



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-322415-25

|                                     |   |
|-------------------------------------|---|
| <b>Development</b>                  | Construction of 22 dwellings and associated site works.                       |
| <b>Location</b>                     | Castleheights, Coolfadda, Bandon, Co. Cork                                    |
| <b>Planning Authority</b>           | Cork County Council   |
| <b>Planning Authority Reg. Ref.</b> | 245568  |
| <b>Applicant(s)</b>                 | Brucon Owner Management Company Ltd.  |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Grant   |
| <b>Type of Appeal</b>               | Section 48(13)(a) First Party Appeal against Special Development Contribution |
| <b>Appellant(s)</b>                 | Brucon Owner Management Company Ltd.  |
| <b>Observer(s)</b>                  | None  |
| <b>Inspector</b>                    | Clare Clancy  |

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## **1.0 Introduction**

The Commission should note that this is a first party appeal against a condition of the decision of Cork County Council to grant permission for the proposed development. The appeal relates solely to the imposition of a special financial contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended. No appeal has been brought by any other party against the decision of the Planning Authority (PA) and therefore, in accordance with Section 48(13)(a) of the Act, the Commission 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**

- 2.1. The appeal site is located in the townland of Cloonfadda approx. 1.45 km to the west of Bandon town centre. It is a backland/infill greenfield site located to the rear of a row of detached dwellings on individual sites that front onto the Dunmanway Road R586. Castleheights, which is a small housing scheme of individual dwellings set on own individual plots, is located to the north. The application site boundaries of the appeal site encompass the existing internal access road serving Castleheights which terminates within the appeal site. The lands to the north and to the west appear to be under construction and nearing completion.
- 2.2. The subject site is elevated relative to its surrounds with the levels of the site rising from the south. The Upper Convent Hill road L2011 is located approx. 134 m to the north. The subject site comprises of agricultural lands and has a stated area of 1.23 ha. It is rectangular in shape, with a strip of land extending to the south that provides a pedestrian linkage from the appeal site to the adjoining Dunmanway Road. Access to the site is via the existing Castleheights residential estate entrance via Convent Hill (L-2011).

## **3.0 Proposed Development**

- 3.1.1. Permission has been granted for the construction of 20 no. residential units (18 no. semi-detached and detached dwelling units), the construction of a two storey apartment building containing 4 no. apartment/maisonette units.

- The total gross floor space of the proposed development works is 2,332.8 m<sup>2</sup>.
- 40 no. car parking spaces are proposed.

3.1.2. Vehicular and Pedestrian access to the appeal site will be through the existing estate entrance serving Castelheights from Convent Hill (L-2011). Pedestrian access will also be provided via an exiting pedestrian entrance from the Dunmanway Road (R586) to the south, and all ancillary site development works including the removal of an existing temporary container structure on the site.

3.1.3. The application was accompanied by the following documents:

- Architectural Design Statement.
- Housing Quality Assessment.
- Drainage Impact Assessment.
- Construction Environmental Management Plan and a Construction Resources Waste Management Plan.
- Infrastructure Report including proposed engineering and servicing details.
- Part V Costs and Methodology.

3.1.4. Arising from a request for Further Information (FI), revised proposals were submitted which included inter alia for the following:

- A reduction from 22 no. units to 20. units.
- Amendments to the site layout resulting in greater separation distance between the most western dwelling and the western boundary of the site.
- The revised location of units 5-15 in line with the eastern boundary of the site which adjoins the Coolfada development to the north. The relocation of units 15-18 in line with units 5-17.
- Car parking was reduced from 40 no. car parking spaces to 38 resulting in units 19 and 20 not being served by 2 no. spaces, however a condition was recommended to allocate 2 no. spaces for both units.
- The Stage 1/2 Road Safety Audit concluded that the proposed development is generally in compliance with the Design Manual for Urban Roads Streets (DMURS) and provided recommendations in regard to surface treatment,

dropped kerbs, internal road and footpath widths, parking, public lightings, road markings and signage.

- 3.1.5. The revised proposals were considered to be acceptable and permission was granted subject to 52 conditions.

## **4.0 Planning Authority Decision**

### **4.1. Decision**

- 4.1.1. Following receipt of Further Information, by Order dated 03<sup>rd</sup> April 2025, Cork County Council decided to grant permission for the proposed development subject to 52 no. conditions.

