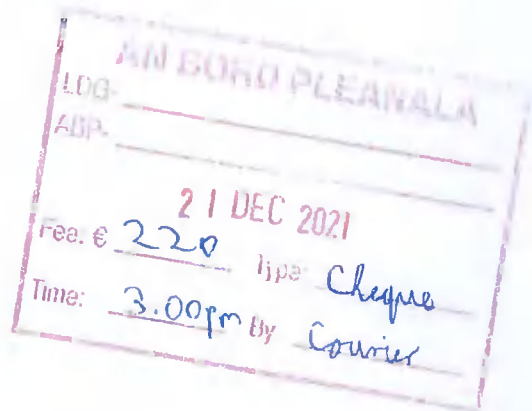


First Party Planning Appeal against: Condition 4 Development Contribution.

Planning Authority: South Dublin County Council

Appellant: O&S Doors Limited



Development:

Amalgamation of units F2 and F3 (with connecting doors at ground and first floor levels) and its use for warehouse and distribution with ancillary trade counter and showroom at ground and first floor levels; Retention of offices at second floor level which are ancillary to the overall warehouse operation; Retention of all signage and external illumination of the signage.

PA Ref: SD21A/0236

Date: 21 December 2021

Prepared By:	Signed	Date of Final Version
Tony Bamford		December 2021

Tony Bamford Planning
 Airport Hub, Furry Park, Swords Road, Santry
 Dublin 9
www.tonybamfordplanning.ie

READER NOTES:

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- Appendix 2 Copy of Historic planning permissions
- Appendix 3 2004-2009 Development Contribution Scheme
- Appendix 4 Kildare Route Project Supplementary DCS

1.0 Introduction

Summary of Statutory Requirements

Tony Bamford Planning has been instructed by O&S Doors Limited to prepare this appeal in respect of Condition 4.

The details of the content of this appeal's legislative requirements are summarised in Table 1.0.

Table 1.0	
Item	Response
Appeal Fee	€220
Appeal Type	First Party against Contribution Conditions 4
Grounds of appeal	Enclosed
Appellant's Name	O&S Doors Limited
Appellant's Address	106 Syerla Road, Dungannon, Co Tyrone, BT71 7ET, United Kingdom.
Planning Authority	South Dublin County Council
Planning Reference	SD21A/0236
Date of Decision	24 November 2021
Date of Manager's Order	24 November 2021
Last Date for Appeal	21 December 2021
Copy of Decision	Appendix 1
Agent name and address	Tony Bamford Planning, Airport Hub, Furry Park, Swords Road, Santry, Dublin 9
Correspondence Address	To agent

2.0 Grounds of Appeal – Condition 4: Development Contribution

The substance of this appeal is that the Council must deduct the amounts of historic contributions paid on the property from the contribution specified in condition 4. This has not happened.

Condition 4 states:

Financial Contribution. The developer shall pay to the Planning Authority a financial contribution of €99,947.67 (ninety nine thousand nine hundred and forty seven euros and sixty seven cents), in respect of public infrastructure and facilities benefiting development within the area of the Planning Authority, that is provided, or intended to be provided by or on behalf of the authority, in accordance with the terms of the Development Contribution Scheme 2021... (See decision at Appendix 1).

In relation to the planning application for change of use, the relevant section of the Development Contribution Scheme states, at Section 11 (refer to Appendix 2):

(xxvii) Change of use: In respect of a permission for change of use, where development contributions were paid in respect of the former use the contribution payable on the new use will be net of the quantum of development previously paid for. Where a contribution was not previously paid or the original development was carried out before 1963 it shall be treated in its entirety as new development and assessed accordingly.

The Development Contribution Scheme does not provide for any rebate or refund in this regard. Agents/applicants should provide evidence of prior payment at application stage to expedite assessment and avail of this exemption.

Covid 19 Restrictions – provision of evidence at application stage:

It should be noted that in order to conduct planning history searches as recently as early December 2021 an appointment must be made with SDCC at which time, appointees are offered a 30 minute window to conduct their review. However, prior to this, the offices of SDCC were not open to the public so seeking information on the prior payment of contributions, on old planning files, was not feasible.

In any event, we were able to search the older applications on this site in the last couple of weeks, and whilst final grants are available for developments in this area, there is no means to geographically tie those grants to a specific property as there are no location plans or site layout plans available for pre-2000 files. Most of the relevant files date back to the 1980's.

Moreover, it is not possible, without the assistance of the Council to confirm which contributions were paid. Former owners of the property have been and gone and with them any records of payments dating back some 40 years.

In this regard, mindful of the restrictions imposed due to Covid (and the exceptional circumstances arising). We require the assistance of the Council to determine payment of same.

What are the Relevant Contributions?

Before considering what contributions were paid, we must try to determine what permissions are relevant by reference to the wording of the Scheme.

Within the context of the interpretation of section XXVI of the Scheme, we consider there is wide scope to include all those permissions relevant to the entire complex that is Weatherwell Business Park:

- *"In respect of a permission for change of use, where development contributions were paid in respect of the former use the contribution payable on the new use will be net of the quantum of development previously paid for".* We submit that there is no limitation as to which historic permissions are relevant and arising from these, which contributions were paid *"in respect of the former use"*. In our opinion, this sentence can be broadly and generously interpreted to include, for example, the old site works permission in 1980: Ref: TA604. Development permissions on this site date back to 1980 and many of these were subject to development contributions. We submit that any contribution paid that facilitated the development of the site including historic permissions for ground works must be counted as contributions *"..in respect the former use"*. Table 1 below sets out those historic permissions relevant to the Business Park starting with the ground work permission from 1980. These are the permissions we could find, which were indicated on the old Planning Register maps at least being geographically located on the site of the Weatherwell Business Park, and, those where a development contribution was imposed.

Table 1: Relevant Planning History¹

Permission Reference ²	Date of decision	Amount in Irish Pounds (Punts) ³	Conversion of Punts to EUR ⁴	November 2021 Equivalent value in EUR ⁵
TA604	July 1980	13,500 + 40,000 + 20,000 = 73,500	93,325.75	348,195.55
TA1709	December 1980	13,500	17141.46	62,060.15
XA826	August 1982	13,500	17141.46	45,515.51
S97a/758	January 1998	34,500	43,805.96	67,892.75
POST-2000				
SD05a/0035	October 2005			No contribution ⁶
Total				523,662

- *“Agents/applicants should provide evidence of prior payment at application stage to expedite assessment and avail of this exemption”.* We require the assistance of the Council to provide information on the payment of contributions. We respectfully ask the Board, in due course, to seek clarification from the Council, under Section 132 of the Act, to confirm the payment of these contributions. If it is the case the Council cannot confirm same, due to the age of the records and indeed the fact many such records will have been held by the former Dublin County Council, then we would ask the Board to assume their payment and deduct this amount from the contribution charged under Condition 4.

¹ Refer to decisions at **Appendix 2**

² Permissions pre. 2000, have been determined to relate to the property by virtue of the positioning on the historic planning application registration maps held by South Dublin County Council

³ As set out in the relevant permission in Irish Pounds. Std conversion rate: 1 Irish Pound = 1.26974 Euro.

⁴ Central Statistics Office CPI inflation calculator requires that the Irish Pounds are converted to Euros before using the inflation calculator. Std conversion rate: 1 IEP = 1.26974 EUR.

⁵ Equivalent Amount in November 2021 in EUR.

⁶ No contribution was applied.

- *"The Development Contribution Scheme does not provide for any rebate or refund in this regard"*. This section is irrelevant. Monies have not been paid to date so there is no requirement for the rebate/refund clause to be considered.

Table 1: Relevant Planning History⁷

Planning permissions were granted on this site since at least 1980. Since then, the Council has charged over half a million Euros of contributions. If payment of same cannot be confirmed, a reasonable assumption can be made, on the balance of probability, that a substantial portion must have been paid, at least equivalent to the figure in the disputed Condition 4. The alternative would be to conclude that the applicant cannot prove the payment of the contribution *"under their own steam"* and as such they cannot claim a reduction. That appears to us, in the context of the preceding and more compelling argument, to be entirely unfair.

In respect of SD05a/0035 relating to Unit F3 this permission included 355.5sqms of retention floorspace (change of use) and 538sqms of proposed development (Change of use). The Council did not apply a single cent of contribution to that permission. This seems quite irregular as there was no exemption of any kind in that Contribution Scheme (2004-2009) relating to change of use. That suggests a contribution should have been applied against the areas of the application: 355.5sqms and 538sqms.

Indeed, when we compare the wording of The 2005 Development Contribution Scheme (**Appendix 3**) and the current Supplementary Scheme for the Kildare Route (**Appendix 4**) which is used as the basis for the charge in Condition 5 under SD21/0236, we can see that neither document contains an exemption for change of use.

It is our argument, that a contribution should have been applied to the 2005 permission. But, we submit, same was not applied as the Council had off set

⁷ Refer to decisions at **Appendix 2**

the historic contributions (which must then have been remitted), referred to in Table 1, against any Contribution that may otherwise have been charged to the 2005 permission. This, we consider, provides a precedent as to how this appeal should be remediated.

