The Secretary
An Coimisiún Pleanála
64 Marlborough Street
Dublin 1

18th December 2025

RE: FIRST PARTY APPEAL UNDER SECTION 48(13) OF THE PLANNING AND DEVELOPMENT ACT, 2000, AS AMENDED IN RESPECT OF PLANNING PERMISSION GRANTED UNDER PLANNING APPLICATION REGISTER REFERENCE 25/324 FOR A LARGE SCALE RESIDENTIAL DEVELOPMENT COMPRISING OF 246NO. RESIDENTIAL DWELLINGS AND A CHILDCARE FACILITY AT CLOHEEN, CLONKILTY, CO. CORK.

APPLICATION REGISTER REFERENCE: 25/324
PLANNING AUTHORITY: CORK COUNTY COUNCIL
DATE OF DECISION: 24TH NOVEMEBER 2025

Dear Sir / Madam,

We, Coakley O'Neill Town Planning Ltd, NSC Campus, Mahon, Cork, are instructed by our clients, HB Cloheen Developments Ltd., hereafter referred to as the First Party, to submit this appeal under Section 48(13) of the Planning and Development Act, 2000, as amended, against Condition Nos. 65 attached to the notification by Cork County Council to grant planning permission, dated 24th November 2025, under application register reference 25/324.

It is understood that Cork County Council are advancing various plans for the enhancement of road and pedestrian infrastructure within the town of Clonakilty. The applicants are committed to paying a fair and equitable share of the costs of these works. Accordingly, a contribution is appropriately levied by Condition No.66 of the Planning Authority's decision to grant permission. This in accordance with the provisions of the Council's General Contribution Scheme and will be used to fund the proposed infrastructure works.

However, it is submitted that the imposition of a condition requiring the payment of a special development contribution under Condition No. 65 in this instance amounts to double charging, is not equitable and not supported by the legislation governing such planning conditions. The applicants advance this appeal on this basis.

The last date for an appeal to be lodged on the decision is 22nd December 2025 and the applicable fee payable to An Coimisiún Pleanala is €220.

Emphasis, where added herein, is ours.

1.0 LEGISLATIVE CONTEXT

1.1 Section 48 of the *Planning and Development Act, 2000* (as amended) ("PDA 2000") allows for conditions requiring the payment of contributions in respect of public infrastructure.

Section 2(a) and (b) state:

> *(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.*

1.2 Section 48(2)(c) refers to special development contributions 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 **<u>specific exceptional costs not</u> <u>covered by a scheme</u>** are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.*

1.3 It will be noted that the costs in question must be:

- *"Specific"* – The *"costs"* must be specific - so the costs must be specified in the condition.
- *"Exceptional"* – The *"costs"* must be exceptional - that is, they must fall outside a norm.

Notably, it does not suffice that proposed *infrastructure and facilities* will benefit the proposed development. It is necessary that costs for their provision will be exceptional and the calculation of the special contribution must be made by reference only to the specific exceptional costs identified.

1.4 Section 48(12)(a) requires that a special contribution condition *shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates.* It will be noted that this statutory obligation under Section 48(12)(a) to specify the works

- is in addition to the separate obligation under Section 48(2)(c) to specify the costs and
- is to specify the particular works in question.

1.5 For the purposes of Section 48, public infrastructure is defined in Section 48(17), as follows:

> *"public infrastructure and facilities" means-*
> *(a) the acquisition of land,*
> *(b) the provision of open spaces, recreational and community facilities and amenities and landscaping works,*

(c) the provision of roads, car parks, car parking places, sewers, waste water and water treatment facilities, service connections, watermains and flood relief work,

*(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,***

(e) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, sewers, waste water and water treatment facilities, service connections or watermains

(f) the provision of high-capacity telecommunications infrastructure, such as broadband

(g) the provision of school sites, and

(h) any matters ancillary to paragraphs (a) to (g)

2.0 DEPARTMENTAL GUIDELINES AND CONTRIBUTION SCHEMES

2.1 With reference to the ***Development Contributions Guidelines for Planning Authorities, 2013,*** there are three types of development contribution, namely contributions imposed:

- Under General Development Contribution Schemes (under Section 48 PDA 2000)
  Planning authorities must draw up a development contribution scheme in respect of certain public infrastructure and facilities provided by, or on behalf of, the local authority that generally benefit development in the area.
- As Special Development Contributions (under Section 48(2)(c) PDA 2000)
- Under Supplementary Development Contribution Schemes (under Section 49 PDA 2000)

2.2 The Guidelines describe Special Contributions as follows:

> *A special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution.*

Again, note the necessity that the costs be both exceptional and specific.

