having regard to the element that is a Protected Structure. This is before considering the potential to reduce the contribution having regard to the nature of development and use and the developer's liability which is at the centre of the dispute.

6.2. Application of the Scheme having regard to the floor area and the Protected Structure

- 6.2.1. In this case the proposed development for primary health care facility comprises three main elements which I consider are pertinent in establishing the base floor area to which rates apply:
- change of use from offices to primary health care centre with ancillary uses,

- refurbishing the Old Mill (Protected Structure) and remodelling its internal layout, and
- demolition of 20th century office related structure and construction of a two-storey building to provide for health care facilities and ancillary services.

6.2.2. The planning authority has waived any contributions relating to change of use and works relating directly to the Protected Structure. In this regard I note the satisfaction of the conservation office having regard to the limitations of waiving the contribution by 100%. As there is no dispute in this regard, I do not intend to revisit the application of the reduction for example by way of examining the extent of compliance with conditions in respect of restoring the protected structure and preservation of its character. However, I do note that the conservation officer's primary report emphasised the importance of the external envelope and that the initially proposed hipped roof with parapet and window details were of concern. I note that details appear to be addressed in that a gable roof has now been constructed with visible gutters and no parapet. Windows are simple in design and replace non original pvc windows. The Conservation Office in a subsequent report on further information had no objections subject to conditions. In overall terms, I note the building envelope and landscaping have been completed to a visibly apparent higher standard and what I consider to be consistent with the conservation officer initial assessment wherein it was determined to be 'a very positive high-quality development.' Accordingly, I see no reason why 100% reduction for the floor area and works relating to the Protected Structure cannot be applied.

6.2.3. The planning authority has also discounted the demolished floor area which is in effect being reinstated as part of the new structure. Although not specifically stated, the planning authority has by my account also discounted the (reinstated) 220sq.m. floor area which is subject of change of use.

6.2.4. While the new build element for the new use amounts to 1109sq.m. the planning authority has calculated a net increase in the gross floor area of 889sq.m. by discounting the demolition of 220sq.m of buildings associated with the former offices. It has only applied the development contribution to this net increase in floor area.

Type of Development for the purposes of rate

- 6.2.5. While medical care is a separate class of use in the Planning and Development Regulations 2001 for the purposes of requiring planning permission in terms of change of use and as applied, I note, in the application fees, the contribution scheme has a different approach to classing of uses. Accordingly, the contribution rate for 'offices and retail type' is applied in this case in accordance with the description of this class in the Scheme as cited by the Planning authority in its letter of 20th July.
- 6.2.6. In interpreting the meaning of the contribution scheme I accept its independence from the wording of the Planning and Development Regulations and I say this by reference to the case, *Cork City Council v An Bord Pleanála* [2006] wherein it was held that the planning authority in the making of its scheme was not under obligation to mirror the PDR, as such a matter is entirely within its jurisdiction. That case also references the use of the ordinary meaning of the contribution scheme by reference to *XJS* [1986] and therefore not substituting it with the PDR.
- 6.2.7. Accordingly I consider the base rate of €48.97 per square metre, as updated in 2015, is appropriate for the nature of development and its use a health care facility and for a floor area of at least 889 sq.m. (notwithstanding reductions) but in the strictest terms could be applied to the change of use in the reconstructed floor area but could, I consider be waived in view of the proposed ancillary office areas. Accordingly, I am satisfied that the 889sqm is a reasonable base floor rate within the provisions of the Scheme to which the contribute rate is applied to the new build before considering further reductions.
- 6.2.8. I further note that the contribution is stated to be subject to any applicable indexation provision in the scheme at the time of payment. I note that the Scheme provides for this and that the indexation of the 2015 rate as reduced from the 2004 rate was suspended until the end of 2016 whereupon I consider it reasonable to interpret that the indexation would recommence in accordance with the Scheme. Condition 21 provides for the Scheme to be applied. The submissions do not include the indexation calculation. I note the 8% as referenced in the original condition no. 43 of the local planning authority decisions refers to 8%. I further note that the 8% includes a 3% element to phase in the scheme. In view of the time lapsed and subsequent revision of the rates I consider there is a case to confine the indexation to the 5%

consumer price indexation if the Board is to determine this matter as part of applying the full terms of the Scheme. However, as the planning authority has not pursued this, a provision for it to waive this indexation could be included in the condition.