- 4.1.2. Relevant Condition(s)

#### Condition 52

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 €66,388.00 to Cork County Council, updated monthly in accordance with the Consumer Price Index from the date of grant of permission to the date of payment, in respect of specific exceptional costs not covered in the Council's General Contributions Scheme, in respect of works proposed to be carried out, for the provision of works proposed north of Bandon Bridge to ease town bound traffic congestion and to improve pedestrian connectivity. 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.

## 4.2. Planning Authority Reports

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

### 4.2.1. Planning Reports

#### First Planning Report (09<sup>th</sup> October 2024 John Redmond)

- A full appraisal of the subject site in terms of compliance with the zoning objective for the site was carried out. The density was noted to be higher than that previously granted on the site under P.A. Ref. 04/9534 which permitted 4 no. dwellings, but generally was in accordance with the Section 28 Guidelines '*Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities 2024*'. 2 no. units to be omitted due to site layout and configuration. Overall, the principle of the proposed development was considered to be acceptable subject to revisions relating to, inter alia, the site layout vis a vis separation distances, car parking, re-orientation of dwellings, landscaping, surface water management, the submission of a Stage 1/2 Road Safety Audit and a public lighting plan, being addressed by way of FI.
- The report noted the comments of the Area Engineer's Report (dated 09<sup>th</sup> October 2024) which assessed the proposed development under a number of

headings including access and traffic. In particular it noted the issue of traffic congestion on Convent Hill in Bandon at peak times which is acknowledged as a wider issue relating to the overall surrounding area. It was concluded that the scale of the proposed development was relatively small and would not be likely to have a material impact on the safety and free flow of traffic on the local road network.

- It noted that a special contribution was required to be sought as follows:
  - To address traffic congestion on all zoned developments in the area in order to upgrade all possible routes or alternative routes to Bandon town.
  - For the upgrade of the road network to ease traffic congestion on Convent Hill and that the special contribution may cover works such as road widening of alternative local road routes, junction improvements and road surfacing. It would be applied on a pro-rata basis rate per house in line with the similar special development charge applied to the Coolfadda Partnership under P.A. Ref. 20/6697 to the north/north west of the site.
  - For the construction of a public footpath past Castleheights public road junction (L2011-97) to be deducted from the total special contribution amount for the development €73,040 and applied on a pro-rata basis.
- The recommendation of the Area Planner required FI to be sought to address the issues raised which was endorsed by the Senior Planner in a separate report dated 10<sup>th</sup> October 2024.

#### Second Report (01<sup>st</sup> April 2025)

- The response to the FI request was generally accepted in terms of the revisions carried out to the site layout including the omission of 2 no. units thus providing for 20 no. units in total. 2 no. additional car parking spaces were required to be included and addressed by condition.
- The Road Safety Audit submitted warranted conditions relating to advisory speed limit and warning signage in the estate among other things. The pedestrian linkages west of Cedar View and east of the junction to Coolfada estate were noted to be under construction which would provide a pedestrian link into the town serving the proposed development. The shortfall in

infrastructural details regarding the upgrade to the existing pedestrian link extending from the site to the R586 was to be managed by condition.

- It was noted that no response was received in relation to item 2(i). This point of the FI request advised the applicant that it was the intention of the council to apply a special contribution levy for upgrading the road network in the area to ease traffic congestion on Convent Hill. The report of the Area Engineer dated 01<sup>st</sup> April 2025 recommended the inclusion of a special contribution in the event of a grant, levied at a rate of €3,319.40 per residential unit.

The report of the Area Planner concluded that the revised proposals were considered to be acceptable and the proposed development complied with Objective ZU-18-9 and recommended permission be granted subject to 52 no. conditions. This was endorsed by the Senior Planner in a separate report dated 02<sup>nd</sup> April 2025.

#### 4.2.2. Relevant Technical Reports

##### Engineering Report Primary (James O'Donovan 06<sup>th</sup> September 2024)

- This initial report addressed the overall development in terms of internal roads and footpath layout of the proposed development, public lighting, water supply connection and wastewater treatment and disposal, surface water management and landscaping. It recommended 12 no. points of further information relating to inter alia, revisions to the road and car parking layout, turning bay between unit 18 and 19, and additional car parking in line with Table 12.6 of the development plan. Proposals to upgrade the existing pedestrian pathway from the south of the site to the R586 were sought including an overall public lighting scheme and landscaping plan.

