



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319644-24

<b>Development</b>	Demolition of single storey office extension and construction of two storey office extension and all associated site works.
<b>Location</b>	Ballymacarney, The Ward, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	23361
<b>Applicant</b>	Unichem Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission with Conditions
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Unichem Limited
<b>Observer</b>	None
<b>Date of Site Inspection</b>	9 <sup>th</sup> October 2024
<b>Inspector</b>	Emma Nevin

## **1.0 Site Location and Description**

- 1.1. The appeal site is in the townland of Ballymacarney. The site is accessed off the L-5043-0 and comprises Unichem Limited, an established distributor of gardening, agriculture, horticulture, and amenity products. On site are several large, shed buildings, and existing office space and associated yard space.
- 1.2. The surrounding area is characterised by agricultural grasslands with a dispersed nature of one-off rural dwellings and agricultural farm buildings. The site is also on the border with Fingal County Council and as such is located within Dublin Airport Noise Zone 3.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the demolition of the existing single storey office extension with a stated floor area of 55.4 sq. m. and detached toilet block. The construction of a two-storey office extension with a floor area of 228 sq. m.
- 2.2. Alterations are proposed to the roadside boundary treatment to reduce the existing vehicular entrance to a pedestrian gate and reduce the height of the wall to 1.850 metres, with capping and railings, and all associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Meath County Council granted permission, following further information request by Order dated 8<sup>th</sup> April 2024, subject to 15 conditions. The relevant conditions in relation to this appeal are the following:

- Condition 13. The developer shall pay the sum of €24,578.00 to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the Planning Authority in the provision and extension of social infrastructure (open spaces, recreational and community facilities, amenities and landscaping works) by the Council benefiting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council adopted in accordance with the provisions of Section 48 of the Planning

& Development Acts 2000 - 2022. Payment of this sum shall be made prior to commencement of development unless the phasing of payments and the giving of security to ensure payment in full is agreed in writing with the Planning Authority prior to the commencement of development.

The above sum shall apply until 31st December 2024 and shall be subject to review on that date and to annual review thereafter unless previously paid. The contribution rates shall be updated effective from January 1st each year during the lifetime of the Development Contribution Scheme in accordance with the Wholesale Price Indices - Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: The provision of such social infrastructure in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing these services. (Planning Financial).

- Condition 14: The developer shall pay the sum of €79,075.00 to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the Planning Authority in the provision, refurbishment, upgrading, enlargement or replacement of public roads and public transport infrastructure by the Council benefiting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council adopted in accordance with the provisions of Section 48 of the Planning & Development Acts 2000-2022. Payment of this sum shall be made prior to commencement of development unless the phasing of payments and the giving of security to ensure payment in full is agreed in writing with the Planning Authority prior to the commencement of development.

The above sum shall apply until 31st December 2024 and shall be subject to review on that date and to annual review thereafter unless previously paid. The contribution rates shall be updated effective from January 1st each year during the lifetime of the Development Contribution Scheme in accordance with the Wholesale Price Indices - Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: The provision of such roads and public transport infrastructure in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing these services. (Planning Financial)

- Condition 15: The developer shall pay the sum of €3,206.00 to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the Planning Authority in the provision of surface water drainage infrastructure by the Council benefiting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council adopted in accordance with the provisions of Section 48 of the Planning & Development Acts 2000 - 2022. Payment of this sum shall be made prior to commencement of development unless the phasing of payments and the giving of security to ensure payment in full is agreed in writing with the Planning Authority prior to the commencement of development.

The above sum shall apply until 31st December 2024 and shall be subject to review on that date and to annual review thereafter unless previously paid. The contribution rates shall be updated effective from January 1st each year during the lifetime of the Development Contribution Scheme in accordance with the Wholesale Price Indices - Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: The provision of surface water drainage in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing these services. (Planning Financial).

### **3.2. Planning Authority Reports**

3.2.1. Planning Reports dated 24<sup>th</sup> May 2023 and 8<sup>th</sup> April 2024 have been provided.

3.2.2. The original planners report considered it necessary to seek further information in order to adequately assess the proposed development in relation to the following items:

- To submit a Planning Justification Report including details of the following (i) to clarify the planning status of all buildings related to and in the control of

Unichem Ltd at Ballymacarney, (ii) to detail the operations on the complex and demonstrate the extent to which the applicant (Unichem Ltd) remains involved as an active and compatible rural based enterprise, (iii) The extent to which the proposed development complies with Meath County Development Plan 2021-2027 policies ED POL 19 and ED POL 26.

