



An
Bord
Pleanála

Inspector's Report ABP-302554-18

Development	Extension to and Retention of works to existing manufacturing facility consisting of warehousing, offices and ancillary staff areas.
Location	Longford Business & Technology Park, Ballinalee Road, Longford, N39 V880.
Planning Authority	Longford County Council
Planning Authority Reg. Ref.	18/88
Applicant(s)	Tool & Plastic Industries Ltd
Type of Application	Permission and Retention
Planning Authority Decision	Permission and Retention Permission
Type of Appeal	First Party against Special Contribution
Appellant(s)	Tool & Plastic Industries Ltd
Observer(s)	None
Date of Site Inspection	12 th of December 2018
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1. The proposed development site is located to the north east of Longford town within the Longford – Business & Technology Park located off the N63 (Ballinalee) roadway, approx. 300m south of the N4 Leo Casey Roundabout. It is accessed via an internal road network in the Business Park that has access via the N63. There are currently two vehicular accesses to the site via an internal cul-de-sac road with circular turning area, which also provides access to separate business units on the opposite side of the road.
- 1.2. The existing unit has been extended and areas are included for retention in this application. The area of the site proposed for the extension is currently used as a parking area for the building and some additional land has been acquired by the applicants and included in the north-eastern portion of the site. This is hard surfaced. There is also a HGV parking area on the western portion of the site close to the existing accesses. There are trees and shrubs along the northern and eastern site boundaries. There is signage for 'Tool & Plastic Industries Limited' that is visible from the N63 on the northern and southern elevations. The unit was operational on the day of the site visit and the site well parked. The site is seen in context of the existing Business and Industrial uses and other units within the Park.
- 1.3. A new entrance is proposed from the northern boundary of the site. There are currently trees and shrubs and a grass verge along this boundary. It is also located opposite a vehicular entrance to the unit to the north on the opposite side of the estate access road and is close to the junction with the N63.

2.0 Proposed Development

- 2.1. (1) Permission is sought for the construction of the following:
 - i. Extension to existing manufacturing facility consisting of warehousing, offices and ancillary staff areas;
 - ii. A depressed loading dock and associated ramp;
 - iii. New entrance onto public road including gates, piers and new access road;
 - iv. Additional carparking areas;

- v. Signage;
- vi. All other ancillary and associated site works.

(2) Permission for retention for changes/alterations to the development from that granted under planning permission ref. no. 0470079 is sought for:

- i. Additional floor areas to the North, East, South & West of the main building;
- ii. Colour and type of cladding to external walls;
- iii. Increase in overall height of the main building & alterations to elevations;
- iv. Signage fixed to South elevation of main building;
- v. 2no. internal mezzanines;
- vi. External plant located on ground and fixed to the roof of the main building;
- vii. External fire escape stairs;
- viii. 2no. storage sheds;
- ix. 2no. storage silos;
- x. ESB substation building;
- xi. Changes to site layout & relocation of carparking;
- xii. The addition of a site entrance onto a public road.

2.2. The planning application form provides that the area of the site is 1.749ha. The g.f.s of the existing buildings is 3,788sq.m, of the proposed works is 2485sq.m, for retention is 1,338sq.m. The Site Layout Plan is colour coded showing the existing area, that proposed and that for retention.

3.0 Planning Authority Decision

3.1. Decision

On the 21st of August 2018 Longford County Council granted permission for the proposed development and retention permission subject to 19 no. conditions.

Condition no.18 concerns the provision of a Special Development Contribution and is the subject of this appeal i.e:

The developer shall pay the sum of €35,000 (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, as amended, in respect of the strengthening and improvement of the road network in the vicinity of the site.

The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: *It is considered reasonable that the developer should contribute towards specific exceptional costs not covered by a scheme are incurred by the local authority in respect of public infrastructure and facilities which benefit the proposed development.*

3.2. Planning Authority Reports

3.2.1. Planner's Report

The Planner had regard to the locational context of the site, planning history and policy and to the technical reports submitted. Considerations included the following:

- They considered the proposed and retention development to be acceptable in accordance with the Hi-Tech/Light Industrial/ Employment land use zoning.
- The proposed development site is not located within any NHA, SAC, SPA or Broad Zone.
- A right of way exists to the rear of the site.
- The Camlin River is to the west of the site boundary but falls well outside of the *Indicative Flood Zone* as defined in the Longford Town & Environs LAP 2015-2021 so a flood risk assessment is not required.
- They noted the Area Engineer's concerns about surface water drainage.