2.3 'Key Messages' in the Guidelines include:

- *Development contributions are not cash-cows: there is an important balance to be struck between the funding of public infrastructure and the need to encourage economic activity and promote sustainable development patterns*
- *.. the local authority must ensure that it avoids levying development contributions that are excessively high – development contributions are ultimately designed to offset only a portion of the costs of public infrastructure and facilities.*

2.4 In relation to development contributions, the *Development Management Guidelines for Planning Authorities, 2007*, state the following:

> *Although there is no entitlement to appeal against the principle of attaching a condition formulated in accordance with a general or supplementary scheme, the contribution requirements of any such scheme may be the subject of a valid appeal where the applicant considers that the terms of the scheme in question were not properly applied. The planning decision should clearly set out how the relevant terms were interpreted and applied to the proposed development; as well as being best practice this will help to minimise unnecessary appeals.*
>
> *Finally, **'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, <u>it is essential that the basis for the calculation of the contribution should be explained in the planning decision.</u>***
>
> *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. **<u>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.</u>** Conditions requiring the payment of special contributions may be the subject of appeal.*

2.5 ***Departmental Circular Letter PD 5/2007 Development Contributions*** notes that Sections 48 and 49 PDA 2000 provided for a radical overhaul of the development contributions scheme. The primary objectives of these revisions included to "*Introduce greater transparency into the way in which development contributions were levied and applied (so that developers would be able to establish in advance what levy should apply to them);*"

2.6 With regard to ***Cork County Council General Development Contribution Scheme***, on special development contributions, it states:

> *Special contributions may be levied under Section 48 (2)(c) where specific exceptional costs not covered by Cork County Council's General Development Contribution Scheme are incurred by any Local Authority in respect of public infrastructure and facilities which benefit the proposed development. Only developments that will benefit from the public infrastructure or facility in*

question will be liable to pay the special contribution. Conditions imposing special contributions may be appealed to An Bord Pleanála.

2.7 In terms of the calculation of general contributions, the following is stated:

The contributions applicable to decisions to grant planning permission on and after 1st September 2004, were calculated by dividing the planned expenditure on the provision of services over twenty years by the amount of development that is projected to happen during that period. The services are water; sewerage including storm water drainage; roads; and facilities for recreation and amenity.

2.8 In terms of the '€ per sqm' rates applied; they are as follows:

Development Contributions for CASP and N & WCSP Areas		
Type of Development	***From 1st January, 2009, to 31st December, 2010:- € per sqm***	***1st January, 2014, until further notice:- € per sqm***
Residential	59.86	19.04
Offices and Retail	134.69	48.97
Other non-residential uses	102.04	16.32
Non-residential uses specific – warehousing	*n/a*	16.32
Non-residential uses – horticulture enclosed development/intensive animal husbandry	*n/a*	9.17

2.9 In regards to contributions for residential developments, the Contribution Scheme notes the following:

Contributions are proportionate to the size of dwelling unit, with the amount charged being calculated on a square metre basis. The first 40 m2 of each conventional house is not charged. This should result in contribution levels being broadly proportionate to other costs involved in providing a dwelling, and minimises contributions for smaller houses which are most likely to be purchased as starter units.

2.10 The foregoing illustrates, though it could hardly be doubted, that the provision of public pedestrian facilities in urban areas is not, and never has been, exceptional. It is entirely a normal and not an exceptional expenditure of a local authority.

3.0 PLANNING APPLICATION OVERVIEW

3.1 The proposed large-scale residential development comprises of the construction of 246no. residential units, a creche, as well as internal roads and pathways with potential for future links to adjacent lands; pedestrian and cyclist routes; hard and soft landscaping and boundary treatments; waste storage; plant; signage; a new access onto the local hotel road to the east, incorporating bridging of the existing stream with associated works to same, and a new access connecting to the L-9931-0 local road to the west;

modifications to car parking at the Clonakilty Park Hotel and the provision of a roundabout; public lighting; new substation and road improvement works and pedestrian facilities at the N71 and Clonakilty Park Hotel junction.