- Submit a report prepared by a Qualified and Indemnified Site Assessor on the existing wastewater treatment system and provide evidence that both the sizing and integrity of the existing wastewater treatment system is suitable to cater for the loading as a result of the existing development and proposed extension.
- To submit a revised site layout plan clearly showing (i) The provision of 9 parking spaces in accordance with Table 11.2 and Table 11.3 of the Meath County Development Plan 2021-2027, (ii) Provide all necessary ducting to facilitate the installation of future Electric Vehicle charging points, at a rate of 20% of total number of carparking spaces, (iii) Provide 10 no. Cycle Parking spaces as outlined in Table 11.4 of the Meath County Development Plan 2021-2027, (iv) Show the provision of designated staff shower & changing facilities and (v) The provision of and location of Bin Storage facilities.
- To submit a method of surface water disposal for the subject development and demonstrate that such works would comply with the Greater Dublin Regional Code of Practice for Drainage Works Volume 6.
- To submit a Noise Impact Assessment in respect of the site's location within Noise Zone C of Dublin Airport.

### 3.2.3. Other Technical Reports

- Transportation Dept (General): Report received requesting further Information – following receipt of further information no objection subject to conditions.
- Environment Section: No report received.
- Environmental Health Officer: Report received requesting further Information - following receipt of further information comments received.

- Water Services: No report received.

### **3.3. Prescribed Bodies**

- Uisce Eireann: No report received.
- Irish Aviation Authority: No report received.
- Dublin Airport Authority: No report received.

### **3.4. Third Party Observations**

None received.

## **4.0 Planning History**

No planning history on site.

## **5.0 Legislative Context**

### **5.1. Planning and Development Act 2000, as amended**

#### Section 48 Development Contributions

(2)(c) 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.

(10) (a) Subject to paragraph (b), no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.

(b) An appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.

(c) Notwithstanding section 34(11), where an appeal is brought in accordance with paragraph (b), and no other appeal of the decision of a planning authority is brought by any other person under section 37, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal, provided that the person who takes the appeal in accordance with paragraph (b) furnishes to the planning authority security for payment of the full amount of the contribution as specified in the condition.

(12) Where payment of a special contribution is required in accordance with subsection (2)(c), the following provisions shall apply— (a) the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates,

(13) (a) 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. (b) Notwithstanding section 34(11), where an appeal referred to in paragraph (a) is received by the Board, and no appeal is brought by any other person under section 37, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal, provided that the person who takes the appeal furnishes to the planning authority, pending the decision of the Board, security for payment of the full amount of the special contribution as specified in the condition referred to in paragraph (a).

(17) “public infrastructure and facilities” means— (c) the provision of roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure, (d) the provision of bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures, (e) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers, flood relief work and ancillary infrastructure, “special contribution” means a special contribution referred to in subsection (2)(c).

## 6.0 Policy Context

### 6.1. Meath County Development Plan 2022-2028, as varied by Variation 1 & Variation 2.

- 6.1.1. The appeal site is located outside of a settlement boundary within an area designated as a 'Rural Area' in the Meath County Development Plan, 2021-2027. The objective of 'RA' zoned lands has an objective *'to protect and promote in a balanced way, the development of agriculture, forestry and sustainable rural-related enterprise, community facilities, biodiversity, the rural landscape, and the built and cultural heritage'*.

The guidance pertained in the Development Plan informs that the primary objective is to protect and promote the value and future sustainability of rural areas.

Agriculture, forestry, tourism, and rural related resource enterprises will be employed for the benefit of the local and wider population. A balanced approach involving the protection and promotion of rural biodiversity, promotion of the integrity of the landscape, and enhancement of the built and cultural heritage will be adopted.

- 6.1.2. The following objectives and sections of the Meath County Development Plan 2021 – 2027 are of relevance:

- Chapter 4 – Economy and Employment Strategy.
- ED POL 1 - To facilitate and support the continued growth of the economy in the County in a sustainable manner and in accordance with the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy (RSES).
- ED POL 3 - To encourage the provision of 'live work' communities, in which employment, residency and sustainable transport facilities are located in close proximity to each other, to reduce long-distance commuter trends and congestion.
- ED POL 4 - To identify and promote a range of locations within the County for different types of enterprise activity including international business and



technology parks, small and medium enterprises (SME) and micro enterprise centres.

