

DUN LAOGHAIRE RATHDOWN COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACTS, 2000 - 2006

SECTION 49 - SUPPLEMENTARY DEVELOPMENT CONTRIBUTION SCHEME

For

**GLENAMUCK DISTRICT DISTRIBUTOR ROAD SCHEME AND
SURFACE WATER ATTENUATION PONDS SCHEME**

PREAMBLE

Section 49 of the Planning and Development Acts, 2000-2006, enables a Planning Authority when granting planning permission pursuant to Section 34 of the Act to attach a condition to a planning permission requiring payment of a financial contribution in respect of any public infrastructure service or project.

Subsection 1 of Section 49 specifies that the project or service shall be specified in a Supplementary Development Contribution Scheme (SDCS) made by the Planning Authority. The making of such a SDCS is a reserved function of the elected Members. The project or service shall be provided either by the Planning Authority or may be carried out by any other person pursuant to an agreement with the Local Authority. The project or service must be of benefit to the development to which the planning permission relates.

The SDCS determines the amount and the manner of payment of the contribution and specifies the area or areas within the functional area of the Planning Authority to which it relates. It also details the particular public infrastructure project or service to which it relates. More than one SDCS may be made in respect of a particular area and a SDCS can provide for different contributions to be made in respect of different classes or descriptions of development. The SDCS outlines the basis on which the contributions have been determined and the estimated cost of providing the project or service. There is provision within the legislation for the phasing of payments and the payment of reduced or no contributions.

DEFINITIONS

Section 49(7) of the Planning and Development Acts 2000 - 2006 defines a public infrastructure project or service to mean:

- a) the provision of particular rail, light rail or other public transport infrastructure, including car parks and other ancillary development,
- b) the provision of particular new roads,
- c) the provision of particular new sewers, wastewater and water treatment facilities, drains or water mains and ancillary infrastructure.

THE PROJECTS

The Scheme covers two infrastructural projects - the Glenamuck District Distributor Road Scheme itself and the Surface Water Attenuation Ponds which are required to effect the SUDS scheme drainage for the new roads and for the development lands within the LAP area. The road project consists of the provision of a new district distributor road (DDR) and a new link distributor road (LDR). The DDR will be located to the north of the existing Glenamuck Road. It will function as a main collector / distributor route and connect the roundabout to the south of the Carrickmines interchange, with the Enniskerry Road to the north of Kiltiernan Village. The LDR will connect the DDR with the Ballycorus Road. The road layout is shown on Plan PL-08-293.

The Scheme also consists of the provision of surface water attenuation ponds necessary to affect the Sustainable Drainage Strategy (SUDS) for the area. The surface water attenuation ponds serve two purposes namely: to provide 100% primary attenuation and treatment of the surface water run off from the proposed roads; and to provide secondary/regional attenuation and treatment for the new development site areas. The primary attenuation and treatment will be provided on individual development sites. Four pond areas are to be provided identified as, G1, G2, G3 and B1 on Plan PL-08-293. Pond G1 is split into two smaller ponds G1a and G1b. Pond Area G3 also comprises two ponds, G3a and G3b. The total land take for the ponds (six in total) is 3.75 ha.

Development in the Kiltiernan / Glenamuck area cannot take place without the roads and ponds and so these are essential pieces of infrastructure that in the normal course of events would be provided by a developer(s) and included in a schedule of costs for a development. In undertaking to complete the infrastructure, the Council is underlining its commitment to the development of the Kiltiernan / Glenamuck area in accordance with the Local Area Plan and in so doing is bearing the costs that would otherwise be borne by a developer. In undertaking to provide the roads and ponds and to affect any necessary Compulsory Purchase of lands required for their construction, the Council is ensuring the required infrastructure is completed in tandem with development. This approach also avoids a situation where individual landowners could hold up the construction of the required infrastructure, as could be the case if it was constructed by the private sector. In this context, the Scheme is an incentive to development and is a proactive measure to assist investment.

LAND APPLICABLE TO THE SECTION 49 SUPPLEMENTARY SCHEME

The area to which the scheme applies is the area of the Kiltiernan / Glenamuck Local Area Plan 2007, and is outlined on Plan No PL - 08 - 293. In this area, planning permissions will be subject to development levies applicable under this Section 49 Scheme as well as those payable under the Section 48 Scheme. In addition, an area to the north of the LAP is also subject to the Luas Line B1 Section 49 Scheme.

The Glenamuck District Distributor Road Scheme is not a piece of infrastructure identified under the Section 48 Scheme. The applicable transportation projects identified under the Section 48 Scheme include:

- Road Improvement Schemes
- Traffic Calming Schemes
- Upgrading Traffic Signals
- Junction Improvements

- Controlled Signalised Crossing Schemes
- Road Maintenance
- Road Realignment and Reconstruction
- Cycle ways.

