



An  
Bord  
Pleanála

## Inspector's Report ABP-306633-20

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<b>Development</b>	Retain cottage and rear extension, five outbuildings/structures and a wastewater treatment system
<b>Location</b>	Cashelnagole townland, Bellanagare, County Roscommon
<b>Planning Authority</b>	Roscommon County Council
<b>Planning Authority Reg. Ref.</b>	PD/19/540
<b>Applicant(s)</b>	Pauric Hopkins
<b>Type of Application</b>	Retention permission
<b>Planning Authority Decision</b>	Split
<b>Type of Appeal</b>	First-party v condition
<b>Appellant(s)</b>	Pauric Hopkins
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> May 2020
<b>Inspector</b>	Colm McLoughlin

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## **1.0 Introduction**

- 1.1. The subject appeal is before the Board, as it is considered that the terms of the Development Contribution Scheme have not been properly applied by the planning authority in respect of a condition laid down in a grant of retention planning permission.

## **2.0 Site Location and Description**

- 2.1. The appeal site covers a stated area of 0.2ha and is located in a rural area of north County Roscommon, approximately 2km southwest from the village of Bellanagare. The site accommodates a detached three-bedroom cottage facing onto a local road (L1221), featuring a single-storey rear extension and rooms in the roof space that are served by roof lights. A single-storey stonewall outbuilding and a steel-clad shed are situated on the northeast side of the site, while a glasshouse, a polytunnel, a single-storey open garage and a store are situated to the rear of the cottage. Mature forestry adjoins the southwest side and rear boundaries of the site and there is a house situated on the northeast side. The surrounding area is primarily dominated by low-lying agricultural fields and peatlands, interspersed with strips of commercial forestry and one-off housing fronting onto local roads. Ground levels on site increase marginally by 0.5m from the front to the rear of the site.

## **3.0 Proposed Development**

- 3.1. Retention permission was sought for the following:
  - cottage as constructed, including rooms in the roof space and single-storey rear extension;
  - a single-storey stonewall outbuilding and a steel-clad shed to the northeast side of the site;
  - a glasshouse and a polytunnel to the rear of the cottage;
  - a single-storey open shed / garage along the rear boundary;
  - a wastewater treatment system, including septic tank and percolation area.

## 4.0 Planning Authority Decision

### 4.1. Decision

- 4.1.1. The planning authority decided to issue a split decision, granting retention permission for all development on site, with the exception of the glasshouse and polytunnel structures, which they considered to warrant refusal of planning permission due to their detrimental impact on the visual amenity of the site.

Condition number five of the permission stated the following:

Within three months of the date of the final grant of permission or within such other timescale as may be agreed with the Planning Authority, a development contribution in the sum of €3,600 (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office) shall be paid to Roscommon County Council as a contribution towards the expenditure that was incurred or is proposed by the Local Authority in respect of providing public infrastructure and services.

Payment of this contribution is subject to the provisions of the adopted Development Contribution Scheme 2014.

**Reason:** It is considered reasonable that the developer should contribute towards the expenditure that is proposed to be incurred by the Council in respect of the provision of public infrastructure and services.

### 4.2. Planning Authority Reports

- 4.2.1. Planning Reports

The initial report of the planning authority (December 2019) noted the following:

- the existing cottage on site is of modest scale;
- the applicant should justify the rationale for retaining the numerous outbuildings on site, including the condition of same;
- the site, including buildings, previously formed part of the adjoining site to the northeast, which is the subject of an ongoing planning application (Roscommon County Council [RCC] Ref. PD/19/495);

- the vehicular access arrangements would be satisfactory;
- further details are required with respect to wastewater treatment and the layout of the development alongside the adjacent site and with respect to the original permission (RCC Ref. PD/04/1673).

The final report of the planning authority (January 2020) reflects the split decision of the planning authority and included various handwritten annotations, including reference to the necessity for a development contribution.

#### 4.2.2. Other Technical Reports

- Environment Section – following the receipt of further information, no objection, subject to conditions.