- ED POL 5 - To co-operate with local and national development agencies and engage with existing and future employers in order to maximise job opportunities in the County.
- ED POL 6 - To ensure that people intensive developments are located close to strategic public transport networks.
- ED POL7 - To support start-up businesses and small-scale industrial enterprises throughout the County.
- ED OBJ 1 - To address the rate of out bound commuting, the highest of any County in the State, with the provision of 'live work' communities in strategic settlements served by sustainable transport, thereby improving quality of life, encouraging volunteerism and community engagement.
- ED OBJ 2 - To continue to promote Meath as a strategically located economic and employment hub within the Greater Dublin Area.
- ED OBJ 3 – To continue to work with key state agencies and other stakeholders to develop opportunities for employment creation in the County.
- Section 4.11.1 – Rural Enterprise
- ED POL 16 - To support the location of a once off medium to large-scale rural enterprise only in instances where it is demonstrated, to the satisfaction of the Council, that the enterprise can be more readily accommodated in a rural setting than in a designated settlement centre and subject to standard development management considerations being applied.
- ED POL 19 - To support and facilitate sustainable agriculture, agri-food, horticulture, forestry, renewable energy and other rural enterprises at suitable locations in the County.
- ED POL 20 - To support the implementation of the new LEADER Rural Development Strategy 2014-2020 and any subsequent amended/updated Strategy for the County.

- ED POL 21 - To support the Department of Rural and Community Development in the identification of other potential REDZ zones across the County and assist local communities to prepare for future funding opportunities.
- ED POL 26 - Meath County Council shall positively consider and assess development proposals for the expansion of existing authorised industrial or business enterprises in the countryside where the resultant development does not negatively impact on the character and amenity of the surrounding area. In all instances, it should be demonstrated that the proposal would not generate traffic of a type and amount inappropriate for the standard of the access roads. This policy shall not apply to the National Road Network.
- Chapter 9 – Rural Development Strategy Housing Capacity Sites
- RUR DEV SO1 - To support the continued vitality and viability of rural areas, environmentally, socially and commercially by promoting sustainable social and economic development.
- RUR DEV SO 4 - To recognise the strategic roles the county will play in the regional and national context in terms of recreation, heritage conservation, natural resources and food production, and to ensure compatibility between this plan and regional and national strategies.
- RUR DEV SO 6 - To protect and enhance the visual qualities of rural areas through sensitive design.
- RUR DEV SO7 - To support the continuing viability of agriculture, horticulture and other rural based enterprises within rural areas and to promote investment in facilities supporting rural innovation and enterprise with special emphasis on the green economy, in the context of sustainable development and the management of environmental resources.
- RUR DEV SO 8 - To support and protect the existing economic base and seek to diversify the economy through both inward investment and the promotion of agriculture, forestry and tourism- related industries in rural areas.
- RUR DEV SO 10 - To promote rural economic development by recognising the need to advance the long term sustainable social and environmental

development of rural areas and encouraging economic diversification and facilitating growth of rural enterprises.

- Chapter 11 – Employment Development Standards
- Section 11.6.7

## 6.2. Development Contributions Scheme

6.2.1. Meath County Council Development Contribution Scheme (DSC) 2024 – 2029.

6.2.2. Section 6 Schedule of Charges:

The contributions relevant to this appeal payable in respect of public infrastructure and facilities are as follows:

<b>Non-Residential Development</b>		<b>Contribution</b>
Class 1: Commercial Property / Retail / Retail Warehousing (inc. General Office)	Per sq. metre	€31
Class 2: Non-Financial / Non-Professional Services Office Use, Data Centres	Per sq. metre	€11
Class 3: Industrial Manufacturing / Warehousing / Port Warehousing Property	Per sq. metre	€11
Agricultural Development including stables / kennels	Per sq. metre	€9

Development contributions will be applied in the following proportions:

	<b>Residential</b>	<b>Non-Residential</b>
Surface Water Drainage	5%	3%
Roads	55%	74%
Social Infrastructure	40%	23%
Total	100%	100%

### **6.3. Relevant Guidelines**

6.3.1. I also identify key national planning policy as including several Section 28 Ministerial planning guidelines:

- Development Contributions Guidelines for Planning Authorities, January 2013
- Retail Planning, Guidelines for Planning Authorities, 2012
- Development Management Guidelines for Planning Authorities, June 2007
  - Section 7.12 Conditions requiring development contributions (Sections 48 and 49 of the Planning Act)
  - Section 8.12 Contribution Conditions
- Circular Letter PD 5/2007 Development Contributions.

