



An  
Bord  
Pleanála

## Inspector's Report 11.247390

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<b>Development</b>	Upgrading of Water Treatment Plant including refurbishment of existing building and construction of new buildings and roof over reservoir – together with ancillary works.
<b>Location</b>	Bunastick and Clonaslee, Co. Laois
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority Reg. Ref.</b>	16/220
<b>Applicant(s)</b>	Irish Water
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	First Party v Financial Contribution
<b>Appellant(s)</b>	Irish Water
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	No site inspection carried out
<b>Inspector</b>	Michael Dillon

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.87ha, is located within the village of Clonaslee in Co. Laois – some 14km due south of Tullamore in Co. Offaly. The village sits in the northern foothills of the Slieve Bloom Mountains. The Clodiagh River forms the western boundary of the site. The eastern boundary of the site is formed by the L6004 local road, from which there is one main vehicular entrance and two subsidiary vehicular entrances (all recessed) to the site.
- 1.2. The site is owned by Offaly County Council, but occupied by Irish Water. Although located in Co. Laois, it comprises one of the two water supplies to Tullamore, Co. Offaly. Water is abstracted from the Clodiagh and Gorragh Rivers and from a total of five boreholes in and around Clonaslee for treatment at this plant.

## 2.0 Proposed Development

- 2.1. Permission sought on 12<sup>th</sup> May 2016 for upgrade works at an existing Water treatment plant (WTP) as follows-
  - Refurbishment of existing two-storey WTP building (392m<sup>2</sup>).
  - New extension to WTP building (45m<sup>2</sup>).
  - New WTP process building (490m<sup>2</sup>).
  - Removal of existing roofs and construction of new portal frame roofs to existing reservoir structures.
  - New Sludge Treatment building (200m<sup>2</sup>).
  - Demolition of existing pump-house.
  - New pump-house and sub-station building (48m<sup>2</sup>).
  - Demolition of existing water tanks.
  - New water tanks and storage structures.
  - Underground watermains & service connections and ancillary works.
- 2.2. Following a request for additional information, details of flood risk assessment were submitted on 31<sup>st</sup> August 2017.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By Order dated 14<sup>th</sup> September 2016, Laois Co. Council issued a Notification of decision to grant planning permission subject to 17 no. conditions. Condition 17 required payment of a development contribution of €28,188 towards Roads & Amenities in the area.

## **4.0 Planning History**

No recent relevant planning history.

## **5.0 Policy Context**

### **5.1. Development Plan**

The relevant document is the Laois County Development Plan 2011-2017.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The appeal from Jennings O'Donovan Consulting Engineers, agent on behalf of the applicant, Irish Water, received by the Board on 10<sup>th</sup> October 2016, can be summarised in bullet point format as follows-

- This appeal is against condition 17 only.
- Irish Water was established by the Government on 1<sup>st</sup> January 2014.
- This financial contribution is seeking to levy one arm of the State, which has a role in providing public infrastructure relating to water, to provide funds for another arm of the State to provide other infrastructure (roads and amenities).
- The amount of the contribution was determined using the total floor area (783m<sup>2</sup>) @ €36/m<sup>2</sup>.

- The applicant considers that the contribution should only apply to administrative floor area – of which there is 59.1m<sup>2</sup> in the complex. This would result in the requirement to pay 59.1m<sup>2</sup> x €36 = €2,127.60.

## 6.2. Planning Authority Response

The response of Laois County Council, received by the Board on 9<sup>th</sup> November 2016, can be summarised as follows. The proposed development does not come under the category of any exemption listed at section 6.5 of the Development Contribution Scheme.

## 7.0 Assessment

- 7.1. This is a First Party Appeal against the imposition of a condition requiring payment of a development contribution/improper application of the terms of the Laois County Council Development Contribution Scheme 2013-2017. Section 48(10)(b) of the Planning and Development Act 2000, provides that appeals may be brought to the Board where an applicant for planning permission considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.
- 7.2. The current scheme does not specifically refer to works carried out by statutory undertakers or bodies such as Irish Water carrying out development in relation to national infrastructure. The Scheme does allow for an exemption for Local Authority Development carried out under Section 179 of the Act. I would agree with the applicant in relation to the incongruity of one emanation of the State (which provides public infrastructure), paying a levy on development to another emanation of the State (which provides another type of public infrastructure). The proposed upgrade of the WTP is for the purposes of providing a better quality of potable water to the town of Tullamore, Co. Offaly. However, as the scheme does not make any provision for exemption from payment for bodies such as Irish Water, that the developer be required to pay a development contribution in accordance with the terms of the scheme.
- 7.3. The applicant does not argue that condition 17 should be omitted, but rather that the Council did not take into consideration the fact that the proposal involves demolition