### 4.3. Prescribed Bodies

4.3.1. None requested.

### 4.4. Third-Party Submissions

4.4.1. None received.

## 5.0 Planning History

### 5.1. Appeal Site

5.1.1. The appeal site originally formed part of a larger site, including the house to the northeast. The following planning applications relate to the appeal site:

- RCC Ref. PD/04/1673 – permission granted in June 2005 to Aidan Dowd for a single-storey house, a wastewater treatment system and a vehicular access on the northeast side of the site;
- RCC Ref. PD/17/376 – in April 2018 the planning authority granted retention permission to Aidan and Geraldine Dowd for an attic conversion, rear timber decking, stairs and balcony area, as well as revised elevation treatments to the house originally granted under RCC Ref. PD/04/1673. The planning authority decided to refuse to grant retention permission for revised site

boundaries and an open store / garage, as the cottage on the southwest side was unauthorised and to permit the development would be contrary to the conditions of permission attached to RCC Ref. PD/04/1673.

A planning enforcement notice was issued to the appellant under RCC Ref. UDR 2436 in May 2019, which is stated to require ceasing of all unauthorised development on site relating to the utilisation of the structure as a dwelling, where no planning permission exists.

## **5.2. Surrounding Sites**

5.2.1. The following planning application relates to the adjoining site to the northeast:

- RCC Ref. PD/19/495 – retention permission was granted to Aidan and Geraldine Dowd in March 2020 for revised site boundaries and a part single and two-storey rear domestic shed along the appeal site.

5.2.2. Reflective of the rural character of the area, other recent planning applications in the neighbouring area relate to one-off housing, replacement housing, domestic outbuildings and extensions, as well as agricultural developments.

## **6.0 Policy & Context**

### **6.1. Local Plans**

#### Roscommon County Development Plan 2014-2020

6.1.1. Section 10.2.2 of the Development Plan notes that ‘development contributions provide critical resources to facilitate the funding of essential physical and social infrastructure that support the implementation of the development plan’. Objective 8.4 of the Development Plan aims to implement the Council’s Development Contribution Scheme with respect to the improvement of existing recreation and leisure facilities, as well as the funding of new recreation and leisure facilities in tandem with new developments.

#### Roscommon County Council Development Contributions Scheme 2014

6.1.2. The terms of the Roscommon County Council Development Contribution Scheme 2014, as formally amended in February 2020, are applicable to the proposed

development. The Development Contribution Scheme includes a host of development types and scenarios where reduced contributions and exemptions apply.

- 6.1.3. A contribution of €3,600 for a house in a rural area applies and this comprises of €1,980 towards roads infrastructure (Town and Village Improvements, Public Lighting, Footpaths, Car Parking, Contribution to Capital Schemes, Traffic Management, Drainage, Broadband, Swimming Pool Fund, Fire Services Facilities, Unfinished Housing Estates), €900 towards libraries, enterprise, cultural and leisure developments and €720 towards amenity and open spaces (parks, open spaces and cemeteries).

## **6.2. National Guidelines**

### Development Contributions - Guidelines for Planning Authorities (January 2013)

- 6.2.1. These Guidelines aim to assist planning authorities in achieving a balance between the costs of services provided and the need to support economic activity via Development Contribution Schemes. Planning authorities are required to include specific exemptions and waivers in their Development Contribution Schemes and the Guidelines also note that these should not apply to applications for the retention of development.
- 6.2.2. The Guidelines state that the practice of double-charging is inconsistent with both the primary objective of levying development contributions and with the spirit of capturing planning gain in an equitable manner. Authorities are reminded that any development contribution already levied and paid in respect of a given development should be deducted from the subsequent charge so as to reflect that this development had already made a contribution.

