



An
Bord
Pleanála

Inspector's Report

ABP-317108-23

Development

Retention of change of use from a furniture store to a light industrial workshop & ancillary showroom;
Retain a first-floor office extension and
Permission to demolish a lean-to & to construct a rear extension to workshop and associated site works.

Location

Grand Designs, Newtownstalaban,
Termonfeckin Road, Drogheda, Co.
Louth, A92 X62D

Planning Authority

Louth County Council

Planning Authority Reg. Ref.

2360023

Applicant(s)

Margaret Reilly

Type of Application

Permission

Planning Authority Decision

Grant with Conditions

Type of Appeal

First Party v Contribution Condition
(48(10)(b))

Appellant(s)

Margaret Reilly

Observer(s)

None

Date of Site Inspection

10 January 2024.

Inspector

Paula Hanlon

1.0 Site Location and Description

The subject development site accommodates an existing building located within a larger commercial yard, with a separate commercial premises immediately south of this building. The site is accessed via an internal road that serves Beaulieu Village, north of the R166 (Newfoundwell Road), in the urban area of Drogheda.

2.0 Proposed Development

The proposal relates to the following:

- (i) Retention of change of use from a furniture store approved under Pl. Ref. 83559, to a light industrial workshop with ancillary showroom (319.46m²)
- (ii) Retention of first-floor office area (51m²)
- (iii) Permission for demolition of an existing lean-to (15m²) and construct a rear extension for storage purposes (180m²) associated with the existing workshop and all associated site development works.

3.0 Planning Authority Decision

By Order dated 17th April 2023, Louth County Council issued a Notification of decision to grant planning permission subject to 7 conditions.

Condition 2, subject of this appeal, requires the payment of **€33,027.60** as follows:

In accordance with the Council's Development Contribution Scheme 2016-2021 (as extended) made under the provisions of section 48 of the Planning and Development Act 2000 (as amended) the developer shall pay a contribution to the Planning Authority, (or such increased amount in accordance with the changes on an annual basis to the Chartered Surveyors of Ireland Construction Tender Price Index) towards the costs already incurred or to be incurred by the Planning Authority on the provision of each of the public facilities listed below, which will benefit development in the area of the Planning Authority. This contribution shall be paid as indicated below, unless otherwise agreed in writing with the Planning Authority.

- A. Retention of change of use to workshop shop, showroom and retention of office space. Total floor area 370.46m² (workshop area: 268.46m²; showroom:

51m²; first floor office: 51m²). Contributions for Retention Development to be paid in full within 3 months of the Final Grant of Permission.

B. New extension (180m²) – Contributions to be paid in full prior to commencement of development.

Class 1: Infrastructure: €48.00 (per m²) x 180(m²) = €8,640.00

Class 2: Amenity: €12.00 (per m²) x 180 (m²) = €2,160.00

Total: €60 x 180m² = €10,800.00 (Ten thousand and eight hundred euro).

Total overall contribution: €10,800.00 + €22,227.60 = €33,027.60 (Thirty three thousand and twenty seven euro and sixty cent).

Reason: The provision of such public infrastructure and facilities in the area of the Planning Authority has benefitted or will benefit the proposed development and it is considered reasonable that the developer should contribute towards the cost of their provision.

3.1 Planning Authority Reports

3.1.1. Planning Report

The planner's report recommended a grant of permission and included a condition on Development Contributions as set out in the Chief Executive's Order. The rationale in the application of the adopted Louth Development Contribution Scheme 2016-2021 (as extended) is set out within Section 17 - Development Contributions of the planner's report as follows:

No reductions applicable to all retention works (370.46m²) and therefore Article 5.0 of the Scheme applies to the workshop (268.46m²), showroom (51m²) and office space (51m²). The new extension (180m²) does not fall within any of the Exemptions (Article 6.1) or Reductions (Article 6.2) of the Scheme.

3.1.2. Other Technical Reports

None relevant.

4.0 Planning History

Pl. Ref. 83559 Furniture Store granted 09/02/1984 is relevant to this case. More recent applications on this site were refused by the PA (including pl. ref. 18/510 and 19/1056), the details of which do not appear to be pertinent to the current appeal before the Board.

5.0 EIA Screening

Given the nature of this appeal, which is not a project, screening for an environmental impact assessment is not required.

6.0 Policy Context & Relevant Development Contribution Scheme

6.1 Louth County Development Plan 2021-2027 (CDP)

- 6.1.1 The site is located on landuse zoning 'E1 General Employment' within the CDP, with its objective '*to provide for general enterprise and employment generating activities*'. 'Industry Light' is acceptable within this zoning.
- 6.1.2 Section 14.3.2 of the CDP refers that details on contributions are set out in the 2016-2021 Scheme (and any subsequent scheme) and will be reviewed during the life of the Plan.