3.0 Remedy Sought

Condition 4: Order the removal of Condition 4 from the grant of permission.

Appendix 1

An Rannóg Talamhúsáide, Pleanála agus Iompair
Land Use, Planning & Transportation Department
Telephone: 01 4149000 Fax: 01 4149104 Email: planning.dept@sdublincoco.ie

Tony Bamford Planning
106, Syerla Road
Dungannon
Co. Tyrone
BT71 7ET

**NOTIFICATION OF DECISION TO GRANT PERMISSION FOR RETENTION
PLANNING AND DEVELOPMENT ACT 2000 (as amended) & PLANNING
REGULATIONS THEREUNDER**

Decision Order Number: 1529	Date of Decision: 24-Nov-2021
Register Reference: SD21A/0236	Date: 27-Oct-2021

Applicant: O&S Doors Limited

Development: Amalgamation of units F2 and F3 (with connecting doors at ground and first floor levels) and its use for warehouse and distribution with ancillary trade counter and showroom at ground and first floor levels; Retention of offices at second floor level which are ancillary to the overall warehouse operation; Retention of all signage and external illumination of the signage.

Location: Units F2 & F3, Weatherwell Business Park, Clondalkin, Dublin 22

Floor Area:

Time extension(s) up to and including:

Additional Information Requested/Received: 18-Oct-2021 /27-Oct-2021

Clarification of Additional Information Requested/Received:

DECISION TO: Pursuant to the Planning & Development Act 2000 (as amended), it is hereby decided, for the reasons set out in the First Schedule hereto, to **GRANT PERMISSION FOR RETENTION** for the said development in accordance with the said plans and particulars, subject to the conditions specified in the Second Schedule hereto, the reasons for the imposition of the said conditions being as set out in the said Second Schedule and the said decision is subject to the said conditions.

FIRST SCHEDULE

It is considered that the proposed development accords with the policies and objectives of South Dublin County Council, as set out in the South Dublin County Council Development Plan 2016 - 2022 and subject to the condition(s) set out hereunder is thereby in accordance with the proper planning and sustainable development of the area.

SECOND SCHEDULE

Conditions and Reasons:

1. Development to be in accordance with submitted plans and details.
The development shall be carried out and completed in its entirety in accordance with the plans, particulars and specifications lodged with the application, and as amended by Further Information received on 27/10/21, save as may be required by the other conditions attached hereto.
REASON: To ensure that the development shall be in accordance with the permission, and that effective control be maintained.
2. Drainage - Irish Water.
 - (a) The water supply and drainage infrastructure, shall comply with the requirements of Irish Water.
 - (b) There shall be complete separation of the foul and surface water drainage systems, both in respect of installation and use.
 - (c) All new precast surface water manholes shall have a minimum thickness surround of 150mm Concrete Class B.REASON: In the interests of public health, the proper planning and sustainable development of the area and in order to ensure adequate water supply and drainage provision.
3. Signage
All signage proposed shall be sensitively lit and shall not be internally illuminated.
REASON: To ensure that the development is in accordance with the permission and that effective control is maintained.
4. Financial Contribution.
The developer shall pay to the Planning Authority a financial contribution of €99,947.67 (ninety nine thousand nine hundred and forty seven euros and sixty seven cents), in respect of public infrastructure and facilities benefiting development within the area of the Planning Authority, that is provided, or intended to be provided by or on behalf of the authority, in accordance with the terms of the Development Contribution Scheme 2021 -

2025, made under Section 48 of the Planning and Development Acts 2000-2011 (as amended).

The contribution shall be paid prior to commencement of development, or in such phased payments as the Planning Authority may facilitate. Contributions shall be payable at the rate pertaining to the year in which implementation of the planning permission is commenced as outlined in the South Dublin County Council Development Contribution Scheme 2021 - 2025.

REASON: The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities 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.

NOTE RE: CONDITION - Please note that with effect from 1st January 2014, Irish Water is now the statutory body responsible for water services. Further details/clarification can be obtained from Irish Water at Tel. 01 6021000 or by emailing customerservice@water.ie.

5. Kildare Route Financial Contribution.

The developer shall pay to South Dublin County Council a supplementary development contribution in the sum of €24,517.95 (updated to the appropriate rate at the date of commencement of development in accordance with changes in the Tender Price Index) pursuant to the provision of Section 49 Planning & Development Act 2000 (as amended) towards the expenditure incurred in the provision of the Kildare Route Project which facilitates this development.

REASON: The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a Supplementary Contribution be made in respect of the upgrade of the Irish Rail, Kildare Route Project.

NOTE: The applicant is advised that under the provisions of Section 34 (13) of the Planning and Development Act 2000 (as amended) a person shall not be entitled solely by reason of a permission to carry out any development.

NOTE: The requirements of the HSE Environmental Health Officer shall be ascertained prior to the commencement of development in the interest of public health.

NOTE: Adequate provision should be made to facilitate access to and the use of the development, buildings, facilities and services by disabled persons, including sanitary conveniences. The minimum requirements should be as per Part M of the Building Regulations.

The Developer is advised that under the provisions of the Construction Products Regulation 2013 (No.305/2011-CPR) All products sourced for use in building process must conform with the statutory requirements of the CPR. For more information on these responsibilities see <http://ec.europa.eu/enterprise/sectors/construction/legislation>.

From March 1, 2014 the Building Control (Amendment) Regulations 2013 (SI 80 of 2013) come into effect. All Commencement Notices for works greater than 40sq.m are obliged to be accompanied by a number of certified undertakings as described by these Regulations.

Please note that upon receipt of this document you are obliged to remove the planning site notice in compliance with Article 20 of the Planning and Development Regulations 2001, as amended.

Please note that any valid submissions or observations received in accordance with the provisions of the Planning and Development Regulations 2001, as amended, have been considered in the determination of this application.

Signed on behalf of the South Dublin County Council.

Brian Connolly
for Senior Planner

29-Nov-2021

NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications related to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of two months beginning on the date of the Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted.

(B) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála. The applicant or ANY OTHER PERSON who made submissions or observations to the Local Authority may appeal within FOUR WEEKS beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received).
2. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. In the case of a third party appeal it must be accompanied by the acknowledgement by the Planning Authority of receipt of the submissions/observations. Appeals should be sent to:
The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1.
3. An Appeal lodged by an applicant/ agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below.
4. A party to an appeal making a request to An Bord Pleanála for an Oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (g) below).
5. A person who is not a party to an appeal must pay a fee to An Bord Pleanála when making submissions or observations to An Bord Pleanála in relation to an appeal.
6. If the Council makes a decision to grant permission/grant permission consequent on a grant of outline permission and there is no appeal to An Bord Pleanála against this decision, PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION will be granted by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If any appeal made in accordance with the Acts has been withdrawn, the Council will grant the PERMISSION/PERMISSION CONSEQUENT ON A GRANT OF OUTLINE PERMISSION/RETENTION as soon as may be after the withdrawal.
7. Fees payable to An Bord Pleanála from 10th December 2007 are as follows:
 - (a) Appeal against a decision of a Planning Authority on a planning application relating to commercial development made by the person by whom the planning application was made. where the application relates to unauthorised development.....€4,500.00 or €9,000 if an E.I.A.R. is involved
 - (b) Appeal against a decision of a planning authority on a planning application relating to commercial development made by the person by whom the planning application was made. other than an appeal mentioned at (a)..... €1,500.00 or €3,000.00 if an E.I.A.R. is involved
 - (c) Appeal made by the person by whom the planning application was made, where the application relates to unauthorised development other than an appeal mentioned at (a) or (b)..... €660.00
 - (d) Appeal other than an appeal mentioned at (a), (b), (c) or (f) €220.00
 - (e) Application for leave to appeal..... €110.00
 - (f) Appeal following a grant of leave to appeal..... €110.00
 - (g) Referral €220.00
 - (h) Reduced fee (payable by specified bodies) €110.00
 - (i) Submission or observations (by observer) €50.00
 - (j) Request from a party for an Oral Hearing..... €50.00

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification

at Telephone 01-858 8100

Appendix 2

COMHAIRLE CHONTAE ÁTHA CLIATH

File Reference	LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACT 1963 & 1976 PLANNING REGISTER	REGISTER REFERENCE TA.604
1. LOCATION	Neillstown, Clondalkin, Co. Dublin S	
2. PROPOSAL	Site development works on approved industrial lands	
3. TYPE & DATE OF APPLICATION	TYPE	Date Received
	A.	31.3.80
	(a) Requested	Date Further Particulars (b) Received
	1. _____	1. _____
	2. _____	2. _____
4. SUBMITTED BY	Name Western Contractors Ltd., Address Greenhills Industrial Estate, Walkinstown, Dublin 12	
5. APPLICANT	Name Western Contractors Ltd., Address	
6. DECISION	O.C.M. No. PA/1132/80	Notified 30th May 1980
	Date 30th May 1980	Effect To grant permission
7. GRANT	O.C.M. No. FBD/387/80	Notified 18th July 1980
	Date 18th July 1980	Effect Permission granted,
8. APPEAL	Notified	Decision
	Type	Effect
9. APPLICATION SECTION 26 (3)	Date of application	Decision
		Effect
10. COMPENSATION	Ref. in Compensation Register	
11. ENFORCEMENT	Ref. in Enforcement Register	
12. PURCHASE NOTICE		
13. REVOCATION or AMENDMENT		
14.		
15.		
16.		
Prepared by _____		Copy issued by _____ Registrar.
Checked by _____		Date _____
Grid Ref.	O.S. Sheet	Co. Accts. Receipt No. _____



DUBLIN COUNTY COUNCIL

P/2/3.8.7 / 8.0

Tel. 724755(Ext. 262/264)

PLANNING DEPARTMENT
DUBLIN COUNTY COUNCIL
IRISH LIFE CENTRE
LOWER ABBEY STREET
DUBLIN 1

Notification of Grant of Permission/~~Approval~~
Local Government (Planning and Development) Acts, 1963 & 1976

To: **Western Contractors Limited,**
Greenhills Industrial Estate,
Malinstown,
Dublin 12.

