



An  
Bord  
Pleanála

## Inspector's Report ABP-321632-25

<b>Development</b>	Large-scale residential development of 122 dwelling units, distributor road and all associated site works
<b>Location</b>	Courtstown, Little Island, County Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	24/5328
<b>Applicant(s)</b>	Ruden Homes Ltd.
<b>Type of Application</b>	Permission for Large-scale residential development (LRD)
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	Section 48(13)(a) First-Party Appeal against Special Development Contribution
<b>Appellant(s)</b>	Ruden Homes Ltd.
<b>Inspector</b>	Gary Farrelly

## **1.0 Introduction**

The Board should note that this is a first party appeal against a condition of the decision of Cork County Council to grant permission for the large-scale residential development (LRD). The appeal relates solely to the imposition of a special financial development contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended. No appeal has been brought by any other person against the decision of the planning authority, and therefore, in accordance with Section 48(13)(a) of the Act, the Board must not determine this application as if it had been made to it in the first instance, but only the matters subject of this special contribution appeal.

## **2.0 Site Location and Description**

The subject site has a stated area of 6.55 hectares and is located within the townland of Courtstown which is located within Little Island, County Cork. The site is located within the eastern side of Little Island and west of the Harbour Point and Courtstown Business Park. A former golf course, Harbour Point Golf Club, adjoins the western boundary of the site. The public road L-2985-0, known as Ballytrasna Park Road, adjoins the northern boundary of the site. The regional road R-623 is located approximately 1.3km northwest of the subject site.

## **3.0 Proposed Development**

- 3.1. Permission has been granted by Cork County Council for the construction of 122 residential units, which is a reduction from the 172 units originally proposed by the applicant. The proposed development also included the provision of a creche and 4 no. commercial units, however, this was omitted by the Council by way of condition.
- 3.2. The proposed development also includes the upgrading of the existing vehicular access onto Ballytrasna Park Road and creation of a new signalised junction, and the provision of a new distributor road through the site. The LRD application was accompanied by a number of documents including a Traffic and Transport Assessment, Mobility Management Plan and Stage 1 and Stage 2 Road Safety Audit.

## 4.0 Planning Authority Decision

### 4.1. Decision

The planning authority (PA) decided to grant permission by Order dated 4<sup>th</sup> December 2024, subject to 93 no. conditions.

### 4.2. Planning Authority Reports

*Due to the nature of this appeal, the Board should note that I have only summarised the relevant content and issues within the planning reports and relevant technical reports.*

#### (a) Planning Reports

##### *First Report*

The first Area Planner (AP) noted the comments from the Sustainable Travel Unit (STU). It assessed the application on a number of issues including access and traffic. It considered that the trip generation rates within the submitted Traffic and Transport Assessment were generally acceptable and noted that the analysis assumed that the development would benefit from a higher mode share by sustainable travel as a result of the Little Island Transport Strategy (LITS) measures being implemented by the Council. It noted that the modelling was based on a shift applied to the development only, however, it was envisaged that there would be a wider mode switch that would further benefit the development. With regards to the access junction, it was considered unclear whether all elements of the signalised junction could be provided within the 'red-line' boundary. Deferral of the application was recommended which was endorsed by the Senior Executive Planner.

##### *Second Report*

The second AP report recommended a refusal of permission, however, this was not endorsed by the Senior Planner who overruled this recommendation and, subject to the omission of a number of units, creche and commercial units, directed a grant of permission for 122 no. residential units. The Senior Planner report recommended 93 no. conditions including the attachment of a special financial contribution as recommended by STU.

## (b) Relevant Technical Reports

### (i) Sustainable Travel Unit (Traffic and Transport)

#### *First Report (dated 05/09/24)*

In the first report further information was recommended in the form of an updated Stage 1 and 2 Road Safety Audit and a development specific Mobility Management Plan. It noted that the trip generation rates were generally ok but noted that the applicant's analysis assumed that the development would benefit from a higher mode share by sustainable travel as a result of the Little Island Transport measures being implemented by the Council.

