



An
Bord
Pleanála

Inspector's Report

ABP-321224-24

Development

Light industrial development, in a single block, consisting of 6 units at upper level and undercroft car parking, incorporating groundskeeper's store, at lower level, together with all associated infrastructure and site works. Permission of ten years duration.

Location

Railway Business Park, Corballis
Lower, Rathdrum, County Wicklow.

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

2460275

Applicant(s)

Laurence Pierce (Property) Ltd

Type of Application

Permission.

Planning Authority Decision

Grant

Type of Appeal

First-Party (Against S. 48 Condition)

Appellant(s)

Laurence Pierce (Property) Ltd

Observer(s)

None.

Date of Site Inspection

N/A

Inspector

Catherine Hanly

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1.0 Introduction

- 1.1. A First-Party appeal has been lodged in this instance, in relation to condition no. 3 only. Condition no. 3 imposes a Development Contribution in accordance with the provisions of Section 48 of the Planning and Development Act 2000 (as amended).
- 1.2. The proposed development was deemed by the Planning Authority to be in accordance with the relevant Development Plan policy and was considered to be acceptable.
- 1.3. The appeal, therefore, is confined to the matters concerning condition no. 3 only, which the Applicant has appealed, and which, in this case, can be treated under Section 48(10)(b) of the Planning and Development Act, 2000 (as amended). As such, the decision of the Planning Authority stands, and the applicant is entitled to carry out development while their appeal is with An Bord Pleanála. Therefore the Board cannot consider the merits or otherwise of the development itself. Given the nature of the First-Party appeal, I consider that an inspection of the subject site is not warranted in this instance.

2.0 Site Location and Description

- 2.1. The site is located in the Rathdrum Railway Business Park. The Rathdrum Railway Business Park is located to the east of Rathdrum town centre.
- 2.2. The northern boundary of the site consists of a pedestrian right of way leading to the Avonmore River. To the north of the pedestrian the right of way there is a wastewater treatment plant. Forestry and the Avonmore River are located to the east and south of the site.
- 2.3. The site measures 1.3 ha. The levels fall across the site from the north-western corner to the south by approximately 6.4 m and to the east by approximately 21.5 m. The site is in use as agricultural grazing ground and currently contains 2 no. septic tanks along the western boundary of the site.

3.0 Proposed Development

3.1. The proposed development comprises the following:

- Light industrial development of 1,870.58 sq. m (GFA) in a single block consisting of 6 units at upper level and undercroft car parking incorporating Groundskeeper's store of 1,152 sq. m (GFA) at lower level.
- Together with all associated infrastructure and site works including decommissioning of existing septic tanks and new connection to serve existing and proposed units to adjacent UE/ IW wastewater treatment plant.
- The application is for a permission of ten years duration.

4.0 Planning Authority Decision

4.1. Decision

4.1.1. A Notification of Decision to Grant Permission was issued on 16/10/2024, subject to 12 no. conditions.

4.1.2. The relevant condition in relation to this appeal is Condition no. 3 which states the following:

"Before development commences, the developer shall pay the sum of €142,708 (one hundred and forty two thousand, seven hundred and eight euro) to the Planning Authority as a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.

The contribution sought is in accordance with Wicklow County Council's Development Contribution Scheme for the area in which the site is located and Section 48(1) of the Planning and Development Act 2000.

Where the contribution remains unpaid the monies payable shall be updated in accordance with the Wholesale Price Index as published by the Central Statistics Office on the 1st January of each year following the date of the Final Grant.

REASON: The public infrastructure and facilities included in the Development Contribution Scheme will facilitate the development and it is considered reasonable that the developer should contribute towards the cost thereof."

4.2. Planning Authority Reports

4.2.1. Planning Report

- The development contribution was calculated as follows “*light industrial development of 3036.35 m² @ €47 per m² = €142,708.45.*”

5.0 Planning History

5.1. Planning history for the site:

- **Ref. 2360402.** Application for a warehouse development containing 12 no. units. **Withdrawn.**

6.0 Policy Context

6.1. Wicklow County Council Development Contribution Scheme 2015

6.1.1. The Wicklow County Council Development Contribution Scheme (*WCC Contribution Scheme*) was adopted on the 5th October 2015 and updated on the 16th February 2021.