##### Area Engineer's Primary Report (Tom White 09<sup>th</sup> October 2024)

- FI was recommended in relation to storm water management, Japanese knotweed, landscaping, additional car parking (2 no. spaces) and bicycle spaces, revisions to internal road network.
- In relation to impacts on traffic, traffic congestion was noted to be an issue on Convent Hill particularly at early morning peak traffic volumes (during school term).



- No Traffic Impact Assessment (TIA) was warranted due to the scale of the proposed development however a Stage 1/2 Road Safety Audit for the overall area of Castleheights Estate was required to be submitted.
- A special contribution was required to be sought as follows:
  - To address traffic congestion on all zoned developments in the area in order to upgrade all possible routes or alternative routes to Bandon town.
  - For the upgrade of the road network to ease traffic congestion on Convent Hill. The special contribution may cover works such as road widening of alternative local road routes, junction improvements and road surfacing. It would be applied on a pro-rate rate per house in line with the similar special development charge applied to the Coolfadda Partnership under P.A. Ref. 20/6697.
  - For the construction of a public footpath past Castleheights public road junction (L2011-97) to be deducted from the total special contribution amount for the development €73,040 and applied on a pro-rata basis.

Engineering Report FI (James O'Donovan 26<sup>th</sup> March 2025)

- No objections were raised subject to conditions.

Engineering Report FI (Tom White 31<sup>st</sup> March 2025)

- The revised details were considered. Overall, no objections were raised and conditions were recommended.

Area Engineers Supplementary Report in reply to FI (Tom White 01<sup>st</sup> April 2025)

- A special contribution is required to be applied to 20 units.
- The footpath under construction west of Cedar View estate to Coolfadda estate and located to the west of the Castleheights Public Road Junction, will benefit the subject development.
- It is intended to seek a special contribution for all residential development in the area to ease traffic congestion north of the Bandon river in Bandon town and will be based on a rate on the number of houses developed.

- Under P.A. Ref. 20/6697 which adjoins the northern boundary of part of the application site, a special contribution €282,149 was allocated to an 85 unit housing development, which equates to €3,319.40 per unit. Under P.A. Ref. 23/6540 77 no. residential units were permitted and the same rate was based on the number of permitted units.
- Traffic congestion is identified as an issue, from Convent Hill junction with the Macroom Road, with traffic extending from Bandon Bridge during peak times. The provision of a new roundabout at Sean Hales Place, before the bridge is identified as an infrastructure measure to address traffic congestion which will benefit all future developments in the area, should development commence. The proposed works would be undertaken under the Bandon Transportation and Public Realm Enhancement Plan 2017 (Bandon TPREP) the overall cost for which is estimated to be €246.187.
- Total special development contribution 20 units x €3,320 = €66,400.

## 5.0 Planning History

### Appeal Site

- P.A. Ref. 04/9534 – Permission granted for 4 no. dwellings. Permission not taken up (05<sup>th</sup> August 2005).

### Lands to the North/Northwest

- P.A. Ref. 18/4606, ABP Ref. 303990 – Permission refused for a 10 year permission to construct 99 dwelling units. The grounds for refusal related to an unsatisfactory density and inefficient use of zoned lands, which was contrary to ministerial guidelines and Objective CS4-2(b) of the then development plan (05<sup>th</sup> July 2019).
- P.A. Ref. 20/6697 – Permission granted for 85 no. residential units (06<sup>th</sup> September 2021). Construction commenced.

## 6.0 Legislative Context

### 6.1. Planning and Development Act 2000, as amended

#### 6.1.1. Section 48 Development Contributions

(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.

(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**

### **7.1. National Context**

#### **Section 28 Ministerial Guidelines**

##### **7.1.1. 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 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.

##### **7.1.2. Development Management Guideline for Planning Authorities (2007)**

- Section 7.12

'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 shall 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.

## **7.2. Development Contributions**

### **7.2.1. 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 01<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 an Local Authority in respect of public infrastructure and facilities which benefit the proposed development.

## **7.3. Planning Policy**

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

#### **➤ Volume 1**

- The appeal site is located within the development boundary of Bandon town.
- Table 2.9 Cork County Core Strategy

Settlement Type: Bandon is designated as a Self-sustaining Growth:  
Medium Town >5,000.