#### *Second Report (dated 04/12/24)*

This report recommended a number of conditions if permission was granted and went into more detail regarding the Little Island Transportation Study (LITS). It stated that LITS included a short and long term strategy for improved access to Little Island, with a focus on sustainable transport. It noted that the Council was granted Part 8 approval to implement the sustainable transport measures identified in LITS, known as the Little Island Sustainable Transport Interventions (LISTI), which included bus, cycling and walking infrastructure between Little Island railway station and Little Island, from Dunkettle Interchange and within key employment and residential areas in Little Island including Courtstown. A new high quality bus service with bus stops at Courtstown was included in the LISTI scheme.

It was stated that significant elements of the LISTI scheme have commenced construction, and the Council was additionally granted approval by the Board to construct a new pedestrian and cycle bridge over the N25 to further enhance sustainable transport access to the proposed development. It noted that the proposals at the access junction were not entirely consistent with the LISTI scheme and recommended that the design was consistent with same scheme. Without the Council's LISTI scheme it stated that the area within the red-line boundary would be constructed by the applicant at its sole expense. However, as the Council intended to commence construction shortly it stated that it would amend the junction to create a tie in to negate further disruptive works to the public road. It was recommended that the applicant should pay for the works by the Council within the red-line at a cost of €126,902.75. Furthermore, an additional €188,589.46 contribution was recommended to contribute to the LISTI West scheme with the calculation based on a rate of

€1,019.40 per unit. It was considered that LISTI was a critical piece of infrastructure to support the submitted assessments and would directly benefit the proposed development.

(ii) Area Engineer (report dated 02/09/24)

This section had no objection to the development subject to conditions. It noted that the entrance details were conflicting with the draft plans for the cycleway proposed along the frontage of the site as part of the LITS and recommended that the entrance details were agreed with the Traffic and Transportation section prior to commencement of construction.

(c) Relevant Conditions

Condition No. 92

*At least one month before commencing development 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 a special contribution of €315,492.21 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 sustainable transport measures including LISTI. 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 sub-paragraphs (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.*

**(d) Other Relevant Conditions**

**Condition No. 85**

*A Stage 1 / 2 Road Safety Audit is required to be carried out by a suitably qualified independent Road Safety Audit Team. This shall be carried out for the entire development and updated drawings submitted showing how the measures would be implemented. The measures required in these conditions shall be finalised to CCC Sustainable Travel Unit's satisfaction. The RSA shall be carried out on the agreed final design, agreed with the CCC Sustainable Travel Unit, and shall include the design amendments detailed in these Conditions. Recommended measures shall be implemented at the sole expense of the applicant.*

**Reason:** *In the interest of Road Safety and orderly development.*

**Condition No. 86**

*Design details including the following shall be agreed with CCC's Sustainable Travel Unit prior to carrying out a Stage 1/2 Road Safety Audit of the entire proposed development.*

- *Clarify the two-way cycle facility proposals.*
- *Raised priority crossings are required on both sides of the distributor road and along all pedestrian/ cycle crossing points in the scheme to promote sustainable travel.*
- *Footways shall be raised throughout the development, and not lowered across accesses, including dwellings. A 1:5 chamfered kerb should be provided to*

*facility access across footways to houses and Creche parking/ set-down. This is to enhance pedestrian and cycle priority and safety.*

- *Raised table junctions shall be provided along the proposed spine road to provide traffic calming with suitable crossing opportunities across the spine road. The locations shall be agreed with the STU.*
- *Controls at crossings will need to be confirmed and agreed with STU.*
- *The layout details of the cycle lanes crossings along the main spine road shall be agreed with the STU.*
- *Appropriate visibility from car parking spaces to footways adjacent to dwellings.*

**Reason:** *In the interest of Road Safety and orderly development.*

## 5.0 Relevant Planning History

ABP ref. 318077-23 (development approximately 1.5km northwest of subject site)

On 20<sup>th</sup> May 2024, the local authority was approved permission by the Board for the proposed N25 Little Island Pedestrian and Cycle bridge.