3.2 A decision to grant permission was made on 24th November 2025, subject to 66 no. conditions.

3.3 Under Condition No.65, a special development contribution of €650,223.20 has been conditioned. Under Condition No. 66, a general development contribution of €357,338.52 has been applied.

3.4 The Planning Authority's consideration of the subject application throughout the planning process to date is relevant to the assessment of this appeal.

3.5 The Planning Authority's Traffic and Transport Report on the assessment of further information dated the 19th of November 2025 states the following in relation to cost of Active Travel Infrastructure to be provided by Cork County Council on the N71.

> *In relation to the 'active travel' interventions which would be necessary to facilitate connectivity from the proposed development to the retail, educational and public transport infrastructure locally, I estimate that the cost to provide this infrastructure would be approximately €1,995,000. The types of interventions and their locations are illustrated in Fig.3 below, which are informed by the improvement works proposed in the Clonakilty Traffic and Transportation Study (June 2011) – see Fig.4 below.*
>
> *The costs estimates associated with these necessary interventions are based on NTA cost estimates for Active Travel Infrastructure published in October 2025 (see Fig.5 for typical costs for active travel infrastructure based on recent NTA funded project.).*
>
> *Cork County Council have recently procured and appointed a multi-disciplinary Engineering and Design Consultancy to help deliver a preliminary design of Active Travel Infrastructure in this area. The preliminary design of the 'Active Travel' infrastructure will focus on the western end of the Clonakilty By-pass (N-71-879) between the 'Clonakilty Park Hotel' Junction and the N-71/R-880 roundabout at Dunnes Stores in order to improve pedestrian and cyclist connections between the large residential developments (existing and proposed) and facilities locally.*

3.6 The report further states the following on Special Contributions:

> *In terms of the active travel infrastructure, the zones sites which either adjoin or are situated in closest proximity to the active travel proposals (and would therefore benefit most from such infrastructure) are as follows [indicating 4no. sites].*
>
> *The fairest ways to appropriate the costs of the necessary active travel interventions are to use the site areas i.e. Total Cost/Area of zoned lands (€1,995,000 / 27ha = €73,889/ha). The area of the zoned lands which are to be developed under the application currently pending is approximately*

8.8Ha. Accordingly, a special development contribution of €73,889 x 8.8 = €650,223 should be levied 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 a roundabout at the junction of the N71 and the L-4007-52 and active travel infrastructure on the N-71 & L-4007-52 which shall be provided by Cork County Council and will benefit the site.

3.8 The Senior Executive Planners Report on the assessment of Further Information states the following in respect of special contributions:

The Area Engineer in his report dated 19/11/25 states that the traffic arising from the proposed development will have implications for traffic movements on the N71 and specifically on the junction of the L-4007/L80453 and the N71 at Lady's Cross. It is also highlighted that there has been a proposal to develop a roundabout at the junction of the L-4007 /L8053/the N71 and that special contributions have been levied on previous planning decisions in the vicinity (as levied under Planning Reg. No's 18/605, 18/703 and 23/20), based on the area of zoned land(s) generating traffic that will impact this junction, which would benefit from improvements. The Area Engineer has recommended the inclusion of a similar special contribution as part of any grant of permission in this case, contributing to improvements to the l-4007/L80453 and the N71 at lady's Cross junction.

The Sustainable Travel Unit in their report dated 19/11/25 has identified the active travel infrastructure interventions that are required to facilitate connectivity from the proposed development ta the retail, educational and public transport infrastructure focally, which are informed by the improvement works proposed in the Clonakilty Traffic and Transportation Study (June 2011). The estimated cost of the infrastructure is approximately €1,995,000 and this total figure is based on NTA cost estimates for Active Travel Infrastructure October 2025. This figure includes active travel interventions to the southern side of the N71 and the provision of a junction upgrade at the junction of the l -4007/L80453 and the N71 at Lady's Cross.

As there is c. 27 ha of land zoned that would benefit from active travel infrastructure improvements, the Sustainable Travel Unit has calculated a special contribution of €73,889 per ha (i.e. €1,995,000 / 27ha}. Applying the calculation to the subject 8.8 ha site= €73,889 per ha X 8.8 ha= €650,223.20 to be applied as a special contribution towards the cost of active travel interventions.
Reference is also made to the recent appointment of a multi-disciplinary Engineering and Design Consultancy to help to deliver a preliminary design of active travel infrastructure in the vicinity of the site along the N71, with the focus on interventions between the Park Hotel Junction and the roundabout near Dunnes Stores, to improve pedestrian and cyclist connections between large residential developments (existing and proposed) and facilities locally and this referenced work is noted.