#### **➤ Volume 5 West Cork**

- Bandon – Main Town
- The land use zoning of the appeal site is ‘Objective ZU 18-9 Existing Residential/Mixed Residential and Other Uses\*’

#### Objective ZU 18-9

The scale of new residential and mixed residential developments within the Existing Residential/Mixed Residential and Other Uses within the settlement network should normally respect the pattern and grain of existing urban

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

development in the surrounding area. Overall increased densities are encouraged within the settlement network and in particular, within high quality public transport corridors, sites adjoining Town Centre Zonings and in Special Policy Areas identified in the Development Plan unless otherwise specified, subject to compliance with appropriate design/amenity standards and protecting the residential amenity of the area. Other uses/non-residential uses should protect and/or improve residential amenity and uses that do not support, or threatens the vitality or integrity of, the primary use of these existing residential/mixed residential and other uses areas will not be encouraged.

*\*Note: This is based on Existing Residential/Mixed Residential and Other Uses applying to main towns and to key villages with a population of over 1500 or a population expected to grow over to 1500 in the lifetime of the Plan.*

- Section 1.4.60

Currently, a significant amount of the future residential growth is located north of the town centre where accessibility is difficult, via a narrow and complicated junction at Bank Place/ Bandon Bridge which is already congested. The proposed North Bandon Connectivity and Access Corridor will provide a strategic transport link to facilitate development these lands while also reducing traffic flows within the town and at key junctions. The Corridor will facilitate the improvement of pedestrian and cyclist movements and accessibility within the town centre and the removal of heavy goods vehicles, except for deliveries and public transport.

- Section 1.4.78 General Objectives

BD-GO-03

Support the phased ongoing delivery of the recommendations of the Bandon Transport and Public Realm Enhancement Plan (TPREP) including new public spaces, road safety measures and revised traffic management arrangements. Opportunities for biodiversity enhancement should be supported.

## **8.0 The Appeal**

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

The applicant has appealed Condition 52 of the decision of the PA on the following grounds:

- Condition 52 will have negative implications for the viability of the scheme.
- The criteria set out in Section 48(2)(c) and in the Development Management Guidelines 2013 was not satisfied by the council to justify condition 52, as the works at Bandon bridge identified in the Bandon TPREP are neither exceptional nor specific to the proposed development.
- Cork County Council did not update the general, special or supplementary contributions scheme in advance of the adoption of the current development plan to reflect the costs or future delivery of the Bandon TPREP.
- The 2013 Development Contributions Guidelines advise caution in respect of double charging through general area based levies which fall outside general development contributions.
- The subject development is at a remove from the identified roundabout in the Bandon TPREP.
- As the upgrades to the area north of Bandon bridge identified in the Bandon TPREP, are neither “exceptional” nor “specific” to the delivery of the subject development, they are not necessary to support the proposed development given its location and proximity to Bandon town centre. The inclusion of a special contribution relating to roads and traffic management upgrades identified in the Bandon TPREP are covered by the council's general Development Contribution Scheme and condition 52 represents a double charge.
- Castleheights is situated 1.5 km northwest of the junction of North Main St./St. Finbarrs Place/Sean Hales Place to the north of Bandon Bridge in the town centre. The site is separated from Sean Hales place by existing areas of Bandon town and other residential and mixed-use developments along Convent Hill, Kilbrogan Hill and north main street.

- The report of the Area Engineer dated 09<sup>th</sup> of October 2024 acknowledged that traffic congestion was an issue in the area, but concluded that it did not warrant the provision of a traffic impact assessment.
- Reference is made by the PA to two other residential developments in the town i.e. P.A. Ref. 20/6697 which adjoins the appeal site to the north/northwest and P.A. Ref. 23/6540 which is located approx. 1.5 km to the northeast of the appeal site. In relation to P.A. Ref. 20/6697, condition 59 which is a special contribution does not refer to improvements in the area of Bandon Bridge/Sean Hales place but refers specifically to the provision of pedestrian infrastructure on Convent Hill which is to be delivered in the near future.
- The special development contributions are speculative and not specific for the proposed development. The internal departmental reports of the PA associated with the planning application make no reference to the need for exceptional works to make the development acceptable in planning terms. Therefore the special development contribution levied which relate to a roundabout development at Sean Hales place do not satisfy the test of 'specific exceptional costs'.
- The preliminary cost for the new roundabout is calculated at €246,187.50 by the council. The levies applied under condition 52 amount to €66,388 which is c. 27 % of the total cost of the roundabout. The roundabout will be located approx. 1.5 km from the appeal site.
- The basis for the calculation of the special contribution has not been provided in the council's decision which is contrary to the legislation and the Development Management Guidelines in particular Section 7.12. No rational is provided for the calculation of the rate at €3,5034 per unit, other than it was the rate already applied to the other referenced planning permissions.