## 6.0 Legislative Context

Planning and Development Act 2000, as amended

*Section 48 Development Contributions*

(2)(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.

(12) Where payment of a special contribution is required in accordance with subsection (2)(c), the following provisions shall apply— (a) the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates,

(13)(a) Notwithstanding sections 37 and 139, where an appeal received by the Board after the commencement of this section relates solely to a condition dealing with a special contribution, and no appeal is brought by any other person under section 37

of the decision of the planning authority under that section, the Board shall not determine the relevant application as if it had been made to it in the first instance, but shall determine only the matters under appeal.

(13)(b) Notwithstanding section 34(11), where an appeal referred to in paragraph (a) is received by the Board, and no appeal 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 furnishes to the planning authority, pending the decision of the Board, security for payment of the full amount of the special contribution as specified in the condition referred to in paragraph (a).

## 7.0 Policy Context

### **Development Contributions**

#### **Cork County Council Adopted Development Contribution Scheme (2004)<sup>1</sup>**

This scheme was adopted by the Council on 23<sup>rd</sup> February 2004. The general and supplementary development contribution rates were updated on 1<sup>st</sup> January 2014.

Page 9 provides information on special contributions in respect of any development 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 and facilities which benefit the proposed development.

Appendix 2 provides information on additional charges on works proposed to, inter alia, roads within South Cork which are covered under the general development contribution scheme between 10<sup>th</sup> March 2004 up to 31<sup>st</sup> August 2004.

#### **Development Contributions Guidelines for Planning Authorities (2013)**

It is stated that 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

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<sup>1</sup> <https://www.corkcoco.ie/en/resident/planning-and-development/how-to-pay-your-development-contribution>



particular works should be specified by the condition and only developments that will benefit from the public infrastructure or facility should be liable to pay the development contribution.

### **Development Management Guidelines for Planning Authorities (2007)**

Section 7.12 states that '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.

### **Planning Policy**

#### **Cork County Development Plan 2022-2028**

The subject site is designated as a Special Policy Area (LI-X-01) under Volume 4 (South Cork) of the Development Plan<sup>2</sup>. There is also a specific development objective within the site to provide a distributor road (Objective No. LI-U-05).

*Paragraph 2.6.27 (Volume 4)*

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<sup>2</sup> <https://www.corkcoco.ie/en/resident/planning-and-development/cork-county-development-plan-2022-2028/volume-four>

A Little Island Transport Study (LITS) was completed in 2018 to determine what transport infrastructure improvements and policy measures were needed to alleviate peak hour traffic congestion on the road network within Little Island and to explore the potential to reduce dependency on single occupier car journeys and look at ways of increasing active travel and public transport use.

*Paragraph 2.6.32 (Volume 4)*

The Council has the objective of implementing the strategy emerging from the Little Island Transportation Study 2017, as appropriate. Sustainable transport infrastructure, providing high quality pedestrian and cycle access to and within Little Island, is being developed to serve existing and future residential and employment areas. It is an objective of the Council to further develop the proposed scheme and include for increased amenity routes within Little Island.

*Paragraph 2.6.33 (Volume 4)*

It is also an objective of Cork County Council to provide high quality linkage between Little Island Train Station, Inter-urban Route IU-1 (as referenced in CMATS and the Cork Cycle Network Plan), and Little Island.