### **6.4. Natural Heritage Designations**

6.4.1. The appeal site is not located within nor connected to a designated European Site. The closest such sites are some 11km - 14 km from the appeal site.

### **6.5. EIA Screening**

6.5.1. The proposed development does not come within the definition of a 'project' for the purposes of EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of report.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

7.1.1. A first part appeal has been received in relation to the application of Condition Nos. 13, 14 and 15 of the decision to grant permission by Meath County Council. The grounds of appeal are summarised below:

- The terms of the development contribution scheme have not been properly applied in attachment and Condition 13.

- The terms of the development contribution scheme have not been properly applied in the attachment of Condition 14.
- The terms of development contribution scheme have not been properly applied in the attachment of Condition 15.
- The basis for the calculations is set out in the payments report which misinterprets the use of the structure and classified them as commercial/ retail/ retail / warehousing, which they are clearly not.
- There are no visiting members of the public to the site, there are no private sales of agriculture or horticultural goods from the site. This is not a retail warehouse.
- The response to the further information request included a report, which confirmed the buildings are used for the storage and distribution of agricultural / horticultural products.
- No member of the public nor any commercial entity accesses the warehouse buildings, the only people accessing the site are employees.
- The wholesale transactions in respect to the horticulture / agricultural products takes place the office building and not from the sheds where the products are stored.
- The definition of agriculture in the legislation is very broad and includes the storage of agricultural products and horticultural products.
- The planning authority accepted the revised fee for the retention of agricultural structures in response to the freedom of information request.
- Planning authority in their decision decided that the permitted use was wholesale. Wholesale use in retail warehousing is not the same and should not be construed as the same.
- The structures are agricultural in their form and their use. They are used for the storage of agricultural products the wholesale business operates from the offices on site total office space is 403.5 square meters and the shared space 3,447 square meters the appeal sets out a table showing the revised the collection of the fees based on the sale sheds being defined as agricultural.

- This resulted in the incorrectly applied contributions, which was determined on the incorrect assumption that the building is retail warehousing.
- The Board is requested to use its discretion to amend Condition Nos. 13, 14 and 15 to reflect the permitted use on site as office and agriculture or office and warehousing.

## 7.2. Planning Authority Response

A submission has been received from the Planning Authority dated 3<sup>rd</sup> June 2024 which states “*The Planning Authority notes the contents pertained in the first-party appeal and acknowledges that the appeal specifically concerns Condition Nos. 13, 14 and 15 of the decision of the Planning Authority to grant permission and retention permission. These conditions relate to financial contributions applied at a Commercial Property / Retail / Retail Warehousing (Class 1: Non-Residential Development) rate. The business/operations on the subject lands may have originated from a primary agricultural basis but overtime, Unichem Ltd has developed into a product distributor of various gardening, agriculture, horticulture, golf and amenity items. This transition from agricultural to commercial occurred without the benefit of permission with development on the site continuing to expand and it was only in response to Further Information Request Item No. 1 of the subject application whereby the Planning Authority queried the planning status of the buildings on site that the applicant had sought to regularise the operations on the site. The applicant, in their response, however, sought to retain the units as agricultural structures. The Case Officer is not satisfied, from an inspection of the site, that the operations on the site restrict members of the public from carrying out business transactions and/or the sale of goods at the site. Moreover, the Case Officer does not accept that the subject operations falls under the classification of 'Agricultural' or 'Wholesale' of the Meath County Development Contributions Scheme (DCS) 2024-2029.*

*The Planning Authority is content that Development Contributions for the subject application have been appropriately considered and applied as per the adopted Meath County Council Development Contribution Scheme 2024 - 2029 (effective 1st January 2024)”.*

- 7.2.1. The report concludes by requesting that An Bord Pleanála uphold the Development Contributions, as applied, for the subject development.