Decision Order **PA/1152/80: 30/5/80**
Number and Date
Register Reference No. **T.A. 604**
Planning Control No. **9795**
Application Received on **31/5/80**

Applicant **Western Contractors Limited.**

A PERMISSION/APPROVAL has been granted for the development described below subject to the undermentioned conditions.
Proposed site development works at Malinstown, Clondalkin, Co. Dublin.

CONDITIONS	REASONS FOR CONDITIONS
1. Subject to the conditions of this permission the development to be carried out and completed strictly in accordance with the plans and specification lodged with the application.	To ensure that the development shall be in accordance with the permission and that effective control be maintained.
2. That before development commences approval under the Building Bye-Laws to be obtained and all conditions of that approval to be observed in the development.	In order to comply with the Sanitary Services Acts, 1878 - 1964.
That the proposed house be used as a single dwelling unit.	That the proposed house be used as a single dwelling unit.
3. That a financial contribution in the sum of €15,500.00 be paid by the proposer to the Dublin County Council towards the cost of provision of public services in the area of the proposed development, and which facilitate this development; this contribution to be paid before the commencement of development on the site.	The provision of such services 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 the services.

(Contd . . .)

Signed on behalf of the Dublin County Council:

for Principal Officer

IMPORTANT: Turn overleaf for further information.

Date: **1.8. JUL 1980**

Approval of the Council under Building Bye-Laws must be obtained before the development is commenced and the terms of approval must be complied with in the carrying out of the work.

CONDITIONS

REASONS FOR CONDITIONS

That no development under any permission granted pursuant to this decision be commenced until security for the provision and satisfactory completion of services including maintenance until taken-in-charge by the Local Authority of roads, open space, carparks, sewers, watermains or drains has been given by:

- (a) Lodgment with the Council of an approved Insurance Company Bond in the sum of

~~£40,000.00 (forty-~~

~~thousand pounds)~~ by the developer from time to time as required during the course of the development and kept in force by him until such time as the roads, open space, carparks, sewers, watermains and drains are taken-in-charge by the Council.

Or/

- (b) Lodgment with the Council of ~~£40,000.00~~ to be applied by the Council at its absolute discretion, if such services are not duly provided to its satisfaction on the provision and completion of such services to standard specification.

Or/

- (c) Lodgment with the Planning Authority of a letter of guarantee issued by any body approved by the Planning Authority for the purpose in respect of the proposed development in accordance with the guarantee scheme agreed with the Planning Authority.

and such lodgment in either case has been acknowledged in writing by the Council.

Note: When development has been completed, the Council may pursue the Bond to secure completion of the works required to bring the estate up to the standard for taking-in-charge.

To ensure that a ready sanction may be available to the Council to induce the provision of services and prevent disamenity in the development.

(Contd. . . .)

P.K.

DUBLIN COUNTY COUNCIL

Tel. 724755(Ext. 262/264)

PLANNING DEPARTMENT
DUBLIN COUNTY COUNCIL
IRISH LIFE CENTRE
LOWER ABBEY STREET
DUBLIN 1

Notification of Grant of Permission/Approval
Local Government (Planning and Development) Acts, 1963 & 1976

To: Western Contractors Limited,
Greenhills Industrial Estate,
Walkinstown,
Dublin 12.

Decision Order
Number and Date PA/1132/80, 30/3/80

Register Reference No. T.A. 604

Planning Control No. 9295

Application Received on 31/3/80

Applicant Western Contractors Limited.

A PERMISSION/APPROVAL has been granted for the development described below subject to the undermentioned conditions.

Proposed site development works at Mallinstown, Glendalkin, Co. Dublin.

CONDITIONS	REASONS FOR CONDITIONS
5. That the water supply and drainage arrangements, including the disposal of surface water, be in accordance with the requirements of the County Council.	5. In order to comply with the requirements of the Sanitary Authority.
6. That the requirements of the Roads Engineer, as specified in RPS 104, be strictly adhered to in this development.	6. In the interest of safety.
7. That this permission refers to site development works only and does not refer to layout of buildings.	7. In the interest of the proper planning and development of the area.
8. That the developer maintain the roads and services in the estate in a proper condition until taken in charge by the Council.	8. To protect the amenities of the area.
9. That details of proposed public lighting arrangements to the required standard be submitted and approved by the County Council.	9. In the interest of public safety.
10. That all public services to the proposed development, including electrical, telephone cables and equipment be located underground throughout the entire site.	10. In the interest of amenity.
11. That the new access to Station Road be provided with adequate vision panels in both directions, as detailed by the applicant in this application and as required by the Roads Engineer.	11. In the interest of safety.
12. That the existing entrance into 9th Lock Road be closed permanently to all vehicular traffic when the new access is available.	12. In the interest of the proper planning and development of the area.

(Contd.,...)

Signed on behalf of the Dublin County Council:

for Principal Officer

18 JUL 1980

Date:

Approval of the Council under Building Bye-Laws must be obtained before the development is commenced and the terms of approval must be complied with in the carrying out of the work.

FUTURE PRINT

13. That details of boundary treatment and landscaping be submitted for approval of Planning Authority.
14. 6-ft. high screen walls of brick or similar durable materials suitably capped and finished be provided to screen the rear gardens of existing houses from view from new road and from factory units. Details to be agreed with the Planning Authority.
15. That the necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or deposit of clay, rubble or other debris on adjoining roads during the course of the works.
16. That all watermain toppings branch connections, swabbing and chlorination, be carried out by the County Council, Sanitary Services Department, and that the cost thereof be paid to the County Council before any development commences. In this regard applicant is advised that a public water supply is available at the moment for toilet use only and this restriction will remain for at least a further 18-months and possibly longer.
17. That the foul sewerage flow from the estate does not exceed $6\frac{1}{2}$ cu. mins. No industrial effluent to be discharged without planning permission and license under the Water Pollution Act. Discharge from spillage areas throughout the site to be subject to the provisions of the Water Pollution Act.
18. That the access road be widened to 20-ft. in a 32-ft. allowance.
13. In the interest of amenity.
14. In the interest of amenity.
15. To protect the amenities of the area.
16. To comply with public health requirements and to ensure adequate standards of workmanship. As the provision of these services by the Council will facilitate the proposed development, it is considered reasonable that the Council should recover the cost.
17. To prevent pollution.
18. To ensure a satisfactory standard of development.



 for Principal Officer.

COMHAIRLE CONTAE ÁTHA CLIATH THEAS

Halla an Chontae, Lár an Bhaile,
Tamlacht, Baile Átha Cliath 24.

Telefon: 01-414 9000
Facs: 01-414 9104
www.sdublincoco.ie



PLANNING DEPARTMENT
County Hall, Town Centre,
Tallaght, Dublin 24.

Telephone: 01-414 9000
Fax: 01-414 9104
www.sdublincoco.ie

Alan Kennedy,
Mark O'Reilly & Associates
Greenmount House
Harolds Cross Road
Dublin 6W

NOTIFICATION TO GRANT PERMISSION & GRANT RETENTION PLANNING & DEVELOPMENT ACT, 2000 AND PLANNING REGULATIONS THEREUNDER

Final Grant Order No.:	2236	Date of Final Grant:	05-Oct-2005
Decision Order No.:	1934	Date of Decision:	26-Aug-2005
Register Reference:	SD05A/0035	Date:	02-Aug-2005

Applicant: Niall Kirwan, Kirwan Electrical
Development: (a) Retention of part of second floor as industrial logistics, (b) retention of first floor and part of second floor as gymnasium, (c) change of use of ground floor from industrial use to gymnasium use and (d) alterations to front elevation.
Location: Unit F3, Weatherwell Business Park, Newlands Road, Clondalkin, Dublin 22.

Time extension(s) up to and including
Additional Information Requested/Received 10-Mar-2005 / 02-Aug-2005

A Permission has been granted for the development described above, subject to the following (7) conditions.

Conditions and Reasons:

1. The development shall be retained and completed fully in accordance with the plans, particulars and specifications lodged with the application, and as amended by Further Information received on the 2nd of August 2005, save as may be required by the other conditions attached hereto.

Reason: To ensure that the development shall be in accordance with the permission, and that effective control be maintained.