## **8.0 The Appeal**

### **8.1. Grounds of Appeal**

The applicant appealed against Condition no. 92 of the decision of the PA on 9<sup>th</sup> January 2025 on the following grounds:

- The appeal is based on the fundamental principle established in Section 7.2 of the Development Management Guidelines 2007 and in several decisions under Section 48(13)(a) of the Act that
  - The PA shall specify the particular improvement works for which the special contribution is sought and the amount levied shall be based on a detailed estimate of the costs of those specific works,
  - There is an onus on the PA to demonstrate that the works are required to service the particular development for which permission is sought and are not of general benefit to the area,

- Special contributions shall not be used to fund improvement works which were envisaged in the County or Local Area Plan as these works are assumed to be covered by the General Development Contribution Scheme.
- It is not possible to determine what specific works would be financed by the contribution as the condition refers vaguely to works proposed to be carried out, for the provision of sustainable transport measures including LISTI (Little Island Sustainable Transport Interventions).
- As a result the developer could be deprived of its legal right to a full or partial refund under Section 48(12)(b) as it would not be possible to determine the precise extent to which the specific works were ever commenced or completed.
- Having regard to paragraphs 2.6.32 and 2.6.33 of the County Development Plan (CDP), it is reasonable to assume that the roads and transport levies collected under the General Development Contribution Scheme would be allocated to the provision of LISTI sustainable transport infrastructure scheme which the CDP confirms is being specifically developed to serve all existing and future residential and employment areas in Little Island. Condition no. 92 could therefore be considered to be double charging.
- The rationale for the special contribution is based on two separate elements; (a) an informal supplementary contribution scheme (which has not been adopted under Section 49 and is therefore ultra vires) is being used to impose an additional “sustainable transportation levy” of €1,019.40 per housing unit; and (b) it would appear that the need to modify the approved Part 8 scheme within the red-line boundary of the application was used as a pretext to justify transferring the entire cost of this section of the Part 8 scheme from the PA to the developer. These elements are considered ultra vires as Section 48(2)(c) only provides for contributions to be levied for specific exceptional costs which were never envisaged in the CDP or in the LISTI Part 8 scheme and which will only benefit the current development.
- As the Part 8 scheme had not yet commenced before Condition no. 92 was drafted, the scheme could have been modified before or during construction to dovetail with the proposed development so that no significant additional costs would be incurred by either the PA or the developer.

- As the Part 8 works within the red line relate to the junction of the spine road with the Courtstown Road, they are not specific to the current development and will benefit all future developments which will be accessed via the spine road.
- It is requested that regard is had to precedent set by ABP-303912-19 and paragraphs 7.7.3 to 7.7.5 of the Inspector's report.
- The fee calculated was based on multiplying the supplementary levy of €1,019.40 per housing unit by the 185 units proposed in the revised scheme. The number of units were reduced to 122 units and the decision failed to recalculate the levy resulting in an overcharge of €64,222.66. However, the principal of the grounds of appeal is that the special development contribution imposed in this case failed to comply with the terms of Section 48(2)(c).
- There is no need or justification for a special contribution to reconcile the inconsistencies between the proposed new junction layout and the approved Part 8 scheme along the frontage with the Courtstown Road and the issues should be addressed as part of the agreements required under Condition nos. 85 and 86.

## 8.2. Planning Authority Response

The PA (Sustainable Travel Unit) issued a response to the grounds of appeal on 31<sup>st</sup> January 2025 which is summarised as follows:

- LISTI and the permitted Little Island N25 pedestrian and cycle bridge are required to enable growth and development on the island. The cost of LISTI is estimated at approximately €6.7million and the permitted pedestrian cycle bridge has an outline cost estimate of c. €7.723million. It is not feasible to fund these from general contributions and on the basis of general contributions the infrastructure will not be built.
- Such infrastructure was incorporated in the submitted Mobility Management Plan and Traffic and Transport Assessment and the PA decided to grant permission on this basis and subject to an appropriate contribution toward the infrastructure.
- €126,902.75 was requested from the developer based on the cost of constructing the works in the red-line area on behalf of the developer which

would satisfy the developer's requirements to achieve compliance for works on the public road and there would be cost efficiency as the contractor would be onsite carrying out similar works. The PA would be satisfied to omit the works from the contract, but the developer would therefore be required to construct the access and associated works on the public road as it states in the submitted application form.