The existing Glenamuck Road Improvement is identified under the Road Maintenance programme and the current County Development Plan. This will complement the new DDR Scheme but is a separate infrastructure provision to that proposed and which has not been identified under the Section 48 road realignment and reconstruction programme of works.

Similarly, the Glenamuck/Kiltiernan Main Drainage and Watermain identified under the Section 48 Scheme is a separate piece of infrastructure to the Surface Water Attenuation Ponds specified in the subject Scheme.

BASIS FOR CALCULATION OF THE SCHEME

There are c.148 ha. of zoned land within the Kiltiernan / Glenamuck Local Area Plan 2007. These lands are zoned for the following purposes:

- Objective A: To protect and or improve residential amenity
- Objective E: To provide for Economic Development and Employment
- Objective NC: To protect, provide for and/or improve neighbourhood centre facilities
- Objective F: To preserve and provide for open space and recreational amenities
- Objective B: To protect and improve rural amenity and to provide for the development of agriculture.
- Objective G: To protect and improve High Amenity Areas.

The allocation of these uses across the 148 ha is provided in the Table 1 below:

Table 1: LAP Zonings

Zoning Category	Land Area (ha)
Objective A	95.84
Objective E	20.99
Objective NC	6.19
Objective F, B and G	24.55
Total	147.57

The cost of the project is estimated to be €143,126,392 (one hundred and forty three million, one hundred and twenty six thousand three hundred and ninety two euro). This includes the estimated land cost (17.54 hectare extent) of €116,600,000 (one hundred and sixteen million six hundred thousand euro) plus 10% valuer's, legal fees and other contingencies. It also includes the estimated construction cost of €22,366,392 (twenty two million three hundred and sixty six thousand, three hundred and ninety two euro), and the cost of the provision of bus rolling stock to facilitate the provision of a bus service along the Scheme. Dun Laoghaire Rathdown County Council is making a contribution of €10,000,000. A full breakdown of the costs is provided below.

Table 2: Cost of Scheme

Item	€
Construction Costs	22,366,392
Land cost, including fees of 10%	128,260,000
Bus Rolling Stock	2,500,000
Sub total	153,126,392
Less Council Contribution	(10,000,000)
Total Applicable Levy	143,126,392

LEVEL OF CONTRIBUTION

On the basis of the above and taking into consideration the development potential of lands in the area to which the scheme relates, the following levy applies which will facilitate the recovery of 100% of the cost of the road proposal.

Table 3: Levy Rates Required to Raise 100% of Cost

	Levy Base	Levy (€)	Revenue (€)
Residential	2,494 units (1)	€43,448 per unit	108,359,310
Commercial	163,830m ²	€200 per m	2 32,766,000
Retail	10,000m ²	€200 per m	2 2,000,000
Total			143,125,310

The development contribution levy rates are considered reasonable given the benefits the infrastructure will bring to the area. By reducing traffic on the existing road network and facilitating access to zoned lands, it will improve the area's attractiveness and marketability for both residential and commercial developments. By providing attenuation ponds, it will affect the proper implementation of a SuDS programme for the area.

(1) This is the mid-point of the estimated range of 2,277 - 2,715 residential units, including NC, that the Local Area

Plan would permit, and reduced by 10% for Social Housing.

Exemptions

The following categories of development shall be exempt from the requirement to pay contributions under this Section 49 Scheme:

1. Where the planning application relates to a development which in the opinion of the planning authority is to be carried out by or on behalf of a voluntary organisation and which in the opinion of the planning authority:
 - is designed or intended for social, recreational, educational (aside from private schools) or religious purposes by the inhabitants of a locality or by people of a particular group or religious denomination and is not to be used mainly for profit or gain

- is designed or intended to be used as a work-shop, training facility, hostel or other accommodation for persons with disabilities and is not to be used mainly for profit or gain or
 - is ancillary to development referred to above.
2. Social housing units, including those which are provided in accordance with an agreement made under Part V of the Act (as amended under the Planning and Development (Amendment) Act, 2002) or which are provided by a voluntary or co-operative housing body, which is recognised as such by the Council.
 3. House extensions and single replacement dwellings.
 4. Family flats where the occupant has a genuine need to reside in the dwelling and is part of the family of the main house.
 5. In the case of change of use where the intended use is likely to increase the demands on service, a contribution towards the cost of the services will be levied on the basis of 25% of the rate applied to new developments.
 6. Large scale recreational developments (e.g. golf courses, sports pitches, tennis complexes, etc), excluding buildings and ancillary facilities.
 7. Surface car parking provision in non-residential developments.
 8. Single residential developments where the applicant is native to the area and has close family ties with the area, unless the property is disposed of within seven (7) years, in which case the full levy becomes payable.