2. No advertising sign(s) or structure(s) shall be erected except those, which are exempted development, without the prior approval of the Planning Authority or An Bord Pleanála on appeal.

Reason: In the interest of proper planning and sustainable development of the area.

COMHAIRLE CONTAE ÁTHA CLIATH THEAS

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Tamlacht, Baile Átha Cliath 24.

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3. The water supply and drainage infrastructure, including the disposal of surface water, shall comply with the technical requirements of the Planning Authority.

Reason: In the interests of public health and in order to ensure adequate.

4. a) The requirements of the South Western Area Health Board shall be strictly adhered to.
b) A suitable location for the storage of refuse shall be provided, during construction and operational phases of development.

Reason: In the interests of public health and safety.

5. No heavy construction equipment/machinery (to include pneumatic drills, construction vehicles, generators, etc.) shall be operated on or adjacent to the construction site before 8.00 hours on weekdays and 9.00 hours on Saturdays nor after 18.00 hours on weekdays and 13.00 hours on Saturdays, not at any time on Sundays, Bank Holidays or Public Holidays.

Reason: In the interest of public health.

6. Noise due to the normal operation of the proposed development, expressed as L_{Aeq} over 1 hour at the façade of a noise sensitive location, shall not exceed the daytime background level by more than 10dB(A).

Reason: In the interest of public health.

7. During the construction phase, all necessary steps to contain dust arising from the construction shall be taken so as to prevent a nuisance being carried to the occupiers of other buildings in the locality. This shall include covering of skips and slack heaps, netting of scaffolding, daily washing down of pavements or other public areas, use of water spray at site to suppress dust, and any other precautions necessary to prevent dust nuisance.

Reason: In the interest of public health.

Note 1: The applicant is advised that under the provisions of Article 34(13) of the Planning and Development Act 2000 a person shall not be entitled solely by reason of a permission to carry out any development.

- (1) All buildings must be designed and constructed in accordance with the Building Regulations 1997.
- (2) Building Control Regulations require a Commencement Notice. A copy of the Commencement Notice is attached.
- (3) A Fire Safety Certificate must be obtained from the Building Control Authority, where applicable.

REG REF. S97A/0758 SOUTH DUBLIN COUNTY COUNCIL
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Mark O'Reilly & Associates,
Greenmount House,
Harold's Cross Road,
Dublin 6W.

NOTIFICATION OF GRANT OF Permission

LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS, 1963 TO 1993

Final Grant Order Number 0399	Date of Final Grant 04/03/98
Decision Order Number 0143	Date of Decision 23/01/98
Register Reference S97A/0758	Date 25th November 1997

Applicant Clonmel Enterprises Limited,

Development Construction of 6 blocks containing 13 industrial units as extension.

Location Adjacent to Weatherwell Industrial Estate, with access to Lucan-Newlands Road, Clondalkin.

Floor Area 0.000 Sq Metres

Time extension(s) up to and including

Additional Information Requested/Received /

A Permission has been granted for the development described above,
subject to the following (13) Conditions.

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Conditions and Reasons

- 1 The development to be carried out in its entirety in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the other conditions attached hereto.
REASON:
To ensure that the development shall be in accordance with the permission and that effective control be maintained.
- 2 That prior to commencement of development the requirements of the Chief Fire Officer be ascertained and strictly adhered to in the development.
REASON:
In the interest of safety and the avoidance of fire hazard.
- 3 That prior to commencement of development the requirements of the Principal Environmental Health Officer be ascertained and strictly adhered to in the development.
REASON:
In the interest of health.
- 4 That the water supply and drainage arrangements, including the disposal of surface water, be in accordance with the requirements of the South Dublin County Council.
REASON:
In order to comply with the Sanitary Services Acts, 1878 - 1964.
- 5 That no industrial effluent be permitted without prior approval from Planning Authority.
REASON:
In the interest of health.
- 6 That off-street car parking facilities and parking for trucks be provided in accordance with the Development Plan standards. In this regard, the car parking area indicated on the submitted layout plan to be clearly marked out and available at all times for car parking use and shall not be used for storage or display or other uses.
REASON:
In the interest of the proper planning and development of the area.

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- 7 No access is to be provided to the proposed development from the Lucan/Newlands Road until such time as the proposed new roundabout is constructed at this location at which time access to the site through Weatherwell Industrial Estate will cease.

REASON:

In the interest of the proper planning and development of the area and public safety.

- 8 That the area between the building and roads must not be used for truck parking or other storage or display purposes, but must be reserved for car parking and landscaping as shown on lodged plans.

REASON:

In the interest of the proper planning and development of the area.

- 9 That details of landscaping and boundary treatment be submitted to and approved by the Planning Authority and work thereon completed prior to occupation of units.

REASON:

In the interest of amenity.

- 10 That no advertising sign or structure be erected except those which are exempted development, without prior approval of Planning Authority or An Bord Pleanála on appeal.

REASON:

In the interest of the proper planning and development of the area.

- 11 That a financial contribution in the sum of £34,500 (thirty four thousand, five hundred pounds) be paid by the proposer to South Dublin County Council towards the cost of provision of public services in the area of the proposed development and which facilitate this development; this contribution to be paid before the commencement of development on the site.

REASON:

The provision of such services 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 the services.

- 12 That a financial contribution in the sum of money equivalent to the value of £57,500 (fifty seven thousand, five hundred

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pounds) as on 1st January, 1991, updated in accordance with the Wholesale Price Index - Building and Construction (Capital Goods) as published by the Central Statistics Office to the value pertaining at the time of payment shall be paid by the proposer to South Dublin County Council towards the cost of roads improvements and traffic management in the area of the proposed development and which facilitate this development; this contribution to be paid before the commencement of development on the site.

REASON:

It is considered reasonable that the developer should contribute towards the expenditure that was incurred and/or that is proposed to be incurred by the Council on road improvement works and traffic management schemes facilitating the proposed development.

- 13 That a financial contribution in the sum of £6,600 (six thousand, six hundred pounds) be paid by the proposer to South Dublin County Council towards the cost of upgrading Ballymanaggin Pumping Station which will facilitate this development; this contribution to be paid before the commencement of development on the site.

REASON:

It is considered reasonable that the developer should contribute towards the expenditure proposed to be incurred by the Council in respect of works facilitating the proposed development.

NOTE : The applicant is advised that the existing free-standing advertising sign at the western site boundary constitutes unauthorised development and as such is required to be removed or regularised by an application for permission for its retention.

- (1) All buildings must be designed and constructed in accordance with the Building Regulations 1991 amended 1994.
- (2) Building Control Regulations require a Commencement Notice. A copy of the Commencement Notice is attached.

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-
- (3) A Fire Safety Certificate must be obtained from the Building Control Authority, where applicable.
- (4) Free Standing Walls must be designed and constructed in accordance with IS 325: Code of Practice for use of Masonry Part 1 : Structural use of unreinforced Masonry. The Owner must also ensure that the construction of all walls is supervised by a competent person.

Signed on behalf of South Dublin County Council.


..... 5 March 1998
for SENIOR ADMINISTRATIVE OFFICER

COMHAIRLE CHONTAE ÁTHA CLIATH

P. C. Reference	LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACT 1963 & 1976 PLANNING REGISTER	REGISTER REFERENCE XA. 826.
1. LOCATION	Weatherwell Industrial Estate (Phase 11), Neillstown, Clondalkin. S	
2. PROPOSAL	Revised drainage layout, including new foul sewer outfall.	
3. TYPE & DATE OF APPLICATION	TYPE	Date Received
	P	29.4.1982.
	(a) Requested	Date Further Particulars (b) Received
	1.	1.
	2.	2.
4. SUBMITTED BY	Name Western Contractors Ltd. Address Greenhills Road, Walkinstown, Dublin 12.	
5. APPLICANT	Name Western Investments Ltd. Address C/o Western Contractors Ltd.	
6. DECISION	O.C.M. No. PA/1612/82	Notified 28th June, 1982
	Date 28th June, 1982	Effect To grant permission
7. GRANT	O.C.M. No. PBD/494/82	Notified 11th August, 1982
	Date 11th August, 1982	Effect Permission Granted
8. APPEAL	Notified	Decision
	Type	Effect
9. APPLICATION SECTION 26 (3)	Date of application	Decision
		Effect
10. COMPENSATION	Ref. in Compensation Register	
11. ENFORCEMENT	Ref. in Enforcement Register	
12. PURCHASE NOTICE		
13. REVOCATION or AMENDMENT		
14.		
15.		

Prepared by

Copy issued by Registrar.

Checked by

Date

DUBLIN COUNTY COUNCIL

P67 / 494 / 82

Tel. 724755 (Ext. 262/264)

PLANNING DEPARTMENT
DUBLIN COUNTY COUNCIL
IRISH LIFE CENTRE
LOWER ABBEY STREET
DUBLIN 1

Notification of Grant of Permission/Approval
Local Government (Planning and Development) Acts, 1963 & 1976

To: Western Contractors Limited,
Greenhill's Road,
Walkinstown,
DUBLIN 11.