## 8.2. Planning Authority Response

A response to the grounds of appeal was received from the PA on 22<sup>nd</sup> May 2025 which is summarised as follows:



- There are significant lands in Bandon town and environs that are zoned for the provision of residential development, currently under construction and containing existing housing development. The anticipated traffic impacts arising from future residential development needs to be considered to provide the necessary upgrade to the road and pedestrian network.
- There is a significant number of schools in the town which are located north of the Bandon river adding to peak flow time traffic congestion, during the school term.
- The Bandon TPREP is approved and identified projects are being carried out in stages including pedestrian footpath, crossing upgrades and general road improvements in Bandon town in the last few years.
- A mini roundabout at Sean Hale Place was identified in the Bandon TPREP and the special contribution included in the permission under condition 52 is attributed to this.
- Traffic congestion is an issue in the area having regard to existing development including that under construction and permitted. TIAs have identified the need for a roundabout to aid traffic flow at this location. (P.A. Ref. 21/4059 Castle Rock Homes (Bandon) Ltd., P.A. Ref. 24/5216 Castle Rock Homes (Bandon) Ltd. & ACP Ref. 320810, P.A. Ref. 23/6540 Cork Road Structures Ltd.
- Significant pedestrian improvement works were undertaken by Castlerock Homes as part of Phase 1 development P.A. Ref. 21/4059, ACP Ref. 312689-22 refers. Cork Road Structures intend to carry out junction improvements on the Old Cork Road/Macroon Road Junction P.A. Ref. 23/6540 refers. The costs were deducted from the special contribution under the permitted planning permissions.
- The need for a new bridge crossing from the R589 was identified in the Bandon TPREP. Therefore it is intended to charge future developments north of the Bandon river at the same base rate (€3,320 per dwelling unit) for improvements in line with the Bandon TPREP.

#### Calculations

- In relation to the adjoining site P.A. Ref. 20/6697 (85 residential units) a special contribution was applied at a rate of €3,320 per unit (total €282,140).
- The same rate was applied to the development permitted under P.A. Ref. 23/6540 (77 units).
- While the calculation may be specific to works on the L-2011 above Convent Hill, the proportion of special contributions applied for all future development granted planning permission at the stated rate per house is proposed. This is intended to ensure all planning applications are treated similarly on zoned lands in the town which are located north of the Bandon river.
- All future applications north of the Bandon river will impact on traffic congestion at Sean Hales place at peak traffic flow times as it is the only road bridge over the Brandon river in the town.
- While the applicant may be stating the distance of the Castleheights site relative to the proposed location of the new roundabout at Sean Hales Place, congestion is significant at peak times from Sean Hales place/Old Cork Rd/Watergate St. junction, Kilbrogan Hill junction and Convent Hill junction. Therefore it is reasonable to seek funding to improve traffic flow as outlined.

Supporting information is provided as follows:

- Figure 1 Breakdown of Special Contribution relating to P.A. Ref. 20/6697.
- Figure 2 Costs of works to provide roundabout at Sean Hale Place.
- Figure 3 Bandon town land use zoning map.
- Figure 4(a) Extract from Bandon TPREP showing North Main Street /Watergate Street/Bandon Bridge Junction.
- Figure 4(b) Extract from Bandon TPREP showing the future new bridge crossing and northern relief road proposed.