3.9 The following conditions were then included in the Planning Authority's decision to grant permission.

No.65. 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 €650,223.20 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 a roundabout at the junction of the N71 and the L-4007-52 and active travel infrastructure on the N-71 & L-4007-52 which shall be provided by Cork County Council and will benefit the site 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.*

***No. 66.** 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 contribution of €357,338.52 to Cork County Council in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority. The value of this contribution is calculated in accordance with the Council's Development Contributions Scheme on 01/10/2025, 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 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, and that the level of contribution payable should increase at a rate which allows both for inflation and for phasing in of the target contribution rates, in the manner specified in that scheme.*

4.0 GROUNDS OF APPEAL

Condition No.65

4.1 As highlighted above, Section 48(2)(c) of the PDA, 2000 provides that a Planning Authority may require the payment of a special contribution where **specific exceptional costs, not covered by the general contribution scheme**, are incurred by the Planning Authority in respect of specified particular works of public infrastructure and facilities which benefit the proposed development. [xx1]

4.2 The *Development Management Guidelines 2007* state that **it is essential that the basis of the calculation of the exceptional costs be explained** in a condition, and that **the nature and scope of the works and the apportionment to the specific development must be transparent**.

4.3 The *Development Contributions Guidelines 2013* state that special contributions arise as to the provision of particular works of public infrastructure or facilities specified in the condition **which benefit the very specific requirements for the proposed development**.

Exceptionality

4.4 The various Planning Authority reports completely fail to address the exceptionality of the intended new active travel infrastructure and junction improvements in the vicinity of the subject development site. Accordingly, there is no basis upon which a special contribution condition can be imposed on a permission for the proposed development.

4.5 The concept of exceptionality is necessarily a relative one: something can be exceptional only by reference to a norm. In the present context that norm can only consist of the proper planning and sustainable development of the area in which the subject development site is situate.

4.6 Cork County Council is responsible for the day to day maintenance, upgrading and improvement of pedestrian and cyclist infrastructure, public footpaths and roadways throughout Cork County. Provision for public roads (which must necessarily include roundabouts and junctions) is included for in the Cork County Development General Contribution Scheme - clearly indicating that it is part of the normal infrastructural requirements of the County.

4.7 It can hardly be disputed that roundabouts and cycle lanes are part of the normal infrastructural requirements of any urban area. To the contrary, the provision of such infrastructure is a basic norm of the proper planning and sustainable development of any urban area. They are in no way exceptional, and their cost cannot be exceptional. No evidence had been provided that the roundabout or active travel facilities in excess of that norm will be provided – hence no evidence has been provided of exceptional cost of its provision. Indeed, this reaffirmed in the Planning Authority's own reports which state that:

> *The types of interventions and their locations are illustrated in Fig.3 below, which are informed by the improvement works proposed in the Clonakilty Traffic and Transportation Study* ***(June 2011)***

[...] ***Cork County Council have recently procured and appointed a multi-disciplinary Engineering and Design Consultancy to help deliver a preliminary design of Active Travel Infrastructure in this area.*** *The preliminary design of the 'Active Travel' infrastructure will focus on the western end of the Clonakilty By-pass (N-71-879) between the 'Clonakilty Park Hotel' Junction and the N-71/R-880 roundabout at Dunnes Stores in order to improve pedestrian and cyclist connections between the large residential developments (existing and proposed) and facilities locally.*

4.8 The above excerpt from the Traffic and Transportation Report clearly sets out that the development of the Active Travel Infrastructure has been in development since at minimum, June 2011, and that the development of these facilities has been progressed prior to the grant of permission for the proposed LRD. This clearly shows that this infrastructure of which the special development contribution has been sought is to be development and was to be developed regardless of the proposed LRD.

4.9 Notwithstanding this confirmation that this infrastructure is required without the proposed development, not alone is the provision and improvement junction works, road works, pedestrian and cyclist infrastructure an everyday function of the Local Authority, it is a long-held objective as part of the proposed development of urban areas within the county, including Clonakilty.

4.10 Importantly, all adopted planning policies in relevant statutory plans necessarily imply a requirement for high quality pedestrian facilities within all urban areas of the county. They are therefore in no way specific to the subject site.