### **7.3. Applicant Response**

- 7.3.1. The applicant issued a further response to the planning authority submission to the grounds of appeal on 1<sup>st</sup> July 2024. The response is summarised as follows:

- Applicant does not carry out any sales to visiting members of the public members of the public do not have access to the premises.
- The site has not and will not be used as retail warehouse.
- Goods are distributed on a wholesale basis to the customers who are agricultural and horticultural merchants, garden centres, DIY chains, co-ops and nurseries. Disciplinarians to golf courses, landscaping contractors, maintenance contractors, property management companies, local authorities, parks departments and professional gardeners. A private individual cannot purchase an item from the company.
- The business carried out on site is entirely wholesale in nature, the company started as a supplier of chemical fertilizer.
- The catalogue offers trade prices to customers and suggested retail price for retailers to sell these products.
- The decision of the Planning Authority includes a condition which states “the use of the structures hereby permitted and to be retained on the site shall be restricted to use as wholesale warehouse as defined under the Planning and Development Regulations, 2001 2003”.
- As the use has been conditioned to be wholesale warehouse by the Planning Authority it is unfair and unreasonable not to apply wholesale development contributions to same.
- The only part of the site which would be considered Commercial Class 1 of the contribution scheme would be the offices, with the remainder of the site being warehousing.

- The appellant is happy to accept contributions in respect of the permitted wholesale and office use.
- It is submitted in accordance with section 48(10) B of the Planning and Development Act 2000, as amended, and it is considered as the terms of the development contribution scheme have not been properly applied in respect of the conditions laid down by the planning authority.

## **8.0 Assessment**

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

- Scope of Appeal
- Application of the Development Contribution Scheme i.e. Condition 13, Condition 14 and Condition 15 – subject of appeal

### **8.2. Scope of Appeal**

- 8.2.1. The proposed development entails permission for the demolition of the single storey office extension and the construction of two storey office extension and all associated site works, including the retention of the existing structures on site. I have read all of the documentation attached to this file including the appeal and the report of the Planning Authority, in addition to having visited the site and as specified in the development description and public notices, I am satisfied that the appeal is against the imposition of Condition Nos 13, 14 and 15 of the decision to grant permission issued by the Planning Authority under PA Ref. 23361.
- 8.2.2. The planner's assessment of PA Ref. 23361 states that Development Contributions are applicable for the retention of sheds on site and are based on the floor areas provided within the red line, as revised by the further information request, with the container structures considered 'temporary' in nature and the office space deemed as ancillary.
- 8.2.3. I consider it is appropriate that the appeal should be confined to Condition Nos. 13, 14 and 15 only and I am satisfied that the appeal relates only to a financial contribution condition/conditions that the decision provides that the permission shall



be subject to, and that the determination by the Board of this application, as if it had been made to it in the first instance, would not be warranted. There are no special contribution or supplementary contribution issues arising within this appeal.

### **8.3. Application of the Development Contribution Scheme i.e. Condition 13, Condition 14 and Condition 15**

- 8.3.1. The appellant ascertains that the planning authority incorrectly applied the terms of the Meath County Council Development Contribution Scheme, 2024 - 2029 under Condition No. 13, in respect of social infrastructure, Condition No. 14, in respect of public roads and public transport and Condition No. 15 in respect of surface water drainage.
- 8.3.2. The appellant states that the use of the structures on site is not a retail warehouse, as there are no visiting members of the public. The buildings do not operate as a retail warehouse. The units are used for the storage and distribution of agricultural/horticultural products and as such the appellant considers that the proposed sheds are agricultural in their form and in their use. The wholesale business operates from the offices on site.
- 8.3.3. The Board is requested to amend Condition Nos. 13, 14 and 15 to reflect the permitted use on site as offices and agriculture or office and wholesale.
- 8.3.4. Having reviewed the planning application documents, the further information response, the planning appeal, responses and following my site visit, I consider that Unichem Limited is a commercial business and is operating as such. The buildings on site, house the products associated with the commercial business on site with the office dealing with the transactions for the commercial business. I do not agree with the appellants assertion that the sheds are agricultural in use, while they may appear as agricultural buildings in their form, they store agricultural products for sale/distribution associated with the commercial business operating from the site, including garden, golf & amenity, agriculture and commercial horticulture products. Therefore, I do not consider that the structures could be considered as agriculture for the purposes of development contributions.
- 8.3.5. The main consideration, therefore, is the whether the structures, and associated office, are considered Class 1: Commercial/Retail/Retail Warehousing or Class 3:

Industrial Manufacturing/Warehousing/Port Warehousing Property as defined in the Meath Development Contribution Scheme.