- No contract has been signed for the works, which as yet does not have funding committed, but it was envisaged that it would be constructed at the Council's timeframe rather than be dependent on a third party's programme.
- It is considered that the contribution would save the developer money as the cost of the works proposed by the applicant would likely exceed the special contribution required based on works carried out recently by the PA. It would ensure the timely delivery of works and avoid a gap in public infrastructure.
- The access layout proposed on the L-29850 is a requirement of the applicant and it is a requirement as per the submitted Road Safety Audit that the proposed works within the redline is consistent with the Part 8 permitted scheme.
- The cost of the works within the red line boundary have been calculated as follows:

<b>Costs Calculation</b>	
<b>Cost of works estimated in detail from recent relevant rates locally for the 1,350 metres from R623 to the site</b>	€2,089,252.56 (conservative estimate)
<b>Red line length</b>	130 metres
<b>Relevant length for upgrade</b>	82 metres (road frontage including access)
<b>Proportion for access area</b>	82 metre / 1,350 metres = 6.741%
<b>6.7% of €2,089,252.56 =</b>	€126,902.75 (proportion sought for carrying out works in the red line area)

- The LISTI scheme from Ballytrasna junction to Courtstown is not in the Local Area Plan and is not a specific objective in the CDP. The CDP includes for the high-level implementation of the Little Island Transport Strategy but no scheme is outlined in the CDP.
- It was decided to grant permission on the basis of the LISTI scheme being in place, as relied by the applicant's submission and analysis, subject to an appropriate contribution. The scheme has Part 8 consent but is subject to funding.
- The Sustainable Travel Unit is implementing the scheme and it recommended refusal, however, stated that if permission was granted, it recommended funding to implement the scheme to mitigate the development impact and ensure the appropriateness of the assumptions made in the submitted Traffic and Transport Assessment and critical Mobility Management Plan.
- The cost is based on the proportional benefit to the development and is based only on the section of LISTI that directly benefits and enables the scheme. The proportion was based on the proposed development divided by the developable housing land to be served at 55 hectares at an assumed rate of 35 units per hectare.
- It is acknowledged that the final quantum is not correct as permission was granted for a reduced number of dwellings. There is no objection to a reduced sum on the basis of the final permitted number of units.

<b>Cost Estimate on the basis of planning application</b>	
<b>Cost of works estimated in detail from recent relevant rates locally for the 1,350 metres from R623 to the site</b>	€2,089,252.56 (conservative estimate)
<b>Cost by €126,902.75 as above to exclude double counting</b>	€1,962,349.81
<b>55ha at 35 units per hectare =</b>	1,925 units

<b>Application was for 185 units</b>	185 / 1925
<b>185 / 1925 x €1,962,349.81 =</b>	€188,589.46

- The Board decided that the Gouldings application in Marino Pt, Great Island would increase demand on the R624 and due to it being at capacity no extra traffic would be permitted, notwithstanding a special contribution to relieve the geometric capacity at Belvelly bridge by reallocating road space to sustainable travel. This logical for refusal could have been applied here but was not due to the potential for LISTI to be constructed within a reasonable timeframe including a priority bus service.
- The applicant confirmed the capacity issues at the R623/Ballytrasna junction and used reduced volumes due to an assumed mode shift to sustainable travel. These assumptions are invalid as it relies on the implementation of LITS which currently has insufficient funding and the infrastructure has not been awarded.
- The works are necessary for sustainable access to this development for all users and the works would be of benefit to, and an enabler for the residential development.
- The required contribution is proportionate to the application, and it was developed using costings based on tendered rates locally for similar works.
- Funding is required for the timely delivery of the works, without which the proposed and future development could be deemed premature.

## 9.0 Assessment

- 9.1. Having regard to the provisions of Section 48 of the Planning and Development Act 2000, as amended, and specifically Section 48(13)(a) which limits the Board to only determine the matters of this special contribution appeal as there have been no other appeals, and having regard to all relevant documentation on file, the reports of the planning authority (PA) and having regard to relevant local, regional and national policies and guidance, including the Development Contributions Guidelines for Planning Authorities (2013) and Section 7.12 of the Development Management

Guidelines for Planning Authorities (2007), I consider that the substantive issue in this appeal is whether the planning authority's imposition of a special financial contribution complies with the requirements of Section 48(2)(c) and (12) of the Act.

