

PLANNING AND DEVELOPMENT ACT, 2000

**SECTION 49 – SUPPLEMENTARY DEVELOPMENT
CONTRIBUTION SCHEME**

For

**EXTENSION OF LUAS LINE B1 – SANDYFORD TO
CHERRYWOOD**

**Adopted by the Dun Laoghaire Rathdown County Council
on 13 January 2003**

***(incorporating amendments to Clause 13(in bold italics) as
adopted by the County Council at it's meeting on 13th May, 2013 –
to be effective for all decisions from 14th May, 2013)***

PLANNING AND DEVELOPMENT ACT, 2000
SECTION 49 – SUPPLEMENTARY DEVELOPMENT CONTRIBUTION SCHEME

EXTENSION OF LUAS LINE B1 – SANDYFORD TO CHERRYWOOD

PREAMBLE :

1. Section 49 of the Planning and Development Act, 2000 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 hereafter referred to as a “Supplementary Development Contribution Scheme” (SDCS).

2. Subsection 1 of section 49 specifies that the project or service shall be specified in a 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 pursuant to an agreement with the Local Authority or may be carried out by any other person. In addition the project or service shall benefit the development to which the planning permission relates, when carried out.

3. The supplementary development contribution scheme shall determine the amount and the manner of payment of the contribution. The SDCS shall specify the area or areas within the functional area of the planning authority to which it relates and the particular public infrastructure project or service to which it relates. More than one SDCS may be made in respect of a particular area. The SDCS may provide for different contributions to be made in respect of different classes or descriptions of development.

4. The SDCS is required to state 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.

5. A planning authority may enter into an agreement with any person in relation to the carrying out or the provision of a public infrastructure project or service as may be appropriate. Such an agreement may make provision for any or all of the following:

(a) The manner in which the service or project is to be provided or carried out including provision and maintenance of any infrastructure and operation of any service or facility.

(b) Arrangements regarding financing of the project or service and the manner in which contributions paid or owed to the planning authority pursuant to a planning condition relating to an SDCS may be applied in respect of that project or service.

(c) Entry into such further agreements as may be necessary with any other person regarding the financing and provision of such service or carrying out such service.

(d) The entry into force, duration and monitoring of the agreement; including the resolution of disputes.

6. Amendments can be brought to the level of contribution if the actual cost of provision of the project is less than estimated. The making of such an amendment to the scheme is a reserved function of the Planning Authority.

DEFINITIONS

7. Section 49(7) of the Planning and Development Act, 2000 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, waste water and water treatment facilities, drains or water mains and ancillary infrastructure.

SUPPLEMENTARY DEVELOPMENT CONTRIBUTION SCHEME IN RESPECT OF A PARTICULAR LIGHT RAIL INFRASTRUCTURE, INCLUDING CAR PARKS AND OTHER ANCILLARY DEVELOPMENT

THE PROJECT

8. The particular light rail project is the extension of the LUAS LINE B from the Sandyford Luas Depot (under construction) to Cherrywood. This light rail project will consist of a light railway works some seven kilometres in length and which is defined in the Alignment Map (Drawing No PL – 02 – 084). Line B1 will run from the Line B LRT depot at Sandyford Industrial Estate, with stops at Central Park, Glencairn, The Gallops, Leopardstown Valley, Ballyogan Wood, Racecourse, Carrickmines, Laughanstown and the terminal stop at Cherrywood.

9. The estimated capital cost is €264 million. This figure includes the provision of property for the line, works, track/infrastructure, the diversion of utilities, structures (bridges), the alterations to a depot and the provision of rolling stock. It is inclusive of VAT.

AREA TO WHICH THIS SCHEME SHALL APPLY

10. The scheme shall apply within an area of 1,992 hectares, which is a catchment area approximately one kilometre on either side of the proposed LUAS BI line. The extent of the area represents a reasonable walking distance to stops along the proposed line. The area is identified on the Scheme Map (Drawing No. PL-02-084) attached to this document. Some 530 hectares of land situated within this catchment area is potentially available for development.

11. There are a number of areas that will benefit directly from the scheme. These areas are located within the catchment and are subject of different land use zoning objectives in the *Dun Laoghaire – Rathdown County Development Plan 1998*. The main areas within the catchment are listed below with the land uses likely to be developed in each area in brackets.

- Sandyford Industrial Estate (offices • office based industry)
- Stepside (residential)
- Carrickmines/Glenamuck (residential • office based industry/retail park)
- Cherrywood (science/technology • office industry, residential, retail).

Each of these areas can be developed in a sustainable manner to a high density in accordance with sustainable development principles, Residential Density Guidelines and County Development Plan policies. Residential densities at an average of 50 units per hectare are attainable. Average commercial plot ratios of 1:1.4 are also attainable.

The SDCS shall apply to all planning permissions granted for development within this area as and from the date of adoption of this scheme by the Planning Authority.