6.2 Louth County Council Development Contributions Scheme 2016-2021 (as extended to 31/12/2023)

The Louth County Council Development Contribution Scheme 2016-2021 adopted 19 September 2016 (hereafter referred to as 'the Scheme') and extended upto 31/12/2023 is the operative scheme that was applied by the PA at the time of decision. It includes an indicative list of public infrastructure/services considered as projects that can be progressed, subject to the levels of actual development contributions collected. The Scheme sets out the basis for the determination of the relevant development

contributions, including those instances where a reduction/exemption in the contribution rate may apply.

- 6.2.1 Article 5.0 Details the Level of Contribution (excluding where Exemptions and Reductions apply) in respect of the various classes of infrastructure for specified categories of development, being either 'residential' or 'non-residential' development.
- 6.2.2 Article 6.0 Details 'Exemptions and Reductions' available to categories of development from the requirement to pay development contributions under the Scheme.
- 6.2.3 Both Article 6.1 Exemptions and Article 6.2 Reductions highlight that Exemptions and Reductions shall NOT apply to permissions for retention.
- 6.2.4 Article 6.1(6) No charge on retention applications where the application relates solely to minor amendments of the original grant where there is no increase in floor area.
- 6.2.5 Article 6.1(10) No charge on Change of Use applications where the change of use and internal alterations does not lead to the need for new or upgraded infrastructure/services or significant intensification of demand placed on existing infrastructure.
- 6.2.6 Article 6.2(7) A reduction of 75% is applicable to contributions on '*Expansions to authorised industrial and manufacturing operations...*'.

7.0 The Appeal

7.1. Grounds of Appeal

This First-Party Appeal from Ms. Margaret Reilly specifically relates to the financial contribution levied by Louth County Council under Condition No. 2 of the permission granted. The grounds of appeal relate to development contributions sought for retention works associated with workshop and showroom (319.46m²) and development contributions attached to a proposed extension (180m²). Contributions for office (51m²) are accepted by the appellant. The appellant suggests that the total development contributions attributable should be €5,760 as opposed to in excess of €33,000 as per Condition 2 of permission granted.

7.1.1 In the case of retention works, the appeal refers to exemptions set out within Article 6.1(10) and Article 6.1(6) of the Scheme. The appeal argues that the retention works to workshop and showroom area are exempt from levies under the Scheme as they relate to minor amendments of the original grant with no increase in floor area, for the following reasons:

- Permission as a 'furniture store' was granted to owner of adjoining furniture factory (Reference 83559) and its planning history and use related to an extension of the operation in use with adjoining building for manufacturing, showrooms and storage of products & materials at different times.
- A change of use from 'store' to support the manufacturing operation that was on site in 1983, to the current operation, is a minor amendment to regularise the description of the activity being carried out and results in no increased demand on services or infrastructure.
- The permitted 'store' in 1983 was to allow for greater throughput of business from the neighbouring business. First-floor office is the only additional floor area, with the original footprint respected.
- The use of this building for the manufacture of furniture (fitted kitchens and wardrobes), storage of materials and finishes product and showrooms in recent times is similar to previous established use.

The appellant contends that contributions applicable to retention works therefore relate solely to first-floor office area (51m²) given that these works constitute the retention of non-minor works, with additional floor area and that the applicable levy should be €3,060.

7.1.2 In terms of the proposed extension (180m²), the appellant argues the point that given the grant of permission for retention under this application, the extension relates to an authorised development. Accordingly, Article 6.2(7) which provides for a 75% reduction in contributions should apply as it constitutes an expansion of an established and authorised industrial/manufacturing facility.

The appellant contends that contributions applicable to the proposed extension therefore should be reduced by 75% from €10,800 to €2,700.

7.2. Planning Authority Response

- 7.2.1 The PA does not concur that a reduction to development contributions is applicable to proposed retention works (370.46m²), as section 6.1 of the Scheme states that exemptions shall not apply to permissions for retention. The PA confirms that the authorised use of the subject structure was for storage purposes and submits that the change of use of this considerable floor area to a workshop is not considered to be a minor amendment as it raises different planning considerations, which lead to a significant intensification of demand placed on existing infrastructure.
- 7.2.2 The PA accepts that development contributions attached to proposed extension (180m²) should be revised to provide for a 75% reduction as per section 6.2(7) of the Scheme given that retention permission was granted within the application.
- 7.2.3 The PA recommends that Condition 2 be amended as follows:
Proposed Extension €10,800 - €8,100 (75% reduction) = €2,700.
Total Overall Contribution €2,700 + €22,227.60 = €24,927.60.

8.0 Assessment

- 8.1. I have examined all submitted documentation and have had particular regard to the operative financial contribution scheme adopted by Louth County Council at the time of decision and the grounds of appeal. The only question before the Board is whether or not the terms of the Development Contribution Scheme was correctly applied in this case.
- 8.2. Firstly, I wish to highlight to the Board that matters raised by the appellant in respect of contributions applicable to retention works relate to a change of use from permitted storage building to a light industrial workshop with ancillary showroom and retention of office space at first-floor level. Whilst I note the appellants contention that the operational use of the subject building has varied since 1983, I submit that the authorised use of this structure under the parent permission (pl. ref. 83/559) was solely for use as a store. I further note that the appellant outlined in the grounds of appeal that this store was ancillary to an adjoining furniture factory.