Further Information Request

The Planner had regard to the Area Engineer's Report and noted that there are a number of issues in relation to storm water runoff and drainage which required further information:

- Further details on drainage were requested, including relative to storm water attenuation, construction related issues and the carrying out of a hydrological assessment of and proposals to pipe the existing stream.
- They noted that it is proposed to provide a new entrance to the northern boundary of the site and the applicant was requested to provide a footpath along the entirety of the northern site boundary.
- Details relative to how noise levels from mechanical plant on the external wall of the building can be reduced (particularly at night time).

Further Information Response

Collinsboyd Engineers & Architects have submitted an F.I response on behalf of the applicants. This includes revised drawings and notes the following:

- Drainage details including drawings showing proposed drainage layout.
- Attenuation details having regard to existing and proposed.
- Details of piping/culverting the stream that traverses the site and regard to the hydrology of the stream.
- It is now proposed to provide a 2m wide concrete footpath along the entirety of the Northern site boundary from where it currently ends at the North West corner of the site to the North East corner of the site.
- Details regarding current measures for control of noise levels.

3.3. Other Technical Reports

Road Design

They requested F.I relative to the identification of existing services on site, the provision of a detailed layout of the existing and proposed storm drainage layout on site, pipeline and stormwater design in accordance with current standards for such

works. Details of existing and proposed attenuation on the site and as to how additional surfaced areas will be dealt with.

Infrastructure and Environment Section

They requested the further details of how noise levels from mechanical plant on the external wall of the building can be reduced (particularly at night time).

3.4. **Prescribed Bodies**

Irish Water

They have no objections subject to conditions.

4.0 **Planning History**

- 04/79 – Planning permission granted subject to conditions by the Council to erect an industrial manufacturing unit incorporating storage and offices, entrance, car parking and ancillary site service connections and development works at Templemichael, Glebe Longford. Condition nos. 19 and 20 concerned development contributions.

A copy of this decision is included in the History Appendix to this Report.

5.0 **Policy Context**

5.1. **Longford County Development Plan 2015 -2021**

The Development Plan sets out an overall strategy for the proper planning and sustainable development of Longford County and consists of a written statement, including appendices and annexes, and plans indicating the development objectives for the County.

Section 4.3.9.2 provides the General Policies this includes in General Policy 9:

To promote the targeted funding sourced from the Development Contribution Scheme to the regeneration and renewal of urban centres, in accordance with the 'Development Contributions- Guidelines for Planning Authorities' issued by the DECLG.

5.2. Longford County Council Development Contributions Scheme 2018-2022

In accordance with the provisions of the Planning and Development Act 2000 (as amended), Longford County Council has adopted a revised Development Contribution Scheme for the period from 1st April, 2018 – 31st December, 2022.

Section 2 provides details of the General Section 48 Scheme which includes regard to *Public infrastructure and facilities*. The following subsections are of note:

- c) *The provision of roads, car parks, car parking places....*
- e) *The refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places;*

Section 2.3 provides the Basis for Determination of Contributions and Section 2.4 - the Level of Contributions. Section 2.5.1 provides details on the Payment of Contributions and Section 2.5.2 on the Indexation of Contributions.

Table 1 provides the - Level of Contribution – Residential & Industrial/Commercial Development.

Section 4 refers to Appeals to An Bord Pleanála.

Section 7 refers to a Special Development Contribution Scheme and notes that: *the Council may in addition to the terms of the General Development Contribution Scheme require the payment of a Special Contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred in respect of public infrastructure and facilities which benefit the proposed development. In such cases the condition will specify the particular works carried out or proposed to be carried out by the Council.* It is also noted that Conditions requiring the payment of Contributions under the Special Development Contribution may be appealed to An Bord Pleanála.

5.3. Development Contributions - Guidelines for Planning Authorities 2013

The Minister for the Environment, Community and Local Government has issued these guidelines under section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines in performance of their functions under the Planning Acts.

The primary objective of the development contribution mechanism is to partly fund the provision of essential public infrastructure, without which development could not proceed. Development contributions have enabled much essential public infrastructure to be funded since 2000 in combination with other sources of, mainly exchequer, funding. Discussion is had of the concept of the General Development Scheme, Special Contributions and Supplementary Contributions Schemes.