### **8.3. Further Response**

- 8.3.1. A further response was received from the first party appellant in regard to Cork County Council's submission to the appeal, which can be summarised as follows:

- The council's submission does not provide a justification that the special contribution sought under condition 52 is exceptional to the proposed development and is therefore not in accordance with the requirements of Section 48(2)(c) of the Planning and Development Act 2000 (as amended). It is not necessary to permit the proposed development.
- The submission confirms that the special contribution is not specific or exceptional to the proposed development. The council's view that "it seems fair to seek funding to improve traffic flow" in the town is not an appropriate basis for the levy.
- The council did not update the General Development Contribution Scheme or Supplementary Contribution Scheme in advance of the adoption of the Cork County Development Plan 2022-2028 to reflect costs for the delivery of the Bandon TPREP.
- The submission supports the argument made in the first party appeal that no basis for the calculation of the special contribution has been provided in the decision which is contrary to the legislation.
- The submission includes general costings totaling €282,140 related to the previous development in the town from five years ago. This has no relationship with the subject development or Sean Hales infrastructure.
- Condition no. 59 of P.A. Ref. 20/6697 does not refer to any improvements in the area of Bandon bridge /Sean Hales place and refers specifically to the provision of pedestrian infrastructure on Convent Hill which is to be delivered in the near future. It is unclear why the council would submit otherwise.
- Section 7.12 of the Development Management Guidelines for Planning Authorities 2007 states that it is 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. This is not adhered to. Applying a pro-rata contribution to pay for general infrastructure in the town which is remote to the subject site is not within the spirit or is compliant with statutory legislation related to special development contributions.

- The council's response remains silent on the roads component contained in their adopted general Development Contribution Scheme.

## 9.0 Assessment

- 9.1.1. Having regard to the provisions of Section 48 of the Planning and Development Act 2000, as amended (the Act), and specifically Section 48(13)(a) which limits the Commission 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 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 PAs imposition of a special financial contribution complies with the requirements of Section 48(2)(c) and 12 of the Act.
- 9.1.2. The Development Management Guidelines (2007) state that a condition requiring a special contribution must be amenable to implementation under the terms of Section 48(12) of the Act, and it is necessary that the basis for the calculation of the contribution should be explained in the planning decision. Therefore 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 subject development.
- 9.1.3. The Development Contribution Guidelines 2013 also state that where a special development contribution is imposed under Section 48(2)(c) of the Act, such particular works should be specified in the condition.
- 9.1.4. Section 48(2)(c) of the Act sets out the special requirements that justify the imposition of special contribution conditions as follows:

*“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”.*

9.1.5. In this regard, there are three essential requirements necessary to justify the imposition of a 'special contribution'. Under Section 48(2)(c) the payment must be required –

- a) In respect of development,
- b) Specific exceptional costs must be incurred as a result of, or in order to facilitate it, and
- c) Such costs cannot be covered by a Development Contribution Scheme made under Section 48 or 49 of the Act.

**a) In Respect of Development**

9.1.6. In relation to a) it is my consideration that a payment is required in respect of a development and meets with this requirement.

**b) Specific Exceptional Costs must be incurred as a result of, or in order to facilitate it**

9.1.7. Section 48(2)(c) of the Act states that a special contribution can only be levied in respect of a particular development where specific exceptional costs are not covered by a general development contribution scheme. Section 7.12 of the Development Management Guidelines 2007 state that 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.

9.1.8. The Development Management Guidelines 2007 state that '*it is essential that the basis for the calculation of the contribution should be explained in the planning decision*' and the Guidelines also state that "*it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation*".

9.1.9. In relation to b) it is submitted by the first party appellant that the criteria set out in Section 48(2)(c) and in the Development Management Guidelines 2007 was not satisfied by the council to justify condition 52, as the works at Bandon bridge identified in the Bandon TPREP are neither exceptional nor specific to the proposed development. It is also submitted that the upgrades identified in the Bandon TPREP in regard to the area of north of Bandon bridge are not necessary to support the proposed development, having regard to the location of the appeal site which is at a remove from the Bandon bridge. The appeal site is located approx. 1.5 km to the

northwest of Bandon town centre and is separated by existing residential and mixed use developments. In regard to the adjoining development to the north/northwest of the appeal site permitted under P.A. Ref. 20/6697, the special contribution included under condition 59 does not make reference to improvements in the area of Bandon Bridge/Sean Hales place. It refers specifically to the provision of pedestrian infrastructure on Convent Hill to be delivered through that development.