6.1.2. Table 3.1 is as follows:

Class of public infrastructure and facilities	Description
Class 1	Roads and Transportation
Class 2	Stormwater Drainage
Class 3	Community and Recreational Amenity

6.1.3. Table 4.3 from the *WCC Contribution Scheme* sets out the development contributions for industrial/ commercial development:

Industrial/ Commercial Development				
Development Type	Class 1 (Roads and Transportation*) €/m ²	Class 2 (Stormwater Drainage*) €/m ²	Class 3 (Community and Recreational*) €/m ²	Total €/m ²
Commercial e.g. Retail, Retail Warehousing, Office etc.	35	4	9	48
Industrial e.g. Manufacturing, Warehousing, etc.	35	3.5	8.5	47

* This text has been added to table 4.3 to clarify the meaning of the classes.

- 6.1.8. Section 2.4 states that *“the Planning Authority when granting a permission under s.34 of the Planning and Development Act 2000, as amended, will include conditions requiring the payment of contributions in respect of public infrastructure and facilities benefiting development in its functional area in line with the terms of the Scheme.”*
- 6.1.9. Section 4.2 states that floor areas will be based on gross floor areas.
- 6.1.10. Section 5.1 outlines that section 48 (3)(c) of the Planning and Development Act 2000, as amended, allows for a reduction in contributions or no contributions in certain circumstances under the terms of the scheme.
- 6.1.11. Table 5.1 sets out the types of development which are exempt from development contributions.
- 6.1.12. Appendix 1 contains a list of projects for the various classes of public infrastructure which the contributions may fund.

6.2. Planning and Development Regulations, 2001, (as amended)

- 6.2.1. Part 1 (3)(3) states that “gross floor space” means “*the area ascertained by the internal measurement of the floor space on each floor of a building (including internal walls and partitions), disregarding any floor space provided for the parking of vehicles by persons occupying or using the building or buildings where such floor space is incidental to the primary purpose of the building;*”.

6.3. Relevant Guidelines

- 6.3.1. *Development Contributions, Guidelines for Planning Authorities* (2013) sets out government policy for Planning Authorities for preparing and adopting development contribution schemes.
- 6.3.2. *Development Management Guidelines for Planning Authorities* (June 2007), deals with development contribution conditions in sections 7.12 and 8.12.

6.4. EIA and AA Screening

- 6.4.1. As this First-Party appeal relates to a financial contribution condition only, the decision of the Planning Authority stands. The applicant is entitled to carry out development while their appeal is with An Bord Pleanála. As such, EIA Screening and AA Screening are outside the remit of the Board.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. A First-Party appeal has been lodged in this instance, in relation to the application of Condition no. 3 in the Notification of Decision to Grant Permission by Wicklow County Council. The grounds of appeal can be summarised as follows:

Financial Contribution – Condition no. 3

- The contribution levy has been unjustly applied as the ancillary undercroft car park, bicycles store, bin store and ESB substation have been unfairly included.

- A sum has been included for storm water drainage notwithstanding the fact that there is no public storm water sewer in the area nor is there ever likely to be one.
- The development contribution should be calculated on the gross floor area of the commercial use of 1,870.58 sq. m. The ancillary spaces should not be included in the calculation. The calculation should exclude class 2 contribution – public surface water sewer at €3.50 per sq. m.
- The schedule of floor areas is as follows:
 - Light industrial - 1,870.58 gross floor area
 - Ancillary undercroft car park – 1,152 gross floor area including groundskeeper’s store of 115.2 sq. m.
 - Bicycles store – 8.18 sq. m.
 - Bins store – 32.59 sq. m.
 - ESB substation – 3.24 sq. m.
- The undercroft car park is predominately enclosed to prevent artificial light spread to the river/ flora and fauna.
- The financial contribution should be $1,871 \times €43.5 = €81,388.50$

Development Contributions - Guidelines for Planning Authorities (2013)

- The Guidelines contains the following extract:

“Local Authorities ... need to achieve the right balance between funding necessary infrastructure through planning gain and supporting/ promoting economic activity and job creation by reducing costs to business.”