Decision Order
Number and Date PA/1611/82 22.6.82

Register Reference No. XA 816

Planning Control No.

Application Received on 22.6.82

Applicant Western Investments.

A PERMISSION/APPROVAL has been granted for the development described below subject to the undermentioned conditions.

Revised drainage layout, including new foul sewer outfall, at Westwell
Industrial Estate, Mellinstown, Clondalkin.

CONDITIONS

REASONS FOR CONDITIONS

Subject to the conditions of this permission, the development be carried out and completed strictly in accordance with the plans and specifications lodged with application.

That before development commences approval under the Building Bye-laws be obtained and all conditions of it approval be observed in the development.

That drainage arrangements be in accordance with the requirements of the Sanitary Authority.

That the applicants be responsible for the reinstatement of the public laneway and boundary between housing of industrial estate to the satisfaction of the Sanitary Authority when works are completed.

That all relevant conditions of Order Nos. PA/1388/80 and PA/2196/80 (TA 1671) be strictly adhered to in the development.

That no connections be provided to the existing old structure (described as block 3 in Reg. Ref. TA 853) at such time as a permission has been obtained for use of this structure.

That the arrangements made for the payment of the social contribution in the sum of £13,500 in respect of the overall development be strictly adhered to.

That the arrangements for the lodgement of the city required by condition No. 4. of order No. 232/80 (TA 604) be strictly adhered to in the development.

1. To ensure that the development shall be in accordance with the permission and that effective control be maintained.
2. In order to comply with the Sanitary Services Acts, 1878-1944.
3. In order to comply with the requirements of the Sanitary Authority.
4. In order to comply with the requirements of the Planning Authority.
5. In the interest of the proper planning and development of the area.
6. To prevent unauthorized development.
7. The provision of such services 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 the services.
8. In the interest of the proper planning and development of the area.

granted on behalf of the Dublin County Council:.....

for Principal Officer

Date:

9 1 AUG 1982

of the Council under Building Bye-Laws must be obtained before the development is commenced and the terms of must be complied with in the carrying out of the work.

FUTURE PRINT

COMHAIRLE CHONTAE ÁTHA CLIATH

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File Reference	LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACT 1963 & 1976 PLANNING REGISTER	REGISTER REFERENCE TA 1709
1. LOCATION	Blocks 2 and 3, Neillstown, Clondalkin, Co. Dublin.	
2. PROPOSAL	Rev. to blocks 2 and 3	
3. TYPE & DATE OF APPLICATION	TYPE	Date Received
	P	10th Sept., 1980
	Date Further Particulars	
	(a) Requested	(b) Received
	1. _____	1. _____
	2. _____	2. _____
4. SUBMITTED BY	Name Western Contractors Ltd., Address Greenhills Road, Walkinstown, Dublin 12.	
5. APPLICANT	Name as above. Address	
6. DECISION	O.C.M. No. PA/2377/80	Notified 7th Nov., 1980
	Date 7th Nov., 1980	Effect To grant permission,
7. GRANT	O.C.M. No. PBD/766/80	Notified 18th Dec., 1980
	Date 18th Dec., 1980	Effect Permission granted,
8. APPEAL	Notified	Decision
	Type	Effect
9. APPLICATION SECTION 26 (3)	Date of application	Decision
		Effect
10. COMPENSATION	Ref. in Compensation Register	
11. ENFORCEMENT	Ref. in Enforcement Register	
12. PURCHASE NOTICE		
13. REVOCATION or AMENDMENT		
14.		
15.		
16.		
Prepared by _____		Copy issued by _____ Registrar.
Checked by _____		Date _____
Grid Ref.	O.S. Sheet	Co. Accts. Receipt No. _____

DUBLIN COUNTY COUNCIL

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PLANNING DEPARTMENT
DUBLIN COUNTY COUNCIL
IRISH LIFE CENTRE
LOWER ABBEY STREET
DUBLIN 1

Notification of Grant of Permission/Approval
Local Government (Planning and Development) Acts, 1963 & 1976

To: **Eastern Contractors Ltd.,** Decision Order **PA/2377/80 7/17/80**
 Number and Date
Spencerhill Road, Register Reference No. **TA 1709**

Walkinstown, Planning Control No. **2388**

Dublin 12. Application Received on **10/9/80**

 Applicant **Eastern Contractors Limited.**

A PERMISSION/APPROVAL has been granted for the development described below subject to the undermentioned conditions.

Proposed revisions to previously approved advanced construction of Block 2, and

3 in 6 industrial/warehouse units with ancillary offices at Weatherwell Industrial Estate, Walkinstown, DUBLIN.

CONDITIONS	REASONS FOR CONDITIONS
1. Subject to the conditions of this permission that the development be strictly in accordance with the plans and specification lodged with the application.	1. To ensure that the development shall be in accordance with the permission, and that effective control be maintained.
2. That before development commences approval under the Building Bye-laws be obtained and all conditions of that approval be observed in the development.	2. In order to comply with the Sanitary Services Acts, 1878-1964.
3. That the requirements of the Chief Medical Officer be ascertained and strictly adhered to in the development.	3. In the interest of health.
4. That the requirements of the Chief Fire Officer be ascertained and strictly adhered to in the development.	4. In the interest of safety and the avoidance of fire hazard.
5. That the water supply and drainage arrangements be in accordance with the requirements of the Sanitary Authority.	5. In order to comply with the Sanitary Services Acts, 1878-1964.
6. That no industrial effluent be permitted without prior approval from the Planning Authority.	6. In the interest of health.
7. That off street car parking facilities and parking for trucks be provided in accordance with the requirements of the Development Plan.	7. In the interest of the proper planning and development of the area.
8. The area between the building and the road must not be used for truck parking or other like storage or display purposes but be used solely for landscaping and car parking.	8. In the interest of the proper planning and development of the area.
	Cond./****

Signed on behalf of the Dublin County Council:

for Principal Officer

P.L.

18 DEC 1980

Date:

Approval of the Council under Building Bye-Laws must be obtained before the development is commenced and the terms of approval must be complied with in the carrying out of the work.

9. Details of landscaping and boundary treatment to be submitted to the planning Authority for approval and work thereon completed prior to the occupation of the units.
10. That no advertising sign or structure except those which are exempted development be erected without prior approval of the Planning Authority.
11. That individual user permission be obtained for each unit when the client is known.
12. That all relevant conditions of Order PA/2330/80, (Reg. Ref. TA 1571) be strictly adhered to in the development.
13. Public water supply is available for toilet accommodation only 24 hour storage to be provided. Watermain layout to be provided. Details to be agreed with Sanitary Services Department. All branch connections, washing and chlorination to be carried out by the Council at the applicant's expense.
14. The quality and quantity of effluent to be the subject of agreement with the Sanitary Authority. If the capacity of the existing pumping station has to be enlarged due to effluent from this site, the work is to be at the applicant's expense.
15. No part of the structure to be closer than 5 metres from the centre line of the existing storm sewer or any internal trunk sewer.
16. That a financial contribution in the sum of £15,500. be paid by the proposer to the Dublin County Council towards the cost of provision of public services in the area of the proposed development, and which facilitates this development; this contribution to be paid before the commencement of development on the site.
9. In the interest of visual amenity.
10. To prevent unauthorized development.
11. To prevent unauthorized development.
12. In the interest of the proper planning and development of the area.
13. To comply with public health requirements and to ensure adequate standards of workmanship. As the provision of these services by the County Council will facilitate the proposed development, it is considered reasonable that the Council should recover the cost.
14. In order to comply with the requirements of the Sanitary Authority.
15. In order to comply with the requirements of the Sanitary Authority.
16. The provision of such services 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 the services.


for Principal Officer.

Cond/.....

DUBLIN COUNTY COUNCIL

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PLANNING DEPARTMENT
DUBLIN COUNTY COUNCIL
IRISH LIFE CENTRE
LOWER ABBEY STREET
DUBLIN 1

Notification of Grant of Permission/Approval
Local Government (Planning and Development) Acts, 1963 & 1976

To: Western Contractors Ltd.
Greenhills Road,
Walkinstown,
Dublin 12.

Decision Order Number and Date PA/2377/80: 7/11/80

Register Reference No. TA 1709

Planning Control No. 0305

Application Received on 10/9/80

Applicant Western Contractors Ltd.

A PERMISSION/APPROVAL has been granted for the development described below subject to the undermentioned conditions.
Proposed revisions to previously approved advanced construction of Block 2, and 3 in 5 Industrial/warehousing units with ancillary offices at Heatherhall Industrial Estate, Malinstown, Clonsilla.