- 9.1.10. Condition 52 of the PA's final grant related to the appeal site specifies the payment of a special development contribution of €66,388.00, "*in respect of works proposed to be carried out, for the provision of works proposed north of Bandon Bridge to ease town bound traffic congestion and to improve pedestrian connectivity*", the reason being that the developer should contribute towards these specific exceptional costs, for works which will benefit the proposed development. This contribution was calculated by the Area Engineer in the report dated 01<sup>st</sup> April 2025.
- 9.1.11. The PA's assessment of the FI response notes the recommendation of the Area Engineer to seek a special development contribution of €66,400 towards works for a roundabout north of Bandon Bridge. I note that the report of the Area Engineer referred to dated 01<sup>st</sup> April 2025 stated that a public footpath was being constructed between Coolfada estate (P.A. Ref. 20/6697 refers) to the west of the appeal site and Cedar View estate to the east of the appeal site, and that the appeal site would benefit by this pedestrian footpath. The report also states that to ease traffic congestion north of the Bandon River, a roundabout at Sean Hales Place was identified. I note that this is one of the proposals identified in the Bandon TPREP (2017)<sup>2</sup> to address traffic problems in Bandon town centre and wider environs. A preliminary costing is provided of the proposed roundabout to the sum of €246,187.50.
- 9.1.12. In the response to the appeal by the PA, the PA further acknowledge that the special contribution sought under condition 59 of P.A. Ref. 20/6697 was specific to that site and to that development. The costs and terms of that condition related to the provision of improved pedestrian safety on the L-2011 that will connect the subject site to Bandon town centre, and other works that included for "*junction enhancements to*

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<sup>2</sup> <https://www.corkcoco.ie/en/resident/planning-and-development/completed-transportation-studies/bandon-transportation-public-realm-enhancement-bandon-tprep-completed-2016>

*improve capacity and safety and the installation of public lighting columns cover the gap in lighting to the town's lighting string on Upper Convent Hill”.*

- 9.1.13. It is further stated in the PA's response to the appeal that the proposed roundabout at Sean Hale Place identified in the Bandon TPREP and the special contribution sought under condition 52 of the permission related to the appeal, is attributed to the provision of the roundabout, and that the application will contribute 28% to the total cost of this roundabout. I note from the submission that it would appear to be the intention of the PA going forward, to seek a special contribution for all residential development in the wider area, to ease traffic congestion north of the Bandon River bridge in Bandon town.
- 9.1.14. Having regard to the foregoing, it is evident to me that the justification for the special contribution relates to two provisos; (i) that the appeal site and the subject development will benefit from a pedestrian linkage that was being constructed as part of the terms of the special contribution attached by condition 59 of P.A. Ref. 20/6697 which adjoins the site to the north/northwest, and (ii) the provision of a new roundabout in the town centre at the location Sean Hales Place (junction of R586, Watergate Street and St Finbarr's Place) north of Bandon Bridge.
- 9.1.15. I note that the calculation of the special contribution is based on a precedent case, P.A. Ref. 20/6697 for 85 residential units (located to the north/northwest of the appeal site and under construction / nearing completion) whereby the total value amounted to €282,140 which equated to €3,320 per unit. The same rate was also applied under P.A. Ref. 23/6540 for 77 no. units and a creche, located approx. 1.48 km to the northeast of the appeal site, west of the Cork road which was informed by the rate applied under P.A. Ref. 20/6697. Having regard to the documentation on the file it is my opinion that this would appear to be the justification for the basis of how the rate applies to the development the subject of this appeal. Having reviewed the Cork County Council Adopted Development Contribution Scheme (2004), I can find no list of projects outline in the Development Contribution Scheme (DCS) or other methodology in regard to how the rate of €3,320 per unit is determined as the rate to be applied to such special contribution conditions.
- 9.1.16. Having regard to the wording of condition 52 of PA. Ref. 24/5568 the subject of this appeal, the application site boundaries and the location of the appeal site which is setback approx. 138 m to the south of the Upper Convent Hill road L-2011 with access

to same from the existing vehicular entrance serving Castelheights estate, I am not satisfied that the nature and the scope of the works relative to the proposed development are specifically defined. The PA has not adequately demonstrated that specific exceptional costs arise in relation to the provision of the proposed development, as there is no specific element of the proposed development outlined by the PA that would give rise to such exceptional costs and I note that the PA did not consider that a TIA was warranted, having regard to the scale of the proposed development. The PA also acknowledges in the submission to the appeal that the calculation relates to works carried out on the L-2011 Upper Convent Hill which are being delivered by the development permitted under P.A. Ref. 20/6697. It is therefore my consideration that the costs put forward by the PA will not be incurred as a result of the proposed development and in my view are not required to facilitate the proposed development. Rather, the reason for the costs sought relate to addressing a wider traffic congestion problem north of Bandon Bridge which is contributed to by numerous factors that include inter alia for the existing quantum of undeveloped zoned lands, extant permissions yet to be taken up, and developments under construction/nearing completion.