- 8.3.6. I reference the Meath County Council Development Contribution Scheme, which states in relation to Class 1: Commercial Property that *“Commercial property relates to the provision of a business premises including any structure or other land which is normally used for the carrying out of any professional or commercial undertaking, including; an office (except for office use as described in note 2 below), a hotel, restaurant or public house, any structure or other land used for the purpose of, or in connection with, the functions of a 7 state authority, facilities for child minding, a day care centre, guest house or other premises providing overnight guest accommodation, club, boarding house or hostel, night club / dance hall, shop or supermarket, school or college, nursing home, hospital or health centre”*.
- 8.3.7. The appellant states that transactions are carried out online, and while there were no visiting members of the public at the appeal site at time of my inspection, I am not satisfied that the office space does not serve visiting members of the public in some capacity in association with business transactions/queries, etc.
- 8.3.8. As such, I consider that the office use operates as a commercial property and is used for the carrying out of a commercial undertaking. Therefore, I consider it reasonable to apply Class 1: Commercial/Retail/Retail Warehousing of the Meath Development Contribution Scheme to the office use at a rate of €31 per sq. metre i.e. 403.5 sq. m X €31 = €12,508.5.
- 8.3.9. In respect to the remaining structures on site, I note that the planner’s assessment did not accept that the subject operations falls under the classification of wholesale and the planner was not satisfied that the operations on site restrict members of the public from carrying out business transactions and/or the sale of goods on site. As noted in the forgoing, I consider that the office associated with the commercial use should be considered commercial Class 1 and be levied as such.
- 8.3.10. However, in relation to the storage structures on site, these structures store the materials, which are for sale and distribution. While the structures are associated with the overall commercial business, they do not display the goods for sale to the public, there is no showroom, and it appears from site inspection that members of

the public do not have access to these structures. Therefore, I am satisfied that the structures provide ancillary storage to the overall business operation.

8.3.11. There is no definition of either retail warehouse or warehouse/wholesale within the Meath County Development Plan or the Meath Development Contribution Scheme.

8.3.12. However, the Retail Guidelines, (2012) define a Retail Warehouse as “*A large single-level store specialising in the sale of bulky household goods such as carpets, furniture and electrical goods, and bulky DIY items, catering mainly for car-borne customers*”.

Having regard to the above, I do not consider that the structures on site, based on their use and appearance could be classified as retail warehousing for the purposes of the development contributions.

8.3.13. The Planning and Development Regulations, 2001, as amended define “wholesale warehouse” as ‘*a structure where business, principally of a wholesale nature is transacted, and goods are stored or displayed incidentally to the transaction of that business*’.

Having regard to the nature of the commercial business operating at this site, which mainly consists of the sale and distribution of wholesale goods and services in the gardening, agriculture, horticulture, golf and amenity sectors. The structures are solely used for the purpose of storage associated with the business and there is no showroom on site displaying the products for sale.

Therefore, I am satisfied that the storage structures be considered wholesale warehousing, as outlined within the appeal, and I consider it reasonable to apply Class 3: Industrial Manufacturing/Warehousing/Port Warehousing Property of the Meath Development Contribution Scheme to the storage use on site at a rate of €11 per sq. metre i.e. 3447.4 sq. m X €11 = €37,921.4.

8.3.14. Therefore, I consider that the Planning Authority misapplied the terms of the Meath Development Contribution Scheme to the application, specifically the existing storage buildings on site, and as such the total contribution to be charged amounts to €50,429.90, which I have detailed under Table 1 below.

**Table 1**

<b>Element of development</b>	<b>Floor Area</b>	<b>Contribution Rate - DCS</b>	<b>Contribution</b>
Two storey Office	403.5 sq. m.	€31	<ul style="list-style-type: none"> <li>• €375.25 – <b>Surface Water</b></li> <li>• €9256.29 - <b>Roads</b></li> <li>• € 2876.9- <b>Social Infrastructure</b></li> </ul> Total: €12,508.4
Existing Storage Structures	3447.4 sq. m.	€11	<ul style="list-style-type: none"> <li>• €1137.6 – <b>Surface Water</b></li> <li>• €28061.8 - <b>Roads</b></li> <li>• €8722 - <b>Social Infrastructure</b></li> </ul> Total: €37,921.4
<b>Overall Total</b>			<b>€50,429.8</b>

Note: The above Table 1 amounts to the following amended Development Contribution total for each condition as follows:

Condition No. 13 Social Infrastructure Total: **€11,598.9**

Condition No. 14 Roads Total: **€37,318.09**

Condition No. 15 Surface Water Total: **€1,512.85**

## 9.0 Recommendation

- 9.1. Having regard to the nature of the conditions the subject of the appeal and based on the reasons and considerations set out below, I am satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and recommend that the Board directs the Council under subsection (13) (a) of Section 48 of the Planning and Development Act, 2000, (as amended), to AMEND Condition No. 13, Condition No. 14 and Condition No. 15 of PA Ref. 23361 for the reasons and considerations set out hereunder.