CONDITIONS	REASONS FOR CONDITIONS
<p>17. That no development under any permission granted pursuant to this decision be commenced until security for the provision and satisfactory completion of services, including maintenance until taken-in-charge by the Local Authority of roads, open space, car parks, sewers, water-mains or drains has been given by:-</p> <p>(a) Lodgement with the Council of an approved Insurance Company Bond in the sum of £40,000, which shall be renewed by the developer from time to time as required during the course of the development and kept in force by him until such time as the roads, open space, car parks, sewers, water-mains and drains are taken-in-charge by the Council. or/...</p> <p>(b) Lodgement with the Council of each sum of £20,000, to be applied by the Council at its absolute discretion if such services are not duly provided to its satisfaction, on the provision and completion of such services to standard specification. or/...</p> <p>(c) Lodgement with the Planning Authority of a letter of Guarantee issued by anybody approved by the Planning Authority for the purpose in respect of the proposed development in accordance with the guarantee schemes agreed with the Planning Authority.</p>	<p>17. To ensure that a ready sanction may be available to induce the provision of services and prevent discontinuity in the development.</p>

Signed on behalf of the Dublin County Council: *P.K.*
for Principal Officer

Date: 18 DEC 1980

Approval of the Council under Building Bye-Laws must be obtained before the development is commenced and the terms of approval must be complied with in the carrying out of the work.

17. condit./...

and such lodgment in either case has been acknowledged in writing by the Council.

NOTE: When development has been completed the Council may require the Bond to secure the completion of the works required to bring the estate upto the standard for taking in charge.

P. K.

For Principal Officer.

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- (4) Free Standing Walls must be designed and constructed in accordance with IS 325: Code of Practice for use of Masonry Part 1 : Structural use of reinforced Masonry. The Owner must also ensure that the construction of all walls is supervised by a competent person.

Signed on behalf of South Dublin County Council.

..... 05-Oct-2005

for SENIOR EXECUTIVE OFFICER.



Appendix 3

COMHAIRLE CHONTAE ÀTHA CLIATH THEAS
SOUTH DUBLIN COUNTY COUNCIL



SOUTH DUBLIN COUNTY COUNCIL
DEVELOPMENT CONTRIBUTION SCHEME 2003
(Section 48 Planning and Development Act, 2000)

1. INTRODUCTION

Sub-section (1) of section 48 of the Planning and Development Act, 2000 enables a planning authority, when granting a planning permission under Section 34 of the Act, to include conditions for requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority, and that is provided, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities).

- 2(a)** Subsection (2) of Section 48 requires that the basis for the determination of a contribution under subsection (1) shall be set out in a development contribution scheme made under this section.
- 2(b)** A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.
- 3(a)** Subsection (3) of Section 48 specifies that a scheme shall state the basis for determining the contributions to be paid in respect of public infrastructure and facilities, in accordance with the terms of the scheme.
- 3(b)** In stating the basis for determining the contributions to be paid, the scheme must indicate the contribution to be paid in respect of the different classes of public infrastructure and facilities which are provided or to be provided by any local authority and the planning authority shall have regard to the actual estimated cost of providing the classes of public infrastructure and facilities, except that any benefit which accrues in respect of existing development may not be included in any such determination.

- 3(c) A scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provision of the scheme.
4. A planning authority may facilitate the phased payment of contributions under Section 48 of the Planning and Development Act, 2000, and may require the giving of security to ensure payment of contributions.

DEFINITIONS

- 5(i) Section 48 of the Planning and Development Act, 2000 ("The Act") gives the following meaning to "public infrastructure and facilities" -
- (a) "the acquisition of land,
 - (b) the provision of open spaces, recreational and community facilities and amenities and landscaping works,
 - (c) the provision of roads, car parks, car parking places, sewers, waste water and water treatment facilities, drains and watermains,
 - (d) the provision of bus corridors and lanes, bus interchange facilities (including car parks for these 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 spaces, sewers, waste water and water treatment facilities, drains or watermains, and
 - (f) any matters ancillary to paragraphs (a) to (e)".
- 5(ii) "scheme" means a development contribution scheme made under Section 48 of the Act.

BASIS FOR DETERMINATION OF CONTRIBUTION

6. The basis for determination of a contribution under the South Dublin County Council Development Contribution Scheme 2003 ("the Scheme") is as follows:-
- (i) the amount of the costs (inclusive of land acquisition) which are attributable, in the years to 2009 to the four classes of public infrastructure and facilities (listed in the table at 9 below). These costs are given in Table A which is annexed to this Scheme.
 - (ii) The aggregated floor areas in square metres of projected development, in the years to 2009, in each of the classes or descriptions of development, namely, residential class and industrial/commercial class. These floor areas are given in Table B which is annexed to this Scheme.

- (iii) The contribution for new developments is calculated by dividing the total project costs for inclusion in the Scheme, by the projected development for the Council area. The contribution for residential development is expressed in units, while the contribution for non-residential development is expressed in an amount per square metre.

DEVELOPMENT CONTRIBUTION SCHEME

7. This South Dublin County Council Development Contribution Scheme 2003 ("the Scheme") is made under Section 48 of the Planning and Development Act, 2000 ("the Act").
8. Under the Scheme, South Dublin County Council will, when granting a planning permission under Section 34 of the Act, include conditions for requiring the payment of a contribution (the amount of which is indicated below under the heading Level of Contribution) in respect of public infrastructure and facilities benefiting development in the County of South Dublin and that is provided, or that it is intended will be provided, by or on behalf of South Dublin County Council, (regardless of other sources of funding for the infrastructure and facilities).

LEVEL OF CONTRIBUTION

9. Under the Scheme, the contributions to be paid (except where an Exemption or Reduction applies, see below) in respect of the different classes of public infrastructure and facilities are as follows:-

Class of Public Infrastructural Development	€ per unit of Residential Development of 2 bedroom or more	€ per unit of Residential Development of 1 bedroom	€ per metre square of Industrial/ Commercial class of Development
	€	€	€
Class 1 Roads	4,980	2,490	37.35
Class 2 Water & Drainage	2,670	1,335	20.04
Class 3 Community	1,220	610	9.15
Class 4 Parks and Open Space	<u>1,130</u>	<u>565</u>	<u>8.46</u>
Total of Contribution Payable	€10,000	€5,000	€75.00

NOTE 1: These rates of contribution shall be updated effective from January 1st each year during the life of the Scheme in accordance with the Tender Price Index. (See Article 12 of the Scheme below).

NOTE 2: The floor area of proposed development shall be calculated as the gross floor area. This means the gross floor area determined from the external dimensions of the proposed buildings, including the gross floor area of each floor including mezzanine floors.

10. EXEMPTIONS AND REDUCTIONS

The following categories of development will be exempted from the requirement to pay development contributions under the Scheme:

- House extensions
- Registered charitable institutions
- Replacement dwelling on previously fully serviced sites
- Primary schools, Voluntary non-profit making clubs and similar community facilities/centers, youth centers and similar non-commercial community related developments with a commercial element, to be exempt from assessment for financial contributions.
- Post primary school development shall be liable to pay development contributions at 50% of the standard rate (€37.50 per metre square) which applies to industrial/commercial development.
- Open storage/Hard surface commercial space development - shall be liable for development contribution at one third of the rate.
- Developments for which public piped sewerage services are unavailable will be exempted from half of the contribution amount attributable to the water and drainage class of public infrastructure and facilities
- The standard level of industrial/commercial development contributions will apply to proposed development of crèche/childcare facilities except in the case of the amount attributable to Roads infrastructural facilities, where the amount levied will be 50% of the standard rate i.e. €18.66 per metre square.
- Social and Affordable housing units, including those which are provided in accordance with an agreement made under Part V of the Act (as amended under the Planning & Development (Amendment) Act, 2002) or which are provided by a voluntary or co-operative housing body, which is recognised as such by the Council.
- Voluntary non-profit making clubs and similar community facilities/centres, youth centres and similar non-commercial community related developments with a commercial element, to be exempt from assessment for contributions.

PAYMENT OF CONTRIBUTION

11. Conditions requiring payment of the contributions provided for in the Scheme will be imposed in all decisions to grant planning permissions made following the making of the Scheme by the Council.
12. The contributions under the Scheme shall be payable prior to commencement of development or as otherwise agreed by the Council. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced, as provided for in the Note I to the table at Article 9 above.
13. The Council may facilitate the phased payment of contributions payable under the Scheme, and the Council may require the giving of security to ensure payment of contributions.

APPEAL TO AN BORD PLEANĀLA ("the Board")

14. An appeal may be brought to the Board where the applicant for planning permission under Section 34 of the Act considers that the terms of the Scheme have not been properly applied in respect of any conditions laid down by the Council.

REVIEW OF SCHEME

15. The Scheme may be reviewed from time to time by the Council having regard to circumstances prevailing at the time. After a review of the Scheme, a new Scheme may be made. The cut-off year for the Scheme (unless a new Scheme is made before then) is 2009. A new Scheme will be made by then at the latest.

SPECIAL DEVELOPMENT CONTRIBUTIONS

16. A special development contribution may be imposed under Section 48 of the Act where exceptional costs not covered by the South Dublin County Council Development Contribution Scheme 2003 are incurred by the Council in the provision of a specific public infrastructure or facility. (The particular works will be specified in the planning conditions when special development contributions are levied). Only developments that will benefit from the public infrastructure or facility in question will be liable to pay the special development contribution. Conditions imposing special contributions may be appealed to An Bord Pleanála.
17. This Scheme is effective in respect of decisions granted from 1st January 2004.

