



An  
Bord  
Pleanála

## Inspector's Report PL29N.248549

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<b>Development</b>	Erect single-storey double height warehouse extension building to rear of existing premises together with 15 additional car parking spaces.
<b>Location</b>	Davies Heating and Plumbing Supplies, 150 Harmonstown Road.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	2371/17.
<b>Applicant</b>	Davies Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	First Party -v- Financial Contribution
<b>Appellant</b>	Davies Limited.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	Not Inspected.
<b>Inspector</b>	Paul Caprani.

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## 1.0 Introduction

PL29N.248549 relates to a first party appeal against a financial contribution condition attached by Dublin City Council in respect of granting planning permission for the erection of a single-storey double height warehouse extension within an existing retail warehouse-type premises at Harmonstown, north-east of Dublin City Centre. The grounds of appeal argue that the financial contribution condition (Condition No. 2) has been incorrectly applied in this instance.

## 2.0 Site Location and Description

- 2.1. The appeal site is located on the southern side of Harmonstown Road near Harmonstown train station approximately 7 kilometres north-east of the city centre. The southern boundary of the site backs onto the Dublin to Howth suburban rail line while access to the site is taken off the Harmonstown Road which runs along the northern boundary of the site. The site currently accommodates Davies Limited, a large plumbing, heating and bathroom retail enterprise. It accommodates a large warehouse and existing trade counter area as well as administrative areas and an open storage area. Surface car parking is also accommodated on site. As the application relates to a financial contribution condition a site inspection was not carried out for the purposes of the current appeal.

## 3.0 Proposed Development

- 3.1. Planning permission is sought for an extension to the existing warehouse. The extension is to be attached to the existing warehouse and is to run along the rear boundary of the site adjacent to the adjoining railway line. The extension is rectangular in shape and incorporates a total length of 60.763 metres and a width of 14.9 metres. The gross floor area of the extension according to amounts to 840 square metres. Two separate roller shutters on the northern and western elevation are to provide access to the proposed warehouse extension. The extension is to link up with the existing warehouse at the south-western corner of the building.

## 4.0 Planning Authority Decision

Dublin City Council granted planning permission for the proposed development on 25<sup>th</sup> day of April, 2017. Condition No. 2 of the grant of permission stated the following:

2. *The developer shall pay the sum of €58,850.40 to the Planning Authority as a contribution towards expenditure that was and/or is proposed to be incurred by the Planning Authority in respect of public infrastructure and facilities benefitting the development in the administrative area of the Authority as provided for in the approved Section 48 (Planning and Development Act) as amended contribution scheme for Dublin City Council.*

*The amount due is payable on the commencement of the development. Phased payment of the contribution will be considered only with the agreement of Dublin City Council Planning Department. The applicants are advised that any phasing agreement must be finalised and signed prior to the commencement of development.*

**Reason:** *It is considered reasonable that the payment of the development contribution should be made in respect of public infrastructure and facilities benefitting the development in the administrative area of the Local Authority.*

## 5.0 Planning History

- 5.1. Details of the planning history are set out in the planner's report.
- 5.2. Under three separate applications lodged in 2003, 2004 and 2005 planning permission was granted for the erection of signage (Reg. Ref. 5426/03), An extension to the existing showrooms including construction of glazing and entrance canopy (Reg. Ref. 2872/04) and single-storey extension to the existing trade counter at the existing warehouse (Reg. Ref. 2596/05).
- 5.3. The Board may also wish to note that there is a concurrent application under Reg. Ref. 2370/17 for a conversion and extension to the existing two-storey ancillary office/storage building on site to create a staff and trainee visitor canteen at ground floor level and training facilities overhead.

## 6.0 Grounds of Appeal

- 6.1. The grounds of appeal specifically relate to Condition No. 2.
- 6.2. It is argued that the Planning Authority in this instance has imposed an excessive and unreasonable and unjustified financial contribution on the development. The contribution would not directly or indirectly benefit the proposed development and is therefore considered to be excessive. The financial contribution has not taken into account the existing site services installed at the site such as attenuation tanks. Furthermore no new infrastructural services are required whatsoever to facilitate the proposal. It is also argued that the proposal is excessive in the context of the estimated construction cost of the extension to the warehouse.
- 6.3. The applicant goes on to state that the premises has existed in Harmonstown Road since 2004 and that works carried out to date include the installation of attenuation tanks for surface water management which were carried out in accordance with the requirements of the Drainage Department of Dublin City Council. The proposed extension will be used to store sanitary ware and plumbing goods. There are no services other than lighting and background heating. Essentially the building is a simple storage block. The proposal does not require any additional on-site infrastructure for foul or surface services. The contribution imposed under the current application would represent more than 10% of the estimated construction costs of the building. This is deemed to be excessive.
- 6.4. Reference is made to the Development Contribution Scheme and the fact that the scheme identifies five categories of infrastructure development which would attract financial contribution. It is the applicant's contention that in reality only one class benefits the development (roads, infrastructure and facilities). No other classes on which the financial contributions are predicated benefit the development. It should be noted that the original development on site was subject to strict conditions which included the installation of a substantial surface water attenuation tank. This was installed strictly in accordance with the Drainage Department requirement and has operated successfully for the last 10 years. The current proposal does not increase any surface water run-off which falls on the site as the new building is to be located over a hard concrete open storage area.