12. In addition to the primary catchment area which is defined by an approximate one kilometre distance from the LRT line and which constitutes a reasonable walking distance to stops along the proposed line, and to which this supplementary development contribution scheme will apply, the project will provide additional service and associated resulting public and private benefit to the entire administrative area of the County by reason of the fact that it will be possible to access the LRT stops via the public road system and there will be connecting bus services with the LRT line serving the wider catchment area of the County of Dun Laoghaire – Rathdown. It is also envisaged that the LRT Line B1 will be fully integrated with bus based public transport services and thereby also with The Dublin Area Rapid Transit DART rail network. However, and in accordance with the provisions of Section 48(3)(c) of the Act, any benefit which accrues to existing development shall not be included in the determination of any contribution pursuant to the supplementary development contribution scheme.

LEVEL OF CONTRIBUTION

13. The following developments will be exempt from the supplementary development contribution levy: house extensions; a granny flat where it is a condition that it be used as a family unit; public utilities i.e. schools, community centres, youth centres etc; organisations which have been granted exemptions from Income tax/Corporation Tax under the provisions of section 20 of the Taxes Consolidation Act 1997 and are currently in receipt of an exemption certificate ***including registered charities provided that the development is for the purposes of use by the body or charity for it's main purposes***. Large-scale recreational developments (e.g. golf courses, sports pitches, tennis complexes, etc.), excluding buildings and ancillary facilities, shall also be exempt from the supplementary development contribution levy.

- ***only net additional development (in hectares) in the case of commercial redevelopment projects will be levied,***
- ***change of use from commercial to an alternative commercial use will be exempt,***
- ***change of use from commercial to residential and from residential to commercial will be exempt where the change of use does not lead to significant intensification of demand for the Luas service,***

- **temporary Luas 'park and ride' facilities will be exempt,**
- **replacement dwellings will be levied at 20% of the charge for 'one off' housing,**
- **the following reduced rates will apply for temporary permissions:**
 - **33% of normal rate for permissions of up to 3 years**
 - **50% of normal rate for permissions of up to 5 years and**
 - **66% of normal rate for permissions of up to 10 years**
- **renovations to existing buildings to restore/refurbish structures deemed to be 'Protected Structures' in the County Development Plan, where the Council is satisfied that the works substantially contribute to the conservation or restoration of the structure, will be exempt,**
- **broadband infrastructure, sub-station switch rooms and ancillary plant rooms will be exempt,**
- **renewable energy developments with a capacity up to 0.5MW will be exempt. Larger capacity developments will be charged at €1,000 per each 0.1MW above an installed capacity of 0.5MW,**
- **'one off' housing will be assessed on the area of the curtilage of the premises as determined by the Planning Authority.**

The following levels of supplementary development levies are proposed

Residential : A contribution rate of €250,000 per gross site hectare.
 Commercial : A contribution rate of €570,000 per gross site hectare.

14. The development contribution levy rates are considered reasonable given the benefits the LUAS B1 extension will bring to the area defined area in paragraph 10. LRT Line B1 will improve the area's attractiveness and marketability for both residential and commercial developments and will result in significant added value to property and land.

MANNER OF PAYMENT

15. 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 at paragraph 10, following the adoption of the scheme by the 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.

16. The Planning Authority will collect the levies and transfer the monies collected, within one month after receipt of payment, to the Rail Procurement Agency who will construct the rail line.

17. Pending completion of a legal agreement between Dun Laoghaire Rathdown County Council and the Rail Procurement Agency 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.

18. Following completion of all the necessary legal documentation between Dun Laoghaire Rathdown County Council and the Rail Procurement Agency and subject to the Council's Law Agent confirming such documentation to be in order, all monies collected by the planning authority to that date, together with accumulated interest, will be transferred to the Railway Procurement Agency. Thereafter levies collected will be transferred to the RPA within one month after receipt of payment.

In the event of the construction of the LUAS Line B1 not proceeding, contributions received on foot of the Scheme will be returned to the relevant parties, together with an appropriate element of interest. In this regard all monies collected will be retained by the Planning Authority pending commencement of the Scheme.

19. The levy under this supplementary development contribution scheme 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. The detail of the payment mechanism will be as set out in the legal agreement between Dun Laoghaire Rathdown County Council and the Railway procurement Agency.

DURATION OF THE SUPPLEMENTARY DEVELOPMENT CONTRIBUTION SCHEME

20. This supplementary development contribution scheme 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 in this regard will be submitted to the elected members of Dun Laoghaire Rathdown County Council.

MONITORING AND REVIEW

21. This supplementary development contribution scheme provides a level of contribution that shall be updated each year during the life of the scheme at a fixed compound interest rate of 5% per annum. The supplementary development contribution scheme may be reviewed from time to time by the Planning Authority having regard to circumstances prevailing at that 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.

22. Procedures will be agreed between Dun Laoghaire Rathdown County Council and the Rail Procurement Agency to allow for the settlement of any disagreements, which may arise, relating to the collection and transfer of levies collected. This may be either by means of Arbitration or Mediation as set out in the procedure. Procedures will also be agreed providing for the auditing of levies received under the scheme.