ANNEX TO DEVELOPMENT CONTRIBUTION SCHEME

TABLE A

Costs attributable in the lifetime of the scheme to the classes of infrastructure and facilities:-

	Cost Included in Scheme	Allocation of Costs
	€000	%
Roads	98,540	50%
Water & Drainage	52,791	27%
Parks	22,280	11%
Community	24,129	12%
Total	€197,740	100%

TABLE B

Units of projected residential development (averaged at 100 square metres) and projected industrial/commercial development (in the years to 2009):-

Residential Units	Industrial/Commercial
17,884	252,000sqm

Appendix 4

Irish Rail Kildare Route Project

Supplementary Development Contributions Scheme (SDCS)
Planning and Development Act 2000

December 2007



South Dublin County Council
Comhairle Chontae Atha Cliath Theas

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2. The Area to which the Scheme Relates
3. The Project
4. Basis on which the Contributions have been Determined
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1. Introduction

1.1 The basis for a Supplementary Development Contribution Scheme (SDCS), also known as a 'Section 49' contribution scheme, is set out in Section 49 of the Planning & Development Act 2000. A Planning Authority may, when granting a planning permission for development, include a condition requiring payment of a financial contribution towards the cost of any "public infrastructure service or project" that when carried out, will benefit the development to which the permission relates.

1.2 The public infrastructure service or project must be specified in a SDCS. Section 49(7) of the Planning and Development Act 2000 defines eligible public infrastructure projects or services including, *inter alia*:

"The provision of particular rail, light rail or other public transport infrastructure, including car parks and other ancillary development"

1.3 It is a requirement of a Supplementary Development Contribution Scheme to specify:

- *The area or areas within the functional area of the planning authority to which it relates;*
- *The particular public infrastructure or service to which it relates;*
and to state:
 - *The basis for determining the contributions to be paid.*

1.4 Different rates of levy may be applied to different classes or descriptions of development. Exemptions for specified classes of development may also be specified.

1.5 The Planning and Development Act sets out the public consultation process for a proposed SDCS as follows:

- *Notice must be given and the Scheme displayed in public for a minimum period of 6 weeks, during which time submissions and observations may be made;*
- *The County Manager must submit a report to the elected members, on any submissions or observations made, no later than 4 weeks after the end of the public display period;*
- *The elected members must determine the Scheme within 6 weeks of receipt of the Manager's Report.*

1.6 The detailed implementation of any adopted SDCS must be subject to an agreement between the Planning Authority and the provider of the public infrastructure service or project, in this case Iamród Éireann, the Agency responsible for the implementation of the Kildare Route Project.

2. The Area to which the Scheme Relates

- 2.1 An area of 1km either side of the Dublin-Kildare rail line in the South Dublin County Council administrative area is identified as the transportation corridor within which benefit will accrue to development. The outer edge of the corridor has been rationalised to relate to roads, field boundaries and other identifiable features. This is in accordance with other approved Schemes elsewhere. (The Scheme map is included in Appendix 1)
- 2.2 The total area to which the Scheme relates comprises 1,807 hectares. Approximately 40% of this area is already developed, principally for housing, roads, public open space and employment uses. Whilst a limited part of this area may be suitable for future redevelopment, it is estimated that the lands to which the SDCS will mainly apply comprise an area of approximately 1,100 hectares.
- 2.3 All lands within the Adamstown Strategic Development Zone within 1km of the railway line are excluded from the SDCS. This is because the Adamstown Development Consortium, Chartridge Developments Ltd (CDL) has entered into a separate agreement with Iarnród Éireann which inter alia, has resulted in direct early provision of elements of the Kildare Route Project.
- 2.4 In particular, the CDL-Iarnród Éireann agreement has secured the completion of a new five-platform railway station and two new overbridges at Adamstown as well as the provision of land required for the additional track, including a fifth rail turnback facility at Adamstown Station. It would be unreasonable to subject the Adamstown SDZ area to a further development levy in respect of the Kildare Route Project.
- 2.5 In addition to the existing Adamstown Station, there will be new stations provided within the South Dublin County Council area at Fonthill Road (to replace Clondalkin) and Kishoge. Two further stations on the borders of South Dublin, in Kildare at Hazelhatch (existing) and in the Dublin City area at Parkwest (to replace Cherry Orchard) are also accessible to potential future development in South Dublin.
- 2.6 The South Dublin County Council Development Plan 2004-2010 supports the improvement of rail infrastructure in the County. Policy T8 of the Plan states

'It is the policy of the Council to support Irish Rail's Interconnector Tunnel link to Dublin City Centre and the electrification of all rail services, existing and future, to facilitate maximum carrying capacity and number of stations, and to support the creation of a 25-metre buffer zone to the north of the existing Cork to Dublin railway line.' (Note: this is as a reservation to accommodate the two new lines).

In support of this policy, accompanying paragraph 7.6.5.iii states:

'The Council will seek to develop and implement a supplementary development contributions scheme as provided under section 49 of the Planning and Development Act 2000, as amended, with a view to upgrading the rail corridor within the South Dublin Area. The proposed upgrade will have a significant beneficial impact on proposed developments in the vicinity of the railway, particularly those at or adjacent to the proposed stations, where high density development is envisaged on the assumption that the rail connections will be put in place. A scheme of development contributions would have a significant effect on the viability of the railway proposals.'

- 2.7 The South Dublin County Development Plan promotes the integration of land use planning with a high quality, sustainable and integrated transport system and seeks to ensure that the Kildare Route Project maximises opportunities for such integration. Section 11 of the Development Plan promotes increased densities of development in locations within walking distance of high quality public transport routes.

3. The Project

3.1 The Project is as set out in the 'Kildare Route Project Railway Order 2006'. The Kildare Route Project (KRP) extends approximately 13km from a point just west of Heuston Station in the Dublin City Council area to a point just west of Hazelhatch in the Kildare County Council area. Approximately 7.6km, or just under 60% of the extent of the Project runs through the South Dublin County Council area. The Project comprises:-

- The provision of two extra tracks to create a four-track system;
- The remodelling of the existing track layout at Hazelhatch Station to provide for the tumbback of suburban trains;
- The provision of new train stations at Fonthill Road and Kishoge and ancillary car parks;
- The relocation of Cherry Orchard Station to a new station at Parkwest;
- The relocation of Clondalkin Station to a new station at Fonthill Road with enhanced pedestrian access from Clondalkin;
- The reconstruction or refurbishment of existing footbridges along the route;
- The demolition or reconstruction of eight existing vehicular overbridges;
- The extension of existing underbridges.

3.2 The Kildare Route Project Railway Order was signed by the Minister for Transport on the 5th of December 2006. Contracts have now been awarded and work on the implementation of the Project has commenced. The construction period is from mid 2007 to mid 2010.

3.3 The quality of rail service to lands within 1km of the Kildare rail line will be significantly improved as a result of the Kildare Route Project. In addition to improving access to rail services through the provision of new and more accessible stations within and immediately adjoining South Dublin, the doubling of rail lines from two to four will enable a greater number of suburban, regional and national trains to operate. Trains will be able to stop at all stations, and suburban train size and capacity will double with an increase from four to eight carriages per train.

3.4 Suburban train services are of most benefit to development along the line. The existing suburban service has a total capacity of 11,050 passengers in 17 no. four car trains in each direction per day and this will increase to a capacity of 38,400 suburban passengers in 28 no. eight car trains in each direction per day on completion of the Project in 2010.

3.5 The improved rail line will also accommodate a greater number of regional and intercity trains. The overall total number of all types of train on the line per day in each direction will increase from 52 no. to 94 no. to an overall capacity of more than 100,000 passengers per day in each direction. It is likely that some regional and inter city services may stop in addition to suburban services at certain suburban stations along the route, but this level of operational detail has yet to be determined by Iarnród Éireann.

3.6 The capital cost of the Kildare Route Project is estimated at 420 million euros (2006 prices). This figure includes land acquisition and construction costs. Iarnród Éireann considers that revenue from the new services would cover the additional direct operating costs. However, the project will not generate funds to cover financing costs, depreciation and overhead costs. Therefore the project would yield a direct negative financial return (Source-KRP Public Inquiry Document).

3.7 Iarnród Éireann has advised that the total cost of the works and land acquisitions within the South Dublin County Council area including VAT is estimated at 219,250,000 euros (2006 prices). Excluding VAT, the cost is 213,100,000 euros. This figure does not include Adamstown Station or other works undertaken by the Adamstown development consortium nor does it include land within the Adamstown SDZ that is required for the KRP.

4. Basis on which the Contributions have been Determined

4.1 The Planning and Development Act 2000 requires an SDCS to state the basis for determining the contributions to be paid in respect of the public infrastructure project to which the Scheme relates.

4.2 In this regard, South Dublin County Council commissioned KHSK Economic Consultants to advise in respect of the following:

- 1) To estimate the benefits that will arise as a result of the infrastructure in the form of enhanced property values.
- 2) To identify the percentage of the total cost of the KRP that is applicable to the South Dublin County Council area and the contribution of the SDCS as a proportion of this value.
- 3) To identify the optimum rate of levy based on the above.
- 4) To identify the optimal levy rates to be applied for alternative types of development i.e. residential, commercial and retail.
- 5) Appropriate inflation and discount factors to be adopted.
- 6) To identify the appropriate basis of the application of the levy.