6.5. On the basis of the above it is argued that the amount is totally unjustified and no clear critical assessment of the proposal was undertaken by the Planning Authority in arriving at the amount of the financial contribution. The maximum figure which could have been imposed has been imposed without an objective or balanced assessment of the proposal. The Board are therefore requested to review the financial contribution levy. The applicant is appealing for the removal or failing that, a substantial reduction in the amount of contribution so as to reasonably and fairly reflect the nature of the proposal.

## 7.0 **Appeal Response**

It appears from the information contained on file that Dublin City Council have not submitted a response to the grounds of appeal.

## 8.0 **Observations**

There are no other observations contained on file.

## 9.0 **Development Contribution Scheme**

9.1. The Dublin City Council Development Contribution Scheme 2016 – 2020 applies.

9.2. The basis for the determination of the contribution is set out in Section 6 of the Scheme and it includes the aggregated floor areas and square metres of projected development to the years 2020 for both residential class and industrial commercial class. The development contribution payable per square metre of residential development and of industrial/commercial development were determined upon the consideration of a number of factors including:

- Eligible costs of projects.
- Expected quantum of development.
- The level of existing contribution rates and an examination of current market conditions.

9.3. The class of public infrastructure development for industrial/commercial classes of development are set out below:

- Class 1 – Roads, infrastructure and facilities – €21.19.
- Class 2 – Drainage (surface water/flooding) infrastructure and facilities - €10.24.
- Class 3 – Community facilities and amenities - €8.33.
- Class 4 – Parks and open space facilities - €12.02.
- Class 5 – Urban regeneration facilities and amenities - €18.28.

Total contributions payable per square metre for industrial and commercial type development - €70.06.

9.4. Section 12 sets out exemptions and reductions. None of the exemptions and reductions limited relate to the current application before the Board. Section 14 of the Scheme sets out categories of development which would be liable for a reduced rate of development under the Scheme. I note that open storage/hard surface commercial space development, other than car parking shall be liable for development contributions at one third of the commercial rate.

## 10.0 **Assessment**

10.1. Under the provisions of Section 48(10)(b) an appeal may be brought to the Board where an applicant considers the terms of the Scheme have not been properly applied in respect of any condition laid down by the Planning Authority. I note that the grounds of appeal in this instance have not specifically stated that the financial contribution has been incorrectly applied in this instance. However, it is nevertheless argued that the imposition of the condition is unreasonable, unfair and unjustified primarily on the grounds that there is no rationale for attaching such an excessive amount. The grounds of appeal argue that the extension to the warehouse is merely to provide additional storage and does not involve the provision of additional sanitary facilities or result in any demand for additional water services. It is argued that the only class for which a financial contribution would be applicable in this instance relates to roads and infrastructure facilities (Class 1). It is further argued that the contribution to be imposed would not directly or indirectly benefit the proposal and would comprise of a significant proportion of the overall construction costs.

10.2. I acknowledge the arguments put forward by the appellant in the grounds of appeal. However, I would refer the Board to the stipulations contained in Section 48 of the

Act in particular sub-section 3(a) which states that a scheme shall state the basis for determining the contributions to be paid in respect of public infrastructures in accordance with terms of that Scheme and that the basis for the determination of a contribution shall be set out in the Development Contribution Scheme. Dublin City Council in this instance have set out the level of contribution required and the basis for the determination of that contribution. Notwithstanding the applicant's concerns in respect of the amount of contribution required, I do not consider that it can be reasonably argued in this instance that the scheme has not been properly applied. The Scheme has been adopted by the Council in accordance with the provisions set out under Section 48. In this instance the basis of the Scheme is clear and unambiguous and the amount required in accordance with the Scheme has been correctly applied in this instance. While the applicant argues that many of the classes which form the basis of the determination of the contribution do not apply to the current application before the Board. I note that the Scheme makes no provision for any exemption or reduction on these grounds. Exemptions and reductions are set out under Section 12 of the Scheme and none of the reductions referred to in this instance would be applicable to the current application before the Board.

- 10.3. While the grounds of appeal argue that the amount required in this instance is excessive and unreasonable, the basis on which the financial contribution was calculated is clear and it appears that the development comprising of 840 square metres of commercial/retail development would attract a financial contribution of €70.06 per square metre as stipulated in the Scheme. It is apparent therefore that the financial contribution scheme as adopted by the Planning Authority has been correctly applied in this instance ( $840 \times 70.06 = \text{€}58,850.40$ ). Furthermore, I consider that there is no basis as set out for in the provisions of the Scheme to permit or allow any reduction or exemption on the basis of the arguments put forward by the applicant. For this reason, I consider that the Board should uphold the Planning Authority's basis of determination of the financial contribution scheme and Condition No. 2 should remain unaltered.



## 11.0 Decision

The Board in accordance with Section 48 of the Planning and Development Act as amended considered based on the reasons and considerations set out below that the Development Contribution Scheme for the area had been properly applied in respect of Condition No. 2.

## 12.0 Reasons and Considerations

The Board noted that the basis on which the financial contribution was calculated was in accordance with the adopted General Development Contribution Scheme 2016 – 2020. Therefore, the amount applied by Dublin City Council in respect of the development to be undertaken was appropriate and in accordance with the provisions of the said Development Contribution Scheme.

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Paul Caprani,  
Senior Planning Inspector.

17th August, 2017.