Special Development Contributions may be imposed under section 48(2)(c) of the Planning and Development Act 2000 as amended. This is discussed further in the context of the Assessment below.

Chapter 2 provides Key Messages for Supporting Economic Development:

Development contributions are not cash-cows: there is an important balance to be struck between the funding of public infrastructure and the need to encourage economic activity and promote sustainable development patterns. It is essential that development contribution schemes do not impede job creation or facilitate unsustainable development patterns.

Retention Permission

However, no exemption or waiver should apply to any applications for retention of development. Planning authorities are encouraged to impose higher rates in respect of such applications.

Double charging

The practice of “double charging” is inconsistent with both the primary objective of levying development contributions and with the spirit of capturing “planning gain” in an equitable manner. Authorities are reminded that any development contribution already levied and paid in respect of a given development should be deducted from the subsequent charge so as to reflect that this development had already made a contribution.

6.0 The Appeal

6.1. Grounds of Appeal

A First Party Appeal has been submitted by Collinsboyd Engineers & Architects on behalf of the applicant M/s. Tool & Plastic Industries Ltd. They have regard to the Council’s Decision in Reg.Ref.18/88. This appeal relates solely to Condition no.18

which concerns the inclusion of a special development condition. Their grounds of appeal are discussed further in the context of the Assessment below but in summary they include the following:

- They query the need for this special contribution condition and the method of calculation.
- They note that there have been variations in the amount of the special contribution specified. They consider that the basis for the calculation has not been explained.
- The requirements of Section 48(12) in relation to specifying the particular works have not been fully detailed.
- It is difficult to comprehend how road improvement works are exceptional in the context of this decision and development.
- The contribution levied in condition 19 should account for the applicant's contribution to necessary works on the N63 thus obviating the need for a special contribution.
- The applicant undertook to construct a footpath along his boundary even though this is not absolutely required for traffic management in the vicinity of the site.
- The traffic document on file indicates that the increase in traffic will be relatively small and that this would not warrant any specific exceptional cost that could justify the contribution demanded in condition 18.
- They contend that the special contribution amounts to a double contribution and is therefore inappropriate.
- They conclude that the imposition of this contribution is unwarranted and unjustified and contrary to the requirements in the Development Management Guidelines and Section 48 of the Act. They ask the Board to remove this condition from the Schedule.

6.2. Planning Authority Response

There has been no response from the Planning Authority to the grounds of appeal.

7.0 Assessment

7.1. Regard to Special Development Contributions

- 7.1.1. The First Party has requested that this Appeal be dealt with in accordance with Sections 48(10), 48(13) and 139 of the Planning and Development Act 2000(as amended). This appeal is solely against Condition no.18 of the Council's permission which concerns the imposition of a special development contribution.
- 7.1.2. Section 48 of the Planning and Development Act 2000, (as amended) details the methodology and guiding principles by which Development Contributions Schemes should be arrived at. The wording of S.48(2)(c) of the 2000 Act states that: *A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.*
- 7.1.3. Section 48(13)(a) includes: *Notwithstanding sections 37 and 139, where an appeal received by the Board after the commencement of this section relates solely to a condition dealing with a special contribution, and no appeal is brought by any other person under section 37 of the decision of the planning authority under that section, the Board shall not determine the relevant application as if it had been made to it in the first instance, but shall determine only the matters under appeal.*
- 7.1.4. Therefore, the application is not being considered 'de novo' and issue in question in this case is solely in regard to the application of the Special Development Contribution and whether it is deemed to be applicable and justifiable in this case.
- 7.1.5. Regard is also had to Section 48(12) of the Planning and Development Act 2000 (as amended), which notes that where payment of a special condition is required in accordance with Section 48(2)(c) the following provisions shall apply: (a) *the condition shall specify the particular works carried out, or proposed to be carried out, by the local authority to which the contribution relates.* Section 48(12)(b) provides in summary, regard to the time periods for the carrying out the works by the local authority and refers to the possibility of a refund if the works are not carried out.

7.1.6. The Development Contributions Guidelines for Planning Authorities 2013 notes that:
A special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution. Regard is also had to Section 7 of the Longford County Development Contributions Scheme as noted in the relevant section in the Policy Section above.