## 10.0 Reasons and Considerations

- 10.1. Having regard to:

- a) Section 34(5) of the Planning and Development Act 2000, as amended,
- b) The provisions of the Meath County Council Development Contribution Scheme (DCS) 2024 – 2029,
- c) Section 48 of the Planning and Development Act 2000, as amended,
- d) The planning application, and the documentation submitted as part of the appeal.

- 10.2. I consider that the Planning Authority misapplied the terms of the DCS by incorrectly including floor space used for the storage of the materials associated with the commercial business as 'Class 1: Commercial Property/Retail/Retail Warehousing' instead of 'Class 3: Industrial Manufacturing/ Warehousing/ Port Warehousing Property', as the structures on site consist of wholesale warehousing storage space associated with the use and are not considered to be retail warehousing. It is considered, therefore, that it would be appropriate to direct Meath County Council to

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- (i) Amend Condition No. 13 of PA Ref. 23361 as follows:

The developer shall pay the sum of **€11,598.9** to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the Planning Authority in the provision and extension of social infrastructure (open spaces, recreational and community facilities, amenities and landscaping

works) by the Council benefiting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council adopted in accordance with the provisions of Section 48 of the Planning & Development Acts 2000 - 2022. Payment of this sum shall be made prior to commencement of development unless the phasing of payments and the giving of security to ensure payment in full is agreed in writing with the Planning Authority prior to the commencement of development.

The above sum shall apply until 31st December 2024 and shall be subject to review on that date and to annual review thereafter unless previously paid. The contribution rates shall be updated effective from January 1st each year during the lifetime of the Development Contribution Scheme in accordance with the Wholesale Price Indices - Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: The provision of such social infrastructure in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing these services. (Planning Financial).

(ii) Amend Condition No. 14, of PA Ref. 23361 as follows:

The developer shall pay the sum of **€37,318.09** to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the Planning Authority in the provision, refurbishment, upgrading, enlargement or replacement of public roads and public transport infrastructure by the Council benefiting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council adopted in accordance with the provisions of Section 48 of the Planning & Development Acts 2000-2022. Payment of this sum shall be made prior to commencement of development unless the phasing of payments and the giving of security to ensure payment in full is agreed in writing with the Planning Authority prior to the commencement of development.

The above sum shall apply until 31st December 2024 and shall be subject to review on that date and to annual review thereafter unless previously paid. The contribution rates shall be updated effective from January 1st each year during

the lifetime of the Development Contribution Scheme in accordance with the Wholesale Price Indices - Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: The provision of such roads and public transport infrastructure in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing these services. (Planning Financial), and.

(iii) Amend Condition No. 15 of PA Ref. 23361 as follows:

The developer shall pay the sum of **€1,512.85** to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the Planning Authority in the provision of surface water drainage infrastructure by the Council benefiting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council adopted in accordance with the provisions of Section 48 of the Planning & Development Acts 2000 - 2022. Payment of this sum shall be made prior to commencement of development unless the phasing of payments and the giving of security to ensure payment in full is agreed in writing with the Planning Authority prior to the commencement of development.

The above sum shall apply until 31st December 2024 and shall be subject to review on that date and to annual review thereafter unless previously paid. The contribution rates shall be updated effective from January 1st each year during the lifetime of the Development Contribution Scheme in accordance with the Wholesale Price Indices - Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: The provision of surface water drainage in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing these services. (Planning Financial).

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.

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Emma Nevin  
Planning Inspector

31<sup>st</sup> October 2024



## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	319644-24		
<b>Proposed Development Summary</b>	Demolition of single storey office extension and construction of two storey office extension and all associated site works. Significant further information was received.		
<b>Development Address</b>	Ballymacarney, The Ward, Co. Meath		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>	X	N/A	This application relates solely to the application of Development Contribution Conditions
<b>Yes</b>			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required