Wicklow County Council's Calculation

- Wicklow County Council calculated the development contribution as follows:

	Class 1	Class 2	Class 3	Total	
	35	3.5	8.5	€47	
Light Industrial Development 3036.35 sq. m.					€142,708.45

Extracts

- An extract has been included from the *WCC Contribution Scheme*, which identifies that class 1 is roads and transportation infrastructure, class 2 is stormwater drainage infrastructure and class 3 is community and recreational amenity infrastructure.
- An extract from the *WCC Contribution Scheme*, identifying table 4.3 has been included which sets out the rates for industrial/ commercial development.
- An extract has been included from the *Development Contribution Guidelines 2013* which discusses finding a balance between funding infrastructure and promoting economic activity.
- Extracts have been included from Dun Laoghaire Rathdown, South Dublin, Fingal, Wexford, Carlow and Offaly Development Contribution Schemes which identify the exemption of ancillary car parking from development contributions.

Nature of the Applicant

- A letter has been included from Sheep Wool Insulation outlining how they collect wool fleeces from 30 agents around Ireland and pack them for export. The company employs 20 permanent staff.

7.2. Planning Authority Response

7.2.1. The Planning Authority have submitted a response which states the following:

- The calculation was based on the gross floor area provided in the application form.
- The Planning Authority considers that it would be acceptable to revise the gross floor area to exclude the ancillary area under croft car park and bicycles store. All other floor areas should be included to accord with the Development Contribution Scheme.
- Class 2 contributions do not facilitate public sewers as shown by page 15 of the Development Contribution Scheme. In relation to the proposed development, surface water is disposed from the site, which could ultimately discharge to various watercourses, which may need upgrading. As such, the class 2 element of the contribution is warranted.

7.3. Applicant's Response

7.3.1. The applicant responded to Wicklow County Council's response and stated the following:

- The Council's decision to revise the contribution to exclude the ancillary under croft car park and bicycle store is welcomed.
- However, all ancillary spaces should be excluded, including the bin store and ESB sub-station room.
- The surface water contribution should be excluded as the development would result in a reduction of the load on the river through the construction of swales.

7.4. Observations

7.4.1. None.

8.0 Assessment

8.1. Having examined the application details and all other documentation on file, including the appeal, and having regard to the relevant local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Gross Floor Area
- Stormwater Drainage Contribution

8.2. Gross Floor Area

- 8.2.1. I note the concerns raised by the First-Party that the undercroft parking area, bicycle parking, substation and bin store have been incorrectly included in the development contribution levy. The First-Party outlines that the undercroft parking area is predominantly enclosed in order to prevent artificial light spread to the river/ flora and fauna.
- 8.2.2. Table 5.1 of the *WCC Contribution Scheme* sets out the types of development which are exempt from development contributions. I note that there are no exemptions listed which are applicable to the proposed development. The First-Party has submitted extracts from the other contribution schemes in other Local Authorities which identify that ancillary carparking is often excluded from the gross floor area when calculating development contributions.
- 8.2.3. The Planning Authority have stated in their response to the First-Party appeal that the undercroft car park and bike store should be excluded from the gross floor area for the calculation of the development contribution.
- 8.2.4. I note Section 5.1 in the *WCC Contribution Scheme* outlines that section 48 (3)(c) of the Planning and Development Act 2000, as amended, allows for a reduction in contributions or no contributions in certain circumstances under the terms of the scheme.

