



An
Bord
Pleanála

Inspector's Report ABP 304849-19

Development	Retain house as constructed.
Location	Rathpoge East, Milltown, Co.Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	18/1147
Applicant	Bill Sheehy
Type of Application	Retention permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	1 st Party v. Condition
Appellant	Bill Sheehy
Observer(s)	None
Date of Site Inspection	None
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.202 hectares is in the townland of Rathpoge East c.1.2 km to the north of the village of Milltown. There is a two storey dwelling served by a waste water treatment on the site.

2.0 Proposed Development

The application was lodged with the planning authority on the 22/11/18 with further details submitted 17/05/19 following a further information request dated 22/01/19.

Permission is sought to retain the dwelling as constructed within revised site boundaries. The dwelling has a stated floor area of 260 sq.m. with a ridge height of 7.747 metres. The dwelling as permitted under ref.03/1278 had a stated floor area of 205 sq.m. and ridge height of 6.5 metres. The site area was stated to be 0.210 hectares.

The application is accompanied by a survey of the effluent treatment system which concludes that it complies with the requirements of the S.I. No.223/2012 Water Services Acts 2007 and 2012 (Domestic Waste Water Treatment Systems) Regulations 2012.

Confirmation of payment of development contribution required by condition 20 attached to permission ref. 03/1278

3.0 Planning Authority Decision

3.1. Decision

Grant retention permission for the above described development subject to 5 conditions.

Condition 2: Within 2 months developer to pay a contribution of €6,300 towards roads and transport and community and amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report considers that given the 27% increase in floor area over that permitted on the site, details are required as to the adequacy of the existing septic tank. Full financial contribution applies as the dwelling as constructed is completely different to that permitted. A request for further information recommended on the effluent treatment system, confirmation of scale of the site layout plan and whether the development levies on the original permission were paid. The 2nd report following further information (with handwritten note) notes that the development contribution for water was paid by cheque in April 2019. A grant of retention permission subject to conditions recommended.

3.2.2. Other Technical Reports

Environment Section has no objection.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

03/1278 – permission granted in 2003 for a dormer dwelling served by a septic tank and percolation area on a site with a stated area of 0.21 hectares.

Condition 20 required a financial contribution of €1265 towards provision of public water facilities.

5.0 Policy Context

5.1. Development Plan

Kerry County Development Plan

The site is within an area zoned rural general.

5.2. **Natural Heritage Designations**

None in the vicinity.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The 1st Party appeal is against condition 2, only, which requires a financial contribution of €6,300. The submission by Reeks Consulting Engineers on behalf of the applicant can be summarised as follows:

- The dwelling as constructed on the site increased the floor space over that permitted by 55 sq.m. It is in line with that permitted under ref. 03/1278. They are similar in design. The main change is the raising of the wall plate avoiding prominent mid-roof dormers. It is not 2 storey as described in the planning report. It is more appropriately described as storey and a half.
- The application of full and current levies on the basis that the house is completely different to that permission is an unfair and subjective opinion.
- The applicant has no issue with paying the levies on the additional 55 sq.m. floorspace.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

7.0 **Assessment**

The application is seeking permission to retain the dwelling as constructed on the site which differs from that for which permission was secured in 2003 under ref. 03/1278. That as constructed has a floor area of 260 sq.m. which is 55 sq.m. bigger

than that permitted. The house design as a consequence has been altered somewhat.

I note that the development contribution that was outstanding on the previous permission towards public water facilities was paid at the beginning of 2019, most likely following the further information request on the current case.

The Kerry County Council Development Contribution Scheme 2017 applies. Section 9 of the Scheme explicitly states that no reductions/exemptions shall apply in the case of an application for retention permission. It is stated that this follows what is suggested in the Guidelines. The said document is the Development Contributions Guidelines for Planning Authorities issued in 2013. In same it is recommended that no exemption or waiver should apply to any applications for retention of development and that planning authorities are encouraged to impose higher rates in respect of such applications. In that context the current development contribution scheme stipulates that applications for retention shall be charged at a rate of 150% of the standard Roads & Transport Contribution and Community & Amenity Contribution.

Whilst certain exemptions/exceptions to the above are provided for including no contribution for retention of revised site boundaries, none could be considered to be applicable to the retention of the dwelling as constructed. In other words, the provisions do not provide for allowance of the fact that a permission for a dwelling has been granted on the site or for the application of the contribution for the additional floor area only.

I also note that Table 3 which details types of development where a reduction in the contribution would be applicable does not provide for cases such as that arising.

On this basis and having regard to the table in Section 4 I calculate that the following is applicable:

Residential

	up to 125 sq.m.	Over 125 sq.m. (135 sq.m.)	Total	Retention (150%)
Roads & Transport	660	1188	1848	2,772
Recreation & Amenity	840	1520	2352	3,528
Total				€6,300

On this basis I consider that the planning authority has properly applied the terms of its development contribution scheme.

8.0 Recommendation

I recommend that the planning authority be directed to ATTACH condition number 2 and the reason therefor.

9.0 Reasons and Considerations

It is considered that the planning authority has properly applied the terms of the Kerry County Council Development Contributions Scheme 2017. Section 9 of the scheme states that no reductions/exemptions shall apply in the case of an application for retention permission and that applications for retention shall be charged a rate of 150% of the standard Roads & Transport Contribution and Community & Amenity Contribution.

Pauline Fitzpatrick
Senior Planning Inspector

September, 2019