



Planning and Development Acts 2000 to 2017

Planning Authority: Kildare County Council

Planning Register Reference Number: 17/1275

Appeal by Malachy Harney care of Vincent JP Farry and Company Limited of Suite 180, 28 South Frederick Street, Dublin in relation to the application by Kildare County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 12 of its decision made on the 13th day of March, 2018.

Proposed Development: Modifications to single storey dwelling and domestic garage, provision of additional outbuilding and all associated works as previously granted under planning register reference number 10/193, all at Stone Cross, Newtown, Eadestown, Naas, County Kildare.

Decision

The Board, in accordance with section 48 of the Planning and Development Act, 2000, as amended, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area had not been properly applied in respect of condition number 12 and directs the said Council to AMEND condition number 12 so that it shall be as follows for the reason stated.

12. The developer shall pay to the planning authority a financial contribution of €7,204 (seven thousand, two hundred and four euro) in respect of public infrastructure and facilities benefiting development in 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 made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Reasons and Considerations

Having regard to:

- (a) the provisions of the Kildare County Development Contribution Scheme 2015 to 2022 which includes a Development Contribution for Retention Applications and Miscellaneous Developments,
- (b) the submission made in this appeal, and

- (c) the scale of the domestic garage/shed and outhouses and limitations on the use of the structures under condition number 3 of the planning permission which does not allow their use for residential purposes, and accordingly the contribution payable shall be based on the “miscellaneous rate” rather than the “residential rate”,

the Board considered, based on the evidence submitted, that the terms of the Development Contribution Scheme have not been properly applied and the total amount payable as per condition number 12 should be reduced from €10,600 to €7,204,

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Stephen Bohan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2018.