and replacement of certain structures within the site. The appeal goes on to argue that only those portions of buildings used for administrative purposes should be levied – arriving at the calculation that only 59.1m<sup>2</sup> should be levied rather than 783m<sup>2</sup>. It is not clear from whence this distinction between administrative floor area and industrial/process floor area arises – there is no mention of such distinction in the Development Contribution Scheme for Laois. Certainly, an area which could be classified as ‘office’ use would be readily identifiable as ‘commercial’, and the Scheme does refer to ‘commercial/industrial development’ – with a relevant rate of €36 per m<sup>2</sup>. I would consider that the activity carried out at this site is in the nature of an industrial use – involving the use of tanks, equipment/plant and chemicals.

7.4. I would consider that the exemption for ‘Demolition and Rebuild’, as provided for in the current Development Contribution Scheme for Laois would come into play in this instance. Section 6.5 of the Scheme in relation to exemptions states- “Where an applicant is granted permission to demolish in part or in full an existing building and replace [sic] with another, then the development contribution payable will be net of the quantum of development previously paid for. Where the former use is fully authorized [sic] and any levies that might have applied to that use have been paid, credit will be given for the previous use”. In the instance of the buildings and structures on this site, it is likely that they pre-date the coming into effect of the requirement to pay development contributions or levies – so no development contribution would have been paid in the instance of this WTP. Notwithstanding this, I would consider that the exemption could still be considered to be of relevance. In relation to calculation of floor area the following should be noted-

- The replacement of the roof on the reservoir will not result in the creation of new floorspace.
- New external holding tanks do not constitute floorspace.
- Demolition of sludge handling building proposed – approximately 30m<sup>2</sup>.
- Demolition of pumping station building proposed – approximately 12m<sup>2</sup>.
- New pumping station and sub-station building proposed – 38m<sup>2</sup>.
- Extension to existing WTP building proposed – 41m<sup>2</sup>.
- New Process Building proposed – 447m<sup>2</sup>.

- New Sludge Treatment Building proposed – 173m<sup>2</sup>.

The total floor area of buildings for demolition, I calculate to be approximately 42m<sup>2</sup>.

The total floor area of new buildings, I calculate to be approximately 699m<sup>2</sup>.

Subtracting 42m<sup>2</sup> from 699m<sup>2</sup>, results in 657m<sup>2</sup> of new floor area. At the rate of €36 per m<sup>2</sup>, this would amount to 657m<sup>2</sup> x €36 = €23,652.

## 8.0 Recommendation

I recommend that condition 17 be attached, but that the amount of contribution charged be reduced to reflect the fact that buildings are to be demolished.

## 9.0 Reasons and Considerations

It is considered that the planning authority properly applied the terms of the Laois County Council Development Contribution Scheme 2013-2017, which does not provide for any exemptions or reductions in relation to development by Irish Water; but that the calculation of the financial contribution by the planning authority, based on the stated floor area of the new water treatment plant building, did not take account of floor area of buildings to be demolished, as provided for under the heading 'Demolition and Rebuild' within section 6.5 of the Scheme. It is estimated at 42m<sup>2</sup> of buildings are to be demolished, and that 699m<sup>2</sup> of new buildings are proposed for construction. On the basis of these calculations, a development contribution is payable on 699m<sup>2</sup> (minus) 42m<sup>2</sup> = 657m<sup>2</sup>. At the rate of €36 per m<sup>2</sup>, it is calculated that the amount of contribution required by Condition 17 should be 657m<sup>2</sup> x €36 = €23,652. Condition 17 of permission ref. 16/220 should be accordingly amended to reflect this reduction in the amount of development contribution to be paid to Laois County Council.

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Michael Dillon,  
Planning Inspector.

9<sup>th</sup> January 2017.