- 8.2.5. Having regard to the response from Wicklow County Council, and noting the reason for enclosing the parking area, I consider that the exclusion of the undercroft car park and bike store from the gross floor area which is subject to the development contribution is appropriate.
- 8.2.6. I note the undercroft car park and bicycle store measure 1,152 sq. m and 8.18 sq. m respectively. I therefore recommend that these areas are excluded from the overall area subject to development contributions.
- 8.2.7. With regards to the bin store and substation, the First-Party has stated that the ancillary spaces which include the areas of the bin stores and substation have been incorrectly included in the development contribution levy. I note the response from the Planning Authority which states that with the exception of the undercroft car park and bicycle store, all other areas should be included.
- 8.2.8. I have reviewed the *WCC Contribution Scheme* and note that there are no exemptions for ancillary structures such as substations and bin stores. I note section 4.2 of the *WCC Contribution Scheme* states that floor areas will be based on gross floor areas. However, a substation is plant and therefore not suitable gross floor area.
- 8.2.9. I note Part 1(3)(3) from the Planning and Development Regulations, 2001, as amended, describes gross floor space as the internal area of the floor space on each floor of a building. Having regard to the size, design and use of the substation, I do not consider that it constitutes a building and therefore should not be included in the overall area subject to development contributions. Having regard to the materials proposed to construct the bin store which consist of cedar sheeting and a timber roof, I also consider that the bin store is incidental to the development and should not be included in the overall area subject to development contributions.

8.3. Stormwater Drainage Contribution

- 8.3.1. I note section 2.4 of the *WCC Contribution Scheme* states that *“the Planning Authority when granting a permission under s.34 of the Planning and Development Act 2000, as amended, will include conditions requiring the payment of contributions in respect of public infrastructure and facilities benefiting development in its functional area in line with the terms of the Scheme.”*

- 8.3.2. I also note Table 3.1 in the *WCC Contribution Scheme* which sets out the classes of public infrastructure and facilities in respect of which contributions will be sought. I further note that Appendix 1 includes the list of projects for the various classes of public infrastructure and facilities.
- 8.3.3. The First-Party states that a class 2 contribution for stormwater drainage should be excluded from the development contribution. I note the justification presented by the First-Party which states that the development will discharge to swales on site and will reduce the load on the river which is currently discharged from the open field. I am also aware of the Planning Authority's reasoning for the inclusion of the contribution, in that the surface water could ultimately discharge to watercourses, which may need upgrading.
- 8.3.4. I note page 15 of the *WCC Contribution Scheme* identifies that Class 2 contributions are for "*public infrastructure and facilities stormwater drainage*". The *WCC Contribution Scheme* further states that this includes "*upgrading of existing watercourses*".
- 8.3.5. As the proposed surface water drainage scheme includes swales and noting the positioning of the site adjacent to the Avonmore River, I agree with the Planning Authority that the surface water could ultimately discharge to watercourses which may need upgrading. Furthermore, as set out in section 2.4 of the *WCC Contribution Scheme*, the payment of contributions is for public infrastructure and facilities benefiting development in its functional area. Therefore, development contributions are applicable under classes 1, 2 and 3 regardless of the development's impact. As such, I consider that the inclusion of a class 2 contribution at the rate of €3.50 per sq. m is acceptable.

Conclusion

- 8.3.6. To conclude, I am satisfied that the following areas should be included in the development contribution:

Element of Development	Floor Area
Light Industrial	1,870.58 sq. m.
Total	1,870.58 sq. m.

8.3.7. Furthermore, I consider that contributions towards class 1 (roads and transportation), class 2 (stormwater drainage) and class 3 (community and recreational amenity) are applicable in this instance. In accordance with the rates for industrial development set out in table 4.3 of the *WCC Contribution Scheme*, I therefore consider that the development contribution fee is calculated at a rate of €47 per sq. m. As such, I am satisfied that development contributions amounting to €87,917.26 should be applied (1,870.58 sq. m. x €47 = €87,917.26).

9.0 Recommendation

9.1. I recommend that condition no. 3 of the Planning Authority's decision be amended to read as follows:

3. Before development commences, the developer shall pay the sum of €87,917.26 (eighty seven thousand, nine hundred and seventeen euro and twenty six cent) to the Planning Authority as a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.

The contribution sought is in accordance with Wicklow County Council's Development Contribution Scheme for the area in which the site is located and Section 48(1) of the Planning and Development Act 2000.

Where the contribution remains unpaid the monies payable shall be updated in accordance with the Wholesale Price Index as published by the Central Statistics Office on the 1st January of each year following the date of the Final Grant.

REASON: The public infrastructure and facilities included in the Development Contribution Scheme will facilitate the development and it is considered reasonable that the developer should contribute towards the cost thereof.

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.

Catherine Hanly

Planning Inspector

18th February 2025