



An
Bord
Pleanála

Board Order
ABP-305356-19

Planning and Development Acts 2000 to 2019

Planning Authority: Kildare County Council

Planning Register Reference Number: 18/1547

Appeal by Laurence Byrne 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 9 of its decision made on the 28th day of August, 2019.

Proposed Development: Retention of an existing stud farm development comprising: (1) splayed entrance, (2) gravel access road leading from this gateway to the farmyard, (3) 500 square metre, six-metre high general farm building housing stables, (4) timber post and railing fencing and (5) hardstand turning area/yard at Ballykelly, Monasterevin 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 been properly applied in respect of condition number 9 and directs the said Council to ATTACH condition number 9 and the reason therefor

Reasons and Considerations

Having regard to:

- (a) the Kildare County Council Development Contribution Scheme 2015-2022, which applies to all decisions following the date of its adoption,
- (b) section 8, which provides for the Level of General Contributions effective from the adoption of the Development Contribution Scheme 2015-2022,
- (c) section 9(b)(ii), which provides that development contributions in respect of retention applications will be applied at the rate of “standard” applications for planning permission,
- (d) section 9(b)(iii), which provides that where development contributions have not previously been paid, applications for retention of development will have contributions applied, based on the proposed floor area of the permitted development,

- (e) section 12(o), which provides an exemption for the first 600 square metres of non-residential development on any equine landholding, and
- (f) section 12(q), which provides that no exemptions or waiver shall apply to any developments subject to retention permission save where it applies to a previously permitted development (for example, temporary permission),

the Board considered that the terms of the Development Contribution Scheme had been properly applied and that condition number 9 should be attached.

In not accepting the recommendation of the Inspector, the Board considered that section 12 (q) of the Development Contribution Scheme was clear in its intention that no exemptions or waivers (such as those provided for in section 12(o)) shall apply to any developments subject to retention permission save where it applies to a previously permitted development (for example, temporary permission) and that this was not the case in this instance.

Furthermore, the Board considered that it's previous decision under appeal reference number 301704-18 did not represent a precedent in relation to the application of the Development Contribution Scheme having regard to the circumstances of that case.

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.

Terry Ó Niadh

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2020.