9.2. Condition 92 of the PA's grant of permission specifies the payment of a special development contribution of €315,492.21 *"in respect of works proposed to be carried out, for the provision of sustainable transport measures including LISTI"*. The contribution was calculated by the PA's Sustainable Transport Unit (STU) in its report dated 04/12/2024 and was based on two elements, comprising:

1. €126,902.75 to cover works on the public road within the redline boundary of the site that STU was proposing to carry out as part of the LISTI scheme, and
2. €188,589.46 to contribute to the overall LISTI West scheme from the junction of the R-623 at Ballytrasna to Harbour Point business park for a total length of 1,350 metres.

9.3. Having regard to this separation of costs, I will assess each contribution amount separately below. The Board should note that I am satisfied that both elements cover works that fall within the definition of 'public infrastructure and facilities' under Section 48(17) of the Act.

**1. Special Contribution of €126,902.75**

9.4. As stated above, the PA imposed this contribution to cover the LISTI works on the public road within the redline boundary of the application site. Notwithstanding the fact that the applicant has proposed to undertake and complete these works as part of the application, the PA has stated that it would be more appropriate for it to undertake said works for the reasons of efficiency, in order to avoid a gap in the infrastructure and due to the layout of the proposed development not currently being aligned with the LISTI scheme.

9.5. The works proposed on the public road within the redline boundary of the site comprise of a two-way cycle path on the opposite side of the access junction, a pedestrian crossing point and a shared public surface. STU costed the works at €126,902.75 *"on the basis of the winning tenderers quotation"*. I note that STU provided a detailed breakdown of the figure and a basis for the calculation of the contribution as part of its response to the first-party appeal.



- 9.6. It is my view that the proposed works and crossing point within the redline boundary would benefit the proposed development. However, the applicant has already proposed to undertake these works within the redline boundary and, therefore, I consider the imposition of a special contribution of €126,902.75 would amount to double-charging. Furthermore, whilst the schemes are not fully aligned, I am satisfied that any modification that STU requires can be addressed through condition no. 86, as recommended by the applicant.
- 9.7. Therefore, it is my recommendation to the Board that the element of the special contribution amounting to €126,902.75 is removed.

## **2. Special Contribution of €188,589.46**

- 9.8. The PA imposed this special contribution for the wider LISTI scheme to cover works from the junction of the R-623 at Ballytrasna to the site, a total length of 1,350 metres. STU provided its reasoning as part of its response to the first-party appeal. It should also be noted that the charge has been proportionally calculated on the basis of 55-hectare developable housing land in the area and also at a density of 35 units a hectare, which I consider to be conservative. I note the cost has also not included the cost of works within the red-line boundary.
- 9.9. It should be noted that the PA has acknowledged an error in its calculation of the €188,589.46 figure. This is due to the cost being based on 185 residential units, however, the Board should note that the PA has only approved 122 residential units as per condition no. 4. Therefore, if the Board are minded to attach this element of the special contribution based on the wider LISTI scheme, I consider that it should be amended to €124,367.10, having regard to the STU cost methodology.

### **Benefit of Infrastructure to proposed development**

- 9.10. The Board should note that the applicant's submitted traffic and transport assessment (TTA) has acknowledged in the traffic modelling conclusions that the capacity of the R-623 junction will reduce in the future and delays for motorists will increase. It should also be noted that a modal shift of 30% was applied to the modelling. Therefore, it is clear that the analysis and assumptions have relied upon a switch to sustainable transport in order to support the proposed development. I note that the PA has accepted this methodology and permission was granted on, inter alia, the conclusions of the TTA.

- 9.11. Having regard to the above, it is my view that the proposed LISTI works from the R-623 junction to the subject site will help to implement the TTA modelling forecasts and help to alleviate capacity constraints on the public road. As a result, I consider that this infrastructure from the R-623 junction to the site would result in a direct benefit to the proposed development.