When making a case for an exemption from the requirement to pay levies under this scheme for applicants who are native to the area and have close family ties with the area, applicants will need to sign the attached statutory declaration that details:

- a) In respect of the period of 5 years preceding the application, such particulars of the legal and beneficial ownership of the land, on which it is proposed to carry out the development to which the application relates (as are within the applicant's knowledge or procurement).
- b) The identification of any person(s) with whom the applicant is acting in concert.
- c) Particulars of any interest that the applicant has, or had at any time during the said period, in any land in the immediate vicinity of the land on which it is proposed to carry out such development.
- d) Particulars of any interest that any person with whom the applicant is acting in concert has, or had at any time during the said period, in any land in the said immediate vicinity, of which the applicant has knowledge.

- e) Whether the applicant, or any person with whom the applicant is acting in concert, has been granted, within the period of 5 years prior to the date of the making of the application, and has been given an exemption from the requirement to pay levies under this scheme.

MANNER OF PAYMENT

The supplementary development contribution will be attached as a Condition of Planning Permission at the above rates. Such contributions will be attached to all planning permissions issued within the scheme area as defined above following the adoption of the scheme by the County Council. Levies on development, following the adoption of this scheme, cannot be subsequently appealed to An Bord Pleanála unless the Applicant considers that the levies have not been properly applied.

The planning authority will collect the levies. Any monies collected by the Council under the terms of the levy scheme will be retained by it and placed on investment with an investment company. Decisions relating to the investment of retained monies will be made by the Council with the objective of maximising returns with minimum risk.

In the event of the construction of the Glenamuck District Distributor Road Scheme and the Surface Water Attenuation Ponds not proceeding, contributions received on foot of the Scheme will be returned to the relevant parties, together with an appropriate element of interest.

The levy under this SDCS shall be payable at the commencement of development or in a phased manner to be agreed with the Planning Authority and at the rate pertaining to the particular year in which implementation of the planning permission is commenced.

DURATION OF THE SUPPLEMENTARY DEVELOPMENT CONTRIBUTION SCHEME

This SDCS shall take effect upon the formal adoption of this scheme by the Council of the County of Dun Laoghaire Rathdown. The duration of the SDCS shall be for a period of 25 years from that date unless and until some other period of time shall be substituted for that period by order of the Dun Laoghaire Rathdown County Council.

The level of contributions received will be monitored on a regular basis, and if the anticipated contribution generated by the Scheme is realised earlier than 25 years, then proposals for the early termination of the Scheme will be submitted to the elected members of Dun Laoghaire Rathdown County Council.

MONITORING AND REVIEW

This SDCS provides a level of contribution that shall be updated each year during the life of the scheme at an indexed rate of 5% per annum. The planning authority having regard to circumstances prevailing at that time may review the SDCS from time to time. Where it is proposed to reduce the level of contributions payable this may be attained by an amendment to the existing scheme when agreed upon by the Elected Members. Any increase in contributions will require the adoption of a new or amended scheme by the Council of the County of Dun Laoghaire Rathdown.

The Planning Authority shall provide Elected members with a progress report on the Section 49 SDCS every two years. The objective of this Progress Report would be to advise progress being made in the Scheme catchment area in relation to monies levied, monies collected, and progress of the development of associated infrastructural projects.

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STATUTORY DECLARATION

I, _____ of _____

_____, County Dublin,

aged _____ and upwards **SOLEMNLY AND SINCERELY DECLARE** as follows :

1. This Declaration relates to a site for a proposed new development at _____

(hereinafter called the 'Property')

2.

(a) In respect of the period of 5 years preceding the application, the land on which it is proposed to carry out the development to which the application relates, has been in my ownership for _____ years / since _____.

(b) I am not acting in concert with any person(s) in this application.

(c) I have no interest in any land in the immediate vicinity of the land on which it is proposed to carry out such development now, or at any time during the said period

(d) I am not acting in concert with any person now or at any time during the said period, in any land in the said immediate vicinity.

(e) I have not been granted, within the period of 5 years prior to the date of the making of the application, an exemption from the requirement to pay levies under this scheme.

3. I understand the effect and import of this declaration which has been fully explained to me by my Solicitor / the Commissioner for Oaths.

4. I make this solemn declaration conscientiously believing it to be true and pursuant to the provisions of the Statutory Declaration Act, 1938.

5. Further to the above declaration, I have provided sufficient documentary evidence ATTACHED that I am a native to the area and have close family ties with the area.

(Note : Where the property described above is disposed of within seven (7) years of the grant of permission, if applicable, the full supplementary development contribution levy becomes payable.)

DECLARED before me by _____ who is identified to me by
who is personally known to me by _____,

This _____ day of _____ 200 _____

COMMISSIONER FOR OATHS / PRACTISING SOLICITOR