

An
Bord
Pleanála

Board Order
ABP-321632-25

Planning and Development Acts 2000 to 2022

Planning Authority: Cork County Council

Planning Register Reference Number: 24/05328

Appeal by Ruden Homes Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cok in relation to the inclusion of special contribution condition number 92 by Cork County Council in its decision made on the 4th day of December, 2024.

Proposed Development: Permission for the following Large Scale Residential Development (LRD) comprising; (a) construction of 172 number residential units to include 146 number dwellinghouses (with 83 number dwellinghouses to include the option for constructing a ground floor extension to the rear), six number duplex units and 20 number apartments, (b) provision of one number creche and four number commercial units to provide for a range of uses which may include Class 1 "Shop", Class 2 "Financial and Professional Services", Class 3 "Other Offices, and Class 8 "Medical/Health Services" as may be required by future operators, (c) upgrading of the existing vehicular access to the site and the creation of a signalised junction on Ballytrasna Park Road (L-2985-0), including footpaths and cycle lanes and pedestrian/bicycle crossing points, to facilitate access into the site, (d)

provision of a new distributor road, including footpaths and cycle lanes, connecting the proposed residential development with Ballytrasna Park Road, and (e) all associated infrastructure and ancillary development works to include the provision of roads, footpaths and cycle lanes as well as provision of vehicular connections to adjoining lands with pedestrian/cycle facilities, proposed diversion and undergrounding of the existing 10 kV overhead electricity line and associated poles traversing the site, landscaping and amenity areas, lighting, drainage and services connections, bicycle and car parking, bin storage, and boundary treatments including fencing and landscape buffer and mixed native hedge planting along the eastern boundary of the site at Courtstown (Townland), Little Island, County Cork.

Decision

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended by section 30 of the Planning and Development Act, 2010, based on the reasons and considerations under, directs the said Council, under section 48 (13) of the 2000 Act, to REMOVE condition number 92 and the reason therefor.

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 the 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

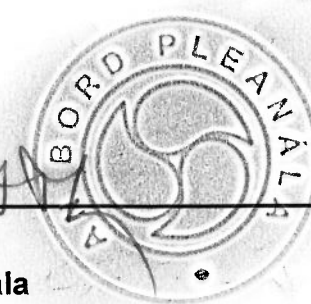



works already proposed by the applicant within the red-line boundary) do not represent exceptional and specific costs in terms of public infrastructure that will benefit the proposed development within the meaning of Section 48(2)(c), of the 2000 Act, and have not been adequately justified by the planning authority by reference to the proposed development.

In addition, it is considered that the specific works contained within the red line are subject to a grant of permission for the proposed development and will therefore be required to be implemented in accordance with the terms of conditions of the planning permission. To impose a special contribution for these works would amount to double counting. Furthermore, it would not be appropriate to decouple these specific described works, which form part of the development for which permission has been secured, from the implementation of the planning permission by introducing potential uncertainty as to timing of the delivery of these.

In deciding not to accept the recommendation of the Inspector to amend condition number 92, the Board considered the totality of the documentation on file including the submissions from the applicant and the planning authority. Firstly, the Board agreed in full with the Inspector that the relevant proposed works as provided for in the application documentation and within the red line should not be subject to a Section 48(2)(c) contribution, and that these are fully provided for in any implementation of the planning permission. By reference to wider works under LISTI, the Board concluded, on the basis of the evidence on file, that Section 48(2)(c) would not be an appropriate mechanism for seeking of monies related to the wider LISTI scheme, including works from the junction of the R-623 at Ballytrasna to the site. The Board determined that these works would not constitute exceptional costs to be incurred by the local authority which benefit the proposed development, but would appear on the evidence on file to provide a much broader overall purpose and function and a wide benefit to a much wider area. In reaching this conclusion the Board considered that the documentation on file did not provide a reasonable ground for determining that the proposed development

(including the assessment of its transportation impact) requires these works. The Board considered that the LISTI project would more properly be reflected in a revision to the general development contribution scheme, a separate scheme under Section 48 or perhaps under Section 49 of the 2000 Act, as amended.



Chris McGarry

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 14th day of April 2025.