



An
Bord
Pleanála

Inspector's Report

PL09.247382

Development	Dwelling House, Garage at Cappolies Road, Clongowes, Clane, Co. Kildare
Planning Authority	Kildare Co. Co.
Planning Authority Reg. Ref.	16/571
Applicant(s)	Trustees of Clongowes Wood College
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Appellant(s)	Trustees of Clongowes Wood College
Observer(s)	None
Date of Site Inspection	Not required
Inspector	Caryn Coogan

1.0 PROPOSED DEVELOPMENT

- 1.1 The proposal consists of a four bedroom single storey dwelling, with a detached garage. The dwelling is within the grounds of Clongowes Wood College

2.0 PLANNING AUTHORITY DECISION

Kildare Co. Co.. granted planning permission for the development subject to a development contribution payable of €15,680.

2.2 TECHNICAL REPORTS

The development contribution calculations are contained in a separate report to the Planning Report.

2.3 THIRD PARTY SUBMISSIONS

There were no third party submissions.

3.0 PLANNING HISTORY

- 3.1 Not relevant

4.0 POLICY CONTEXT

4.1 Kildare development Contribution Scheme 2015-2022

5.0 THE APPEAL

- 5.1 The applicant, Clongowes Wood College has appealed the financial contribution condition. Section 12 of Kildare County Council's Development Contribution Scheme 2015-2022 is cited.

5.2 Section 12 related to Exemptions and Reduced Contributions.

The school is operated by the Jesuits, and this tradition remains at the school and the new principal is a layman for the first time in school's 200 year history. The previous Jesuit headmasters have historically resided within an apartment within the college.

The new dwelling is for the principal of the dwelling will be a family house, and the house will remain part of Clongowes Wood College ownership. The proposed dwelling is eligible for full exemption from development contributions under 12(a)(i) of the Development Contributions Scheme.

It should be noted the College were not charged for contributions under previous applications including a substantial application 08/927.

5.3 RESPONSES

Kildare Co. Co. has responded on appeal stating the calculations were as follows:

Band 2 Residential rate of €56 x 280sqm (Floor area) = €15,680.

Consideration was given to the charitable status of the college however as the development is for a residential dwelling, a decision was made to apply a planning application fee and development levy. The levy was applied correctly.

6.0 ASSESSMENT

6.1 The only issue under review in this appeal is the issue of financial contributions under section 48 of the Planning and Development Act 2000 (as amended). Section 48(10) of the Act provides that an applicant can only appeal a condition requiring a development contribution in accordance with a development contribution scheme where the applicant considers that the scheme has not been properly applied. Therefore, the Board's sole remit is not to adjudicate on the merits of the scheme but to consider whether it has been properly applied. Section 48(10)(c) provides:

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

I therefore intend to assess the relevant issues as follows:

- PA calculation of development contributions under the Kildare County Council Development Contribution Scheme 2015-2022;
- Assessment of applicant's case;
- Conclusion.

6.2 The relevant calculation used by the planning authority to calculate the fee payable under the Kildare County Council Development Contributions Scheme 2015-2022 is as follows:

(i) Residential

Development Contributions for residential development will be applied at the following rates:

Floor Area 231sqm - 370sqm Rate per sq.m. = €56

The floor area of the proposed dwelling is 280sq.m. which multiplied by €56 / sq.m. = €15680. On appeal, the planning authority stated that the charitable status of the college was noted, however because the development was a dwelling house it was decided to apply a planning fee and development levy.

- 6.3 Since 1814 Clongowes Woods College is a centre for education. It has always been a Jesuit run school for over 200 years. However, the new principal is a lay person who the school wish to accommodate within the school grounds similar to the previous Jesuit principals. Former principals resided within the apartments with other Jesuits on the school campus. The current principal has two children and lives with his wife in rented accommodation outside of the College grounds. The Principal has a lot of evening meetings to attend at the school, and the most sustainable proposal is to provide a house within the grounds and the current and future principals. The provision of a house will attract future principals to the school. Kildare Co. Co. was satisfied with the principal of the development and granted planning permission for the development subject to 21No. conditions. The applicant has appealed Condition No. 21 relating to the payment of €15,680 as calculated above.

The applicant has claimed on appeal an Exemption to the applicable contribution as detailed above under the following section of the current adopted Scheme:

12. Exemptions and Reduced Contributions

The development contributions may be reduced by up to 100% in the following cases (a-e) where a fee has not been payable when making such an application, in accordance with Article 157 of the Planning and Development Regulations, 2001 as amended.

a) When a planning application consists of or comprises development, which in the opinion of the planning authority, is development proposed to be carried out by or on behalf of a voluntary organisation, and which in the opinion of the Planning Authority –

- i) is designed or intended to be used for social, recreational, educational or religious purposes by the inhabitants of a locality, or by people of a particular group or religious denomination, and is not to be used mainly for profit or gain,*

- ii) is designed or intended to be used as a workshop, training facility, hostel or other accommodation for persons with disabilities and is not to be used mainly for profit or gain*

Or

- iii) is ancillary to development referred to in paragraph (1) or (2).*

- iv) education facilities, to include schools built under a PPP process will be exempt from development contribution charges. However, special*

contributions may be applied to any such planning permission in accordance with Section 48(2)(c).

The applicant has also claimed that planning histories relating to the school, in particular reference 08/927, did not include development contributions charges.

6.4 I note the planning authority stated the applicants were a charitable organisation, but still it applied a fee and a development levy. Upon closer examination of the planning application form, Item 22, it states that no fee was paid by the applicant as the applicant was considered to be exempt from planning fees and the relevant charity number is submitted, CHY 3995.

Having regard to the content of Exemption a) outlined above, I consider the Scheme has not been properly applied in this instance. The exemption cited above is relevant to the current proposal. I conclude that a contribution should not have been applied in this instance and Condition 21 should be removed.

7.0 RECOMMENDATION

Remove condition number 21 and Reason

REASONS AND CONSIDERATIONS

The Board decided that the terms of the Kildare County Council Development Contribution Scheme 2015-2022 had not been properly applied in respect of condition number 21. Section 12(a) of the Scheme, relating to developments carried out on behalf or by a voluntary organisation, provides that the relevant contribution charge will be reduced by up to 100%. Under section 48(10)(b) of the Planning and Development Act 2000, the statutory function of the Board is limited to consideration of whether the terms of the Development Contribution Scheme have or have not been properly applied in respect of any condition laid down by the planning authority. In this case, the terms of the exemptions were not taken into consideration during the calculations of the development contributions.

Caryn Coogan

Planning Inspector

16/01/2017

