



Planning and Development Acts 2000 to 2017

Planning Authority: Kildare County Council

Planning Register Reference Number: 13/347

WHEREAS by Order dated the 1st day of August, 2013 Kildare County Council, under planning register reference number 13/347, granted subject to conditions a permission to Patricia and Paul Cornish care of Brennan Design and Architecture of Ballyfair Lodge, Ballysax Little, The Curragh, County Kildare for development comprising retention of (1) single storey garage to side of dwelling, (2) conversion of garage to storey and a half granny flat, (3) new single storey extension connecting granny flat to dwelling, (4) removal of dormer roof of dwelling and replacement with new dormer roof with apex level 1.81 metres above previous and two new, storey and a half gables to front of dwelling with new window and door openings throughout, rearrangement of ground floor layout, new effluent treatment system and all associated site development works at Newtown, Kildare, County Kildare:

AND WHEREAS condition number 16 attached to this permission required the developer to pay to the planning authority a financial contribution in the sum of €14,559.48, 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:

AND WHEREAS the planning authority subsequently determined, by Order dated the 1st day of October 2013, that the amount of the financial contribution under condition 16 be reduced to the sum of €11,631.48:

AND WHEREAS the developer and the planning authority failed to agree on the amount of the contribution to be paid pursuant to condition 16, and on the application of the terms of the Development Contribution Scheme in compliance with the terms of this condition and the matter was referred by Paul Cornish to An Bord Pleanála on the 5th day of July 2017, for determination:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 34(5) of the Planning and Development Act, 2000, as amended, and for the Reasons and Considerations set out below, hereby determines that the amount payable under condition 16 of planning permission register reference number 13/347 is €11,631.48 (eleven thousand, six hundred and thirty one euro and forty eight cent), in accordance with the terms of the development contribution scheme applicable at the date of grant of permission.

Reasons and Considerations

Having regard to:

- (a) sections 34(5) and 48 of the Planning and Development Act 2000, as amended,
- (b) the Kildare County Council Development Contribution Scheme 2011-2018,
- (c) Planning register reference number 13/347, including condition number 16 of that grant of permission, and
- (d) the submissions on file, and the planning history of the site,

the Board noted that the Development Contribution Scheme that was in place at the time of the planning authority's decision does not provide for exemptions and reductions to apply to development that has taken place without the grant of planning permission, and considered that the planning authority's calculations as to the reckonable floor area to which the Scheme applies having regard to the subject matter of the planning application register reference number 13/347, including the inclusion of the area of attic conversion, was correct, and that the planning authority properly applied the terms of the Development Contribution Scheme. Furthermore, the Board noted that the Development Contribution Scheme that was in place at the time of the planning authority's decision does not provide for exemptions and reductions in respect of surface water, but only in respect of private waste water and private water supply, and considered, therefore, that the rate applied by the planning authority was correct and in accordance with the terms of the Development Contribution Scheme.

In not accepting the recommendation of the Inspector to reduce the level of financial contribution applicable, the Board considered that, as the area of the (previously converted) attic forms an integral part of the development that is the subject of the development approved under planning register reference number 13/347, and in particular item (4) in the development description, and as the previous attic conversion was not the subject of any planning permission, and as the Development Contribution Scheme does not provide for any exemption that would apply to the floor area of the original attic conversion, the planning authority properly applied the terms of the Development Contribution Scheme.