6.3. Application for reduced rate in respect of a primary healthcare centre

- 6.3.1. The dispute in this case centres on the nature of the development and application of reduced contributions, it being of a nature considered by the applicant to qualify as a category of development that is within the meaning of 'provision of facilities by organisations which are considered to be exempt from planning fees as outlined in Part 12 Article 157 (1a-c) of the Planning and development regulations 2001.'
- 6.3.2. I do not agree that the exemption applies in this case. Firstly, the permission is granted to the applicant (UHPC International Limited a private company) and the development has been carried out by Glencar healthcare, a private commercial company and not by the HSE, the provider of the healthcare services. Secondly, the nature of the use for which exemption is sought is a primary health care facility which is not a category of use qualifying for reductions as specified in the extract cited in the Contribution scheme either directly or indirectly in the context of Article 157. It is not in my opinion, in any manifestly obvious way 'designed or intended to be used for social, recreational, educational or religious purposes by the inhabitants of the locality...' Nor I am satisfied that the HSE could be reasonably described as a voluntary body within the meaning of the fuller wording of Article 157 or within the meaning of the voluntary category in the scheme which I interpret to be associated with housing.
- 6.3.3. Furthermore as the applicant is the developer and is leasing the property or part thereof to the HSE, the developer as a commercial entity, in the normal course of business, is likely to generate a profit and I am not therefore satisfied that the development by the private developer qualifies as being of a class 'not to be used for profit or gain' as is specified in Article 157.
- 6.3.4. While I accept that some aspects of the HSE services may be construed to be of indirect social benefit, there is no evidence or guarantee of the HSE benefiting from the waiving of s.48 costs to the developer. The provision for costs incurred by the developer is a matter of the leasing terms between the developer and the HSE. As the local authority point outs, on expiration of the lease with the HSE, the health care

facility could be taken over by other users. For example, Centric who occupy part of the facility, or another commercial based healthcare company could take over the lease and possibly not incur s.48 costs if waived in the first instance. There is no provision in the scope of the conditions to recoup a waiving of costs toward infrastructure for non-profit development unless the change in tenancy is construed as a material change of use.

- 6.3.5. While I note reference to previous decisions it is not within the scope of this case to revisit the precise reasoning and merits of these cases which are not within the Cork County Council jurisdiction. This is particularly relevant given the scope on the scheme for the opinion of the planning authority in applying the terms of the scheme. This independence from the PRD definitions for example is further articulated in the Scheme by the wording 'which are considered to be' , thereby enabling the planning authority to autonomously determine what qualifies for reduced contribution by reference to article 157.
- 6.3.6. Based on my considered view of the Contribution Scheme, its ordinary meaning and reasonable application, I am satisfied therefore that the application of the latest adopted rate for 'office and retail' to the net increase in floor area which discounts both the Protected Structure and change of use and demolished floor area is fair and reasonable. I also consider it reasonable that this should be subject to indexation of 5% at the discretion of planning authority.

7.0 Recommendation

It is my recommendation that the Board determines that:

As the proper application of the terms of Cork County Council development contribution Scheme provides for the attachment of financial contribution of the amount of €43,534.33 that this be specified as being payable by the developer in accordance with the scheme and that it is furthermore subject to indexation as determined by the planning authority in accordance with the scheme but not exceeding 5% per annum. This is based on the following reasons and considerations

8.0 Reasons and Considerations

The Board had regard to:

- (a) Section 34(5) of the Planning and development Act 2000 as amended,
- (b) The provisions of the General Scheme under section 48 as part of the Cork County Council Adopted Development Contribution Schemes 2004 and as updated,
- (c) the provision for Reduced Contributions and nature of works relating to a Protected Structure and its conservation and preservation,
- (d) the use of the development subject of the permission, being a primary health care centre,
- (e) the limitations applied on Reduced Contributions based on category of use and the exclusion of primary health care centre in Article 157 of The Planning And Development Regulations, 2001, as amended, and
- (f) the limitations applied on Reduced Contributions based on the nature of the developer.

9.0 Condition as determined:

The developer shall pay to the planning authority a financial contribution of **€43,534.33** 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 **in full 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 **and not exceeding a rate of 5% per annum from the date of commencement of the development.**

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

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

31st March 2025