4.11 It is of note that there is an specific objective relating to the development of the subject site Objective CK-R-07 calls for the development of Medium A Density Residential Development, with any development of the site to be required to provide Active Travel Routes creating a high-quality permeable development with linkages to adjoining development.

4.12 The development as proposed, has incorporated such active travel infrastructure connecting the site to the N71 and the Lady's Cross development adjacent. Objective CK-R-07 does not specifically require that the development of the subject site provide junction improvement works and cyclist infrastructure on the N71.

4.13 It is apparent to us from the Council's own submissions that the intended road improvement and active travel works are to be carried out in any event, in accordance with the statutory functions of the Local Authority. As such, it is our view, that they cannot be seen to be specific to the subject development.

4.14 It is further of note that the intended provision of the roundabout at the junction of the N71 and L-4007-52 has been long mooted due to ongoing traffic issues at the junction, as suggested by the 2011 Clonakilty Traffic and Transportation Study, which states:

N71/PARK ROAD/ THE MILES – JUNCTION 9

The key issues at this junction, identified from site visits and public consultations, are:

- *no pedestrian crossings*
- *the priority at this junction is not very clear for some movements*
- *traffic on N71approaches at high speeds*

It is proposed to provide a roundabout at this junction, including traffic islands with dropped kerbs to facilitate pedestrian movements.

The provision of a roundabout will formalise the existing cluster of priority junctions. This will help aid crossings for pedestrians. It is recommended as part of this design that traffic islands are provided on each arm to aid pedestrian movements and that a possible crossing on the N71 west is also provided.

4.15 There is no evidence that if the proposed development was not being progressed these junction improvement works and active travel works would not be required. In other words, there is no evidence that, by reason of the proposed development, costs will be incurred in excess of that which would in any event have to be incurred in the development of Clonakilty.

4.16 **It is important in this regard not to confuse exceptionality with benefit – whether the proposed junction improvement and active travel infrastructure will particularly benefit the proposed development is irrelevant to the question whether the provision or cost of the infrastructure is exceptional.**

4.17 It is not disputed that the subject development will benefit from the proposed infrastructure, but that is not what is in question here. Any development will benefit from any public infrastructure provided in its vicinity. There is nothing exceptional or specific in this.

4.18 It is also not disputed that this infrastructure will enhance the amenities and safety in the area. They clearly will, but again, that is not what is in question here. It is whether they result in specific and exceptional costs, which should be borne by the applicants. Our view is that they are not and should not.

4.19 In this respect, it can be seen that the provision of junction improvements and active travel infrastructure rather than being an exceptional infrastructural requirement or exceptional cost, forms part of the general functions of the Local Authority and is in line its view of the proper planning and sustainable development of Clonakilty as expressed in its statutory policy documents.

4.20 It is our view therefore, that the provision of junctions, pedestrian and cyclist infrastructure on existing public roadway **<u>is not an exceptional infrastructure requirement and no exceptional costs arise.</u>**

4.21 As a result, no specific exceptional costs incurred by the Planning Authority, which are not covered in the Development Contribution Scheme, arise in this instance.

4.22 Therefore, the applicants should not be required to pay any special financial contribution.

No Real Basis of Calculation set out in the Conditions

4.23 The Council's Engineering Report and Senior Executive Planners Report set out the basis for the calculation of the special contribution to be paid by the applicant as follows:

> *The fairest ways to appropriate the costs of the necessary active travel interventions are to use the site areas i.e. Total Cost/Area of zoned lands (€1,995,000 / 27ha = €73,889/ha).*
>
> *The area of the zoned lands which are to be developed under the application currently pending is approximately 8.8Ha. Accordingly, a special development contribution of €73,889 x 8.8 = €650,223 should be levied 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 a roundabout at the junction of the N71 and the L-4007-52 and active travel infrastructure on the N-71 & L-4007-52 which shall be provided by Cork County Council and will benefit the site.*

4.24 However, the basis of proportion of the cost of the works which have been attributed to the applicant, is in our view, is not reasonable.

4.25 The basis for the contribution has proportioned the total estimated costs of the delivery of this infrastructure to be levied from 4no. zoned, undeveloped sites.

4.26 However, this basis fails to respond to the existing developed sites, which will also benefit from the infrastructure.

4.27 The applicant, nor the Commission, have not in any event been provided with any evidence as to the proportion which the benefit of the proposed infrastructure might bear to the benefit of other existing residents in the immediate area or other sites that may be subject to future development proposals.