4.3 The full text of the KHSK Report is available as a separate document. The principal conclusions of the Report are as follows:-

4.3.1 The benefits that will arise as a result of the infrastructure in the form of enhanced property values.

Three approaches were used to provide an estimate of the potential impact on property values:

- Review of material from other studies;
- Views of property professionals in other areas of Dublin where major investments in transport infrastructure have been completed or are proposed;
- Consultations with property professionals to identify their views on the potential impact.

The research indicated that the KRP will have a positive impact on property prices. Although this impact is difficult to quantify, leading to a wide range for the estimates. Analysis suggests that the impact will potentially be greatest on residential property prices with somewhat lower impacts on commercial property. The research produced the estimates shown in Table 4.1.

Table 4.1: Projected Increase of Property Values Subject to SDCS

	Percentage	€m, low impact	€m, high impact
Residential	3 to 5%	245.63	409.38
Office/commercial	2 to 4%	29.93	59.85
Retail	1 to 2%	5.05	10.10
Total		280.61	479.33

The actual property benefit in South Dublin, including all property in the study area, is estimated at 353 to 603 million euros and 281 to 479 million euros for property subject the levy.

4.3.2 The percentage of the total cost of the KRP that is applicable to the South Dublin County Council area and the contribution of the SDCS as a proportion of this value

The KRP passes through Dublin City, South Dublin and Kildare administrative areas. Irish Rail has provided estimates that the cost of the infrastructure to be located in South Dublin will be just under 220 million euro. However, this should be used only as a theoretical upper limit of the value of the SDCS in the context of the legislation and not as a basis against which the value of the SDCS should be assessed.

Significant benefits that result from this infrastructure will arise outside the SDCC area i.e. towards the main origin and destination termini in Kildare and Dublin City. There will also be additional benefits arising in a wider area as a result of the contribution of this infrastructure to improving the overall connectivity of the mainline rail network. In this respect, this mainline rail based project differs significantly from the light rail projects in Dublin City for which SDCSs have been developed. As such, when providing an estimate for comparing costs and benefits in the context of designing the SDCS, a straightforward application of the cost of the infrastructure on the basis of location is inappropriate. In effect, it allocates costs to the SDCC area that provide benefits to commuters originating in Kildare with Dublin City as their destination.

This would indicate that a different allocation of costs would be more appropriate but no methodology is readily available that would provide an unbiased estimate of the costs that should be allocated for the purposes of providing a comparator to indicate an appropriate level of contribution that should be raised. For this reason, the criterion as discussed below that the levy should raise a particular proportion of the cost should be applied conservatively and simple comparisons with the proportions raised in other schemes should be avoided. An additional point that also arises in the context of the contribution of this infrastructure to areas outside South Dublin is that it is important that South Dublin County Council recoups the administrative costs of

implementing this SDCS. This issue should be considered in the overall operation of any adopted Scheme.

4.3.3 The optimum rate of Levy based on the above

The levy rate set under the scheme must meet a number of criteria. These are:

- It must be set at a level that will raise revenue with a present value that is adequate to finance in part construction of the infrastructure;
- The amount raised must be proportionate to the service that is provided by the KRP;
- It must not inhibit the competitive position of South Dublin by diverting development to other areas;
- The present value of the projected revenue must be an appropriate portion of the increase in property values that has been calculated.

The requirement for the levy to raise a particular percentage of the cost of the infrastructure is not used to identify an appropriate rate for the reasons discussed above. In terms of the service provided, the analysis indicates that the rate should be above the rates used on the Navan-Dublin rail but somewhat below those applied in the light rail schemes that have been developed for the Luas and Metro North. The levy must also not exceed an appropriate percentage of the value created in any property category and must not place South Dublin at a disadvantage relative to other areas where a SDCS is proposed. This issue of remaining consistent with other areas has been stressed in recently developed SDCSs. However, consistency requires that a similar impact is achieved as well as similar measures.

4.3.4 The optimal levy rates to be applied for alternative types of development i.e. residential, commercial and retail.

The recommended rates on the basis of these considerations are shown in Table 4.2. (m² relate to gross floor areas)

Table 4.2: Recommended Levy Rates in 2007 Prices

Category	Rate
Residential	€1,900 per unit
Commercial	€22.35 per m ²
Retail	€29.00 per m ²

This commercial rate is the same as the rate for Metro North Schemes in Fingal and Dublin City while the residential and retail rate is 75% and 90% of these rates respectively. These lower rates are warranted on the basis of the lower overall impact of the infrastructure on property prices when compared to the light rail systems.

The value of the scheme using the recommended rates is €57.5 million i.e. 26% of the capital costs incurred in South Dublin. The levy amounts to 16.2% of the value created using mid-range estimates. This is not out of line with other recently developed SDCSs and is a more appropriate basis for comparison than comparing infrastructure costs in South Dublin with the value of the scheme as the benefits do not arise exclusively in South Dublin.

4.3.5 Appropriate inflation and discount factors to be adopted

The rates quoted are in 2007 prices and should be indexed at 5% per annum. All calculation of present values adopt a discount rate of 5% per annum in line with recommended practice. However, in order to ensure that South Dublin is not placed at a disadvantage in terms of attracting development it is recommended that the design of the Scheme should incorporate an option for the Council to suspend indexation for a period, should this be required.

4.3.6 The appropriate basis of the application of the levy

The levy should be applied on a per unit basis for residential and per m² for commercial and retail development. The main reason is that the introduction of the levy on the basis of gross underlying areas would not reflect the fact that densities and plot ratios will vary considerably across different parts of the study area. This approach will also help maximise the value of the scheme.

5. Rate of Contributions to be Paid

- 5.1 The rates below will be applied to planning permissions granted within the area subject to the levy subject to the exemptions and reductions detailed in Section 6 hereunder:

Table 5.1: Levy Rates in 2007 Prices

Category	Rate
Residential	€1,900 per unit
Commercial	€22.35 per m ² (Gross floor area)
Retail	€29.00 per m ² (Gross floor area)

- 5.2 The rates quoted on Table 5.1 above shall be indexed at the rate of 5% per annum subject to an option to the Council that it may suspend indexation for a period or periods should this be required.
- 5.3 The Scheme shall apply for a period of 30 years from the date it is made by the Council until the 30th anniversary of that date. The scheme may be reviewed periodically by the planning authority having regard to circumstances prevailing at that time.
- 5.4 South Dublin County Council will receive the contributions to be made under this scheme and they shall be paid to Iamród Éireann in accordance with the terms of an agreement between the Council and Iamród Éireann. The agreement with Iamród Éireann will provide that the contributions received by South Dublin County Council under the scheme shall only be used for the project.
- 5.5 If the construction of the project does not proceed to completion, the contributions received under the scheme will be returned to those who paid them with interest.

Administration of the Levy

- 5.6 The Council will seek to retain a proportion of the cost of contribution for the administration of the levy.

6. Exemptions and Reductions

- 6.1 The following categories of development will be exempted from the requirement to pay development contributions under the Scheme:
- House extensions
 - Registered charitable institutions
 - Replacement dwellings on previously fully serviced sites
 - Primary schools, Post primary schools, Voluntary non-profit making clubs and similar community facilities/centres, youth centres and similar non-commercial community related developments with a commercial element, to be exempt from assessment for financial contributions.
 - Social and Affordable housing units, including those which are provided in accordance with an agreement made under Part V of the Act (as amended under the Planning & Development (Amendment) Act, 2002) or which are provided by a voluntary or co-operative housing body, which is recognised as such by the Council.
 - Works to structures listed on the South Dublin County Council's Record of Protect Structures (RPS) that are necessary and directly related to the physical preservation of the protected structure.
- 6.2 Open storage/Hard surface commercial space development – shall be liable for development contribution at one third of the rate.

Appendix 1: Scheme Map

	South Dublin County Council Local Government (Planning & Development) Acts 1963 to 1993 Planning Register (Part 1)		Plan Register No. S97A/0758	
1. Location	Adjacent to Weatherwall Industrial Estate, with access to Lucan-Newlands Road, Clondalkin.			
2. Development	Construction of 6 blocks containing 13 industrial units as extension.			
3. Date of Application	25/11/97	Date Further Particulars (a) Requested (b) Received		
3a. Type of Application	Permission	1.	1.	
		2.	2.	
4. Submitted by	Name: Mark O'Reilly & Associates, Address: Greenmount House, Harold's Cross Road,			
5. Applicant	Name: Clonmel Enterprises Limited, Address: 1 Ballymount Road, Clondalkin, Dublin 22			
6. Decision	O.C.M. No. 0143	Effect		
	Date 23/01/98	AP GRANT PERMISSION		
7. Grant	O.C.M. No. 0399	Effect		
	Date 04/03/98	AP GRANT PERMISSION		
8. Appeal Lodged				
9. Appeal Decision				
10. Material Contravention				
11. Enforcement	Compensation	Purchase Notice		
12. Revocation or Amendment				
13. E.I.S. Requested	E.I.S. Received	E.I.S. Appeal		
14. Registrar Date Receipt No.		