- 9.1.17. I have reviewed the relevant policy documents i.e. the Cork County Development Plan 2022-2028, in particular Chapter 12 Transport and Mobility, and Volume 5 West Cork to ascertain if there is a specific development plan objective or policy to support the requirement of such a special contribution, or to implement the proposals of the Bandon TPREP. While objective BD-GO-03 in Volume 5 West Cork supports the phased ongoing delivery of the recommendations of the Bandon TPREP, I can find no specific objective or policy to seek such a special contribution to ease town bound traffic congestion and improve pedestrian connectivity, as described in the terms of the condition and in the context of the appeal site, required for the delivery of housing at this location. Therefore, while I acknowledge that the PA is anticipating future development infrastructural demands and is seeking to address the issue of increased traffic volumes, I am not satisfied that this amounts to specific exceptional costs that would specifically benefit the proposed development, and in this case it is reasonable to conclude that permission would ordinarily have been granted in the absence of the works required for the infrastructure to which condition 52 relates.



**c) Such Costs cannot be covered by a Development Contribution Scheme made under Section 48 or 49 of the Act.**

9.1.18. In relation to test c), in order to attach the condition requiring payment of the special development contribution the subject of the appeal, it must be demonstrated that the cost of the works is not covered by the development contributions scheme adopted by the council, and the cost of the works are additional specific exceptional costs for public infrastructure and facilities essential to enable a particular development to be implemented.

9.1.19. I refer to Appendix 2 of the Cork County Council Adopted Development Contribution Schemes 2004 which sets out the different classes of infrastructure and facilities and rates applicable to service provided that include for road works.

9.1.20. I also note that Section 48(17) of the Act give the meaning to “public infrastructure and facilities” which include the following:

*(c) the provision of roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure,*

*(d) the provision of bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures.*

9.1.21. Having regard to the foregoing, I submit to the Commission that the provision of works proposed north of Bandon Bridge to ease town bound traffic congestion and to improve pedestrian connectivity would already be provided for in the general DCS, as there is no evidence provided by the PA before me to state otherwise. In this regard, I note that the appeal site is not located within the study area of the Bandon TPREP (2017). I note that the rates in the PA’s Section 48 General DCS were last updated 2014, but that the overall DCS was not updated since the adoption of the current Cork County Development Plan. Furthermore, the DCS does not list specific projects to be covered by a special development contribution. On that basis I am satisfied that the infrastructure works related to the Bandon TPREP would already be accounted for in the general category “roads and traffic management” of the DCS 2004 and that condition 52 would represent double-charging in this case. As such, I am satisfied that the provision of the works set out in condition 52 in this context, is provided for under the current Cork County Council Adopted Development Contribution Scheme (2004).

## 10.0 Recommendation

I recommend to the Commission that condition 52 of the planning authorities grant of permission is **Removed** for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

Having regard to Section 48(2)(c) and (12) of the Planning and Development Act 2000, as amended, the terms of the Cork County Council Adopted Development Contribution Scheme 2004, to the plans and particulars submitted as part of the application, to the detailed submissions on file including that of the planning authority, and to the specified particular works to be carried out and the basis for the calculation provided by the planning authority, it is considered that a special contribution towards the provision of works north of Bandon Bridge to ease town bound traffic congestion and to improve pedestrian connectivity do not represent exceptional and specific costs in terms of public infrastructure that will benefit the proposed development within the meaning of Section 48(2)(c) Planning and Development Act 2000, as amended, but would instead provide greater benefit to a much wider area. It is therefore considered that the special contribution imposed under condition 52 for such works, does not come within the scope of Section 48(2)(c) of the Planning and Development Act 2000, as amended and would amount to double-charging and accordingly, would not be warranted.

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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Clare Clancy  
Planning Inspector

22<sup>nd</sup> July 2025