Article 6.1(10) of the Scheme provides a 100% exemption on contributions where the change of use and internal alterations does not lead to the need for new or upgraded infrastructure/services or significant intensification of demand placed on existing infrastructure. Notwithstanding the expressed views contended by both parties in relation to whether or not the proposed development will intensify demand on existing services, it is clear in my view that Article 6.1 of the Scheme which provides that no exemptions shall apply to permissions for retention is relevant and applicable. Therefore, in my opinion, the grounds of appeal as they relate to article 6.1(10) is not accepted and the stated exemption is not applicable to retention works. In further examining the Scheme, I submit that Article 6.1(6) provides an exemption to contributions in such cases where the retention application relates solely to minor amendments of the original grant where there is no increase in floor area. The appellant argues that this exemption applies in the case of two elements of the development proposed to be retained, notably the workshop and ancillary showroom and that therefore, contributions only apply to the additional floor area associated with the retention of office space (51m²) at first floor level. Having examined the Scheme in the context of the parent permission and the extent of works proposed, I consider that the retention works sought do not constitute a minor amendment as they give rise to an intensification of the permitted use of this building, with increased demand on services and infrastructure from those normally associated with a store, by virtue of its change in use from an ancillary store building to light industrial/manufacturing. I am also of the view that the exemption stated within Article 6.1(6) is clear and unambiguous in applying to retention applications which relate solely to minor amendments of the parent permission where there is no increase in floor area. Therefore, it is my opinion that the proposed retention works which are the subject matter of this application, do not fall under this exemption given that the retention works proposed do not constitute a 'minor amendment' to the parent permission and pertain to additional floor area.

For this reason, I am satisfied that Article 5.0 of the Scheme with respect to contributions on 'non-residential development' applies and I am of the view that the PA has correctly applied the Scheme in respect of its applicability to all retention works, being €22,227.60 (i.e. 370.46m² x €60 per m² rate as per Article 5 of the adopted Scheme).

- 8.3. Secondly, in terms of proposed extension (180m²), I note that in its response to the grounds of appeal, the PA has acknowledged that it did not correctly apply the terms of the Scheme in its calculation of the applicable development contributions and has also agreed with the applicant's revised calculation. In this regard, the floor area reckonable for the purposes of calculating the necessary contribution for the new extension is required to take account of a 75% reduction to the stated level of contribution and thus the applicable development contributions would accord with the applicant's calculations as set out within the grounds of appeal i.e. €2,700.00 (€10,800.00 - 75% reduction rate as per Article 6.2(7) of the operative Scheme). Therefore, on the basis of the foregoing, and in light of the admission by the PA that it did not correctly apply the terms of the Development Contribution Scheme and thus accedes to the applicant's revised calculation, there is no dispute as regards the need to amend Condition No. 2 with regard to reduction in contributions associated with the proposed new extension and this matter does not warrant further examination.
- 8.4. In light of the above, I am satisfied that the overall financial contribution should be amended from €33,027.60 to €24,927.60 and that this represents a correct interpretation of the applicable Development Contribution Scheme.

9.0 Recommendation

On the basis of the foregoing, I consider that the Planning Authority has incorrectly applied the terms of its Section 48 Development Contribution Scheme and, therefore, it is my recommendation that the Planning Authority should be directed accordingly to AMEND Condition No. 2 for the reasons and considerations set out hereunder.

10.0 Reasons and Considerations

It is considered that the Development Contribution Scheme was correctly applied in respect of all retention works sought and permitted within the development proposal.

It is further considered and concluded that the basis on which the financial contribution was calculated did not take into account article 6.2(7) of the Louth Development Contribution Scheme 2016-2021 (as extended) under the provisions of Section 48 of the Planning and Development Act 2000 (as amended) which allows for a 75% reduction on expansions to authorised industrial and manufacturing operations. Therefore, the proposed expansion of the existing building (180m²) would attract the reduced financial contribution in accordance with the said adopted Development Contribution Scheme.

11.0 Condition(s)

The Developer shall, prior to commencement of development and no later than 6 months in relation to retention works hereby permitted, or as otherwise agreed in writing with the Planning Authority, pay the sum of €24,927.60 to the Planning Authority as a contribution towards expenditure that was/or is proposed to be incurred by the Planning Authority in respect of the provision of Public Infrastructure and Facilities benefiting development in the area of the Authority, as provided for in the Louth County Council Development Contribution Scheme 2016-2021 (as extended). These rates of contribution shall be updated and effective from 1st January each year, in accordance with the SCSi Tender Price Index.

Retention Works (370.46m ²)	€22,227.60
Proposed Extension (180m ²)	€2,700.00
Total	€24,927.60.

Reason: It is considered reasonable that the payment of a contribution be required in respect of the provision of public infrastructure benefiting development in the area of

the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.

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.

Paula Hanlon
Planning Inspector

16 February 2024