4.28 The Commission has not, in any event, been provided with any evidence whatsoever of the extent to which any costs of the provision of the proposed crossings will be exceptional.

4.29 It is therefore our submission that the costs set out in Condition 65:

- Are **<u>not as a result of exceptional</u>** infrastructural requirements - the provision of junction improvements and active travel facilities in the County is captured in the current General Development Contribution Scheme;
- Are **<u>not specific</u>** to the development of the subject site - they benefit a wide range of existing residents, landowners, businesses and sites in the wider area; and
- In addition, the basis for calculation of the financial contribution **<u>is not robust or reasonable</u>** in the planning decision.

5.0 CONCLUSIONS

5.1 It is understood that Cork County Council are advancing plans for the enhancement of road, pedestrian and cyclist infrastructure in Clonakilty, and specifically at this location. Their own reports on this planning application confirm this.

5.2 The applicants are also committed to paying a fair and equitable share of the costs of the general works to be carried out.

5.3 Accordingly, a financial contribution under the General Contribution Scheme has been appropriately levied by Condition No.66 of the Planning Authority's decision to grant permission. The imposition of this condition in accordance with the provisions of the Council's General Contribution Scheme and will be used to fund the proposed infrastructure works.

5.4 The imposition of another condition requiring the payment of a special development contribution in this instance however amounts, in our view, to double charging, is not equitable and not supported by the legislation governing such planning conditions.

5.5 The key issue is whether or not the costs as set out in Condition No. 65 properly constitute **specific exceptional costs**, within the meaning of Section 48(2)(c) and Section 48(12)(a) of the PDA 2000 and are not covered by a general development contribution scheme.

5.6 As per the definition of Public Infrastructure and Facilities, set out in Section 48(17) of the PDA 2000, the provision of pedestrian facilities, traffic calming measures and road upgrades are already included within the County Council's General Development Contribution Scheme. Thus, it is submitted the proposed condition fails to demonstrate that the **specific exceptional costs** which have given rise to the special development contributions sought, are not already covered by another scheme (i.e. General Contribution Scheme).

5.7 Secondly, it cannot be contested that existing businesses, community facilities, and residents along the public road will benefit from the works covered under these proposed conditions. It cannot therefore be argued that the works identified (and their costs) are specific to the subject development.

5.8 Notwithstanding the above, the basis of calculation provided including how the costs are apportioned to the proposed development is, in our view, is unreasonable as it disproportionally attributes the cost of works to 4no. undeveloped sites and has failed to give due cognisance to the application of costs to other existing and potential proposed developments within the area.

5.9 Therefore, it is considered that the special development contribution as proposed by Cork County Council do not come within the scope of section 48(2)(c) of the PDA 2000 and accordingly, are unjustified.

5.10 We, therefore, respectfully request An Bord Pleanála to remove Condition No. 65 of the notification of decision to grant permission by Cork County Council dated 24th November 2025, under register reference 25/324.

Yours sincerely,

Rory Hanrahan

Rory Hanrahan
Assistant Planner Mplan MIPI
Coakley O'Neill Town Planning Ltd.

An Bord Pleanála

Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name	HB Cloheen Developments Ltd.
(b) Address	Cloheen, Clonakilty, Co. Cork

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name	Rory Hanrahan
(b) Agent's address	Coakley O'Neill Town Planning Ltd., NSC Centre, Mahon, Cork T12 H7AA

Postal address for letters

3. During the appeal we will post information and items to you **or** to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1	☐	**The agent at the address in Part 2**	✓

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Cork County Council

(b) Planning authority register reference number

(for example: 18/0123)

25324

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Cloheen, Clonakilty, Co. Cork

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

Please refer to accompanying appeal letter.

Supporting material

6. If you wish you can include supporting materials with your appeal. Supporting materials include:

   - photographs,
   - plans,
   - surveys,
   - drawings,
   - digital videos or DVDs,
   - technical guidance, or
   - other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the "yes, I wish to request an oral hearing" box below.

   Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

   If you do not wish to request an oral hearing, please tick the "No, I do not wish to request an oral hearing" box.

Yes, I wish to request an oral hearing	☐
No, I do not wish to request an oral hearing	✓

NALA has awarded this document its Plain English Mark

Last updated: April 2019.

Plain English
Approved by NALA