#### General Development Contribution Scheme (GDCS)

- 9.12. I acknowledge the case put forward by the applicant in terms of the expectation that the GDCS would cover such works, having regard to paragraphs 2.6.32 and 2.6.33 of the Cork County Development Plan 2022-2028 (Volume 4). I note that these paragraphs state that it is an objective of the Council to develop sustainable transport infrastructure within Little Island and high-quality linkage between the train station and Little Island. However, I am in agreement with the PA that this is not a specific objective and represents a high-level implementation of the Little Island Transport Strategy.
- 9.13. Moreover, having reviewed Appendix 2 of the GDCS, which provides information on infrastructural deficiencies with regards to roads and footpaths in South Cork, the Board should note that works within Little Island are not included within the four specified areas. Therefore, it is my view that LISTI is not covered by the general development contribution scheme and, therefore, does represent a specific exceptional cost.

#### Section 48(12)(b) Refund

- 9.14. I note the concerns of the applicant regarding it not being possible to determine the precise extent to which the specific works are ever commenced or completed and thus could not be refunded under Section 48(12)(b). However, the PA has indicated in its response that the works are to cover 1,350 metres from the R623 junction to the site. The works have also been approved under the Part 8 scheme. Therefore, I consider that if the works are not completed in accordance with the Part 8 scheme, then the applicant would be entitled to such a refund in accordance with Section 48(12)(b) of the Act.

#### Precedent

- 9.15. I note appeal ref. 303912 referenced by the applicant in which the inspector recommended the removal of a special contribution due to the scope of the works being broad and to the improvements serving the wider community as well as the

proposed development. As the overall appeal was refused by the Board, it did not issue a decision on this aspect of the appeal. In contrast, the PA has referenced appeal ref. 312981 in which the inspector considered the attachment of a special contribution for road resurfacing works to be reasonable due to the nature of the traffic likely generated by the proposed development and reliance on road infrastructure and to the breakdown of the cost being provided by the PA. However, again, this appeal was refused by the Board and therefore it did not provide a decision on this aspect of the appeal.

### Overall Conclusion

- 9.16. Having regard to the above, I am satisfied that a special contribution attributed to the wider LISTI scheme does comply with the requirements of Section 48(2)(c) and (12) of the Planning and Development Act 2000, as amended, as I consider such works to represent specific and exceptional costs which are not covered by the general development contribution scheme and which would directly benefit the proposed development. I am also satisfied that the PA has specified that the particular works to be carried out are from the junction of the R-623/L-2985 to the subject site for a total length of 1,350 metres and therefore is amenable for a refund if said works are not commenced or completed. The PA has also provided a detailed basis for the calculation and how it is apportioned to the proposed development. However, as acknowledged by both the applicant and the PA, the cost calculated is incorrect and, therefore, should be modified to €124,367.10 to account for 122 no. residential units approved by the PA.

## **10.0 Recommendation**

My recommendation to the Board is that Condition number 92 should be modified to replace the sum of €315,492.21 with the sum of **€124,367.10**.

## **11.0 Reasons and Considerations**

Having regard to Section 48(2)(c) and (12) of the Planning and Development Act 2000, as amended, to the Cork County Council Development Contribution Scheme adopted in 2004, to the plans and particulars submitted as part of the application, including the modelling and assumptions set out in the traffic and transport assessment, and to the specified particular works to be carried out and basis for the calculation provided by

the planning authority, it is considered that a special development contribution towards the provision of the Little Island Sustainable Transport Interventions (LISTI) between the junction of the R-623 / L-2985-0 and the subject site (with the exception of works already proposed by the applicant within the red-line boundary) represent exceptional and specific costs in terms of public infrastructure that will benefit the proposed development, have been adequately justified by the planning authority and which is not included for within the general development contribution scheme.

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### Declaration

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.

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Gary Farrelly  
Planning Inspector

18<sup>th</sup> March 2025