7.2. First Party Case

- 7.2.1. In this case the works specified in the Condition are: *in respect of the strengthening and improvement of the road network in the vicinity of the site.* The First Party contends that it is difficult to comprehend how road improvement works are exceptional in the context of this decision and development. They have submitted Supplementary Information with this application which includes details of Traffic Projections and a brief Traffic and Transport Statement. They provide that the predicted increases in traffic as a result of this proposal are small. It is noted that their projections do not also take into account the impact of the development proposed for retention.
- 7.2.2. It is noted that Table 5.1 of the Longford CDP includes a *Programme of Carriageway Improvement 2013-2021*. This refers specifically as a mid to long term objective – *N65 Restoration/Improvement* and also, probably less relevant in view of the location of the site (not being in the town centre area) to - *Longford Streets Restoration/Improvement*. This notes that all National Road Schemes are subject to identification and funding by the NRA.
- 7.2.3. The First Party considers that the contribution levied in condition no.19 (General Development Contribution – Section 48) should account for the applicant's contribution to necessary works on the N63 thus obviating the need for a special contribution. In this respect the Planner's Addendum Report notes that Development Contributions under Section 48 General Scheme are based on a total floor area of

3,823sq.m (2,485sq.m – proposed and 1,338sq.m retention). As per the General Contributions Scheme this is divided between the following:

Open Space = €4 per sq.m, Roads = €8 per sq.m = Total 12sq.m.

3,823sq.m x €12 = €45,876.

7.2.4. There is concern about double charging. However, it is considered that the development contribution including the roads levy under Condition no.19 is in compliance with the General Contributions Scheme and regard is had to the specifics of the case and the levy requested as a special contribution below.

7.2.5. **Regard to the Special Contribution Levy**

7.2.6. The First Party notes that the applicant undertook to construct a footpath along his boundary even though this is not absolutely required for traffic management in the vicinity of the site. Having regard to the latter it is of note that the provision of a footpath was part of the Council's F.I request. In response the applicants provided: *It is now proposed to provide a 2m wide concrete footpath along the entirety of the Northern site boundary from where it currently ends at the North West corner of the site to the North East corner of the site. This is indicated on the revised Site Layout Plan.* It was noted on site that there are no footpaths in this area at present.

7.2.7. The Planner's Report provides a breakdown of development contributions relative to Condition no.19 as has been noted above. They also include relative to condition no.18: *Additionally, a special development contribution of €35,000 is required under section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the strengthening and improvement of the road network in the vicinity of the site. (This figure takes into consideration the pavements the applicant is proposing to construct on the perimeter of the site has been reduced from the original figure requested by the Road Design Office).* This figure is as stated in Condition no.18.

7.3. **Conclusion**

7.3.1. Having regard to the Council's reason for inclusion of this condition as noted above, I would consider that the works specified are specific to the current proposed and retention development. It is noted that the industrial estate road network also serves

the proposed development and the pavements to be constructed are integral to the proposal. I would therefore recommend that the wording of this condition be modified to include reference to the said pavements i.e: *in respect of the strengthening and improvement of the road network and provision of footpaths in the vicinity of the site.*

- 7.3.2. Taking into account, the above modifications, I would consider that having regard to the documentation submitted that the inclusion of a special development contribution is appropriate and justified in this case. It would therefore be in accordance with Sections 48(2)(c) and Section 48(12) of the Planning and Development Act 2000 (as amended) and with Section 7 of the Council's Development Contribution Scheme 2018-2022 and the Development Contributions Guidelines for Planning Authorities 2013.

8.0 Recommendation

- 8.1. The Board considers that the Longford County Council Development Contributions Scheme 2018-2022 is the applicable contribution scheme in this case and regard is has to Section 7 relative to the provision for Special Development Contributions as per Section 48(2)(c) of the Planning and Development Act 2000 (as amended). The Board considers that it is appropriate to apply a special contribution in this case towards the said works. Accordingly, it is concluded that the Special Development Contribution applicable to the proposed development is as set out in the amended Condition no.18 of register reference 18/88 as set out below.

9.0 Condition 18

- 9.1.1. The developer shall pay the sum of €35,000 (thirty five thousand) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, in respect of the strengthening and improvement of the road network and provision of footpaths in the vicinity of the site. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in

default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Angela Brereton
Planning Inspector

20th of December 2018