### Development Management – Guidelines for Planning Authorities, 2007

- 6.2.3. Section 7.12 of the Development Management Guidelines provides guidance on planning conditions relating to development contributions. Section 8.12 of these Guidelines refers to appeals regarding development contribution conditions.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

7.1.1. A first-party appeal was submitted solely in relation to the levies applied under Condition number five of the planning authority's decision. The grounds of appeal can be summarised as follows:

- the subject cottage was refurbished and extended between 2005 and 2006 following a grant of permission under RCC Ref. PD/04/1673;
- the appellant purchased the property in 2015 from the adjoining property owner to the northeast and following an application to retain permission for revisions to the adjacent house under PD/17/376, it became apparent to the planning authority that the development on the appeal site was unauthorised;
- an enforcement notice was issued by the planning authority under RCC Ref. UDR 2436 and a copy of this is attached to the appeal;
- an application to rectify this situation was submitted and the planning authority decided to seek €3,600 in contributions towards public services and infrastructure under condition number five of the retention permission;
- the appellant should not be liable for the contribution, as it is unfair and unjust.

### **7.2. Planning Authority Response**

7.2.1. The planning authority's response to the grounds of appeal can be summarised as follows:

- the appeal site, including the cottage, originally formed part of the site that was subject to a grant of planning permission under RCC Ref. PD/04/1673, whereby the subject cottage was proposed to be converted to a store, as per the site layout plan attached to the response and condition number 1 of the permission, which required the development to be strictly carried out in accordance with the plans submitted;



- the planning authority commenced enforcement investigations under RCC Ref. UDR 2436 when the new dwelling unit was identified on the appeal site in 2017;
- the subject permission allows for an independent residential unit on an independent planning unit, whereas the previously implemented permission under RCC Ref. PD/04/1673, only allowed for the existing cottage to be used as a store ancillary to the new house to the northeast;
- the condition is appropriate and wholly consistent with the terms of the Council's Development Contribution Scheme and the provisions of the Planning and Development Act 2000, as amended, and the level of contribution is justified, as the development does not meet any categories benefitting from full or partial exemptions within the Development Contribution Scheme;
- the Development Contributions - Guidelines for Planning Authorities state that 'no exemptions or waiver should apply to any applications for retention of development'.

### **7.3. Observations**

7.3.1. None received.

## **8.0 Assessment**

8.1. Condition number five of the subject permission requires the developer to pay contributions totalling €3,600 towards expenditure that was incurred or is proposed by the planning authority in respect of providing public infrastructure and services. The grounds of appeal solely contest the attachment of this condition. Consequently, I am satisfied that the appeal can be confined to matters concerning the specific condition that the first party has appealed and that this appeal can be treated under Section 48(13)(a) of the Planning and Development Act 2000, as amended. In order to identify the acceptability or otherwise of the subject condition, a review of the planning history of the site is necessary, including any development contributions previously attached or paid as conditions of planning permissions.

- 8.2.** Planning permission for a new house and associated development granted under RCC Ref. PD/04/1673 in June 2005 encompassed both the appeal site and the adjoining site to the northeast and this permission was undertaken. In the final permitted site layout plan for the development an 'existing house to be converted to store' and an 'existing stone building to be converted to garage' were both identified on the footprints of the existing cottage and the stone outbuilding on the appeal site. A paved area was shown to the rear of these buildings and vehicular access would be from the northeast side via the new access to the permitted house. Condition number 15 of the planning permission (RCC Ref. PD/04/1673) requested a development contribution of €4,870 for the new house, based on the provisions of the Development Contributions Scheme adopted at that time.
- 8.3.** Following the commencement of enforcement investigations by the planning authority (under RCC Ref. UDR 2436), the planning authority subsequently granted retention planning permission (under RCC Ref. PD/17/376) in April 2018 for alterations and extensions to the house granted under RCC Ref. PD/04/1673, however, retention of the open store / garage on the rear boundary and the revised site boundaries were refused permission. This application excluded the area occupied by the existing cottage and the stone-built outbuilding on the appeal site, but included a strip along the rear boundary that accommodated temporary storage containers and an open store / garage. Development contributions were not requested as a condition for the elements that were granted retention planning permission by the planning authority.
- 8.4.** In September 2019 an application was lodged under RCC Ref. PD/19/495 to retain revised site boundaries and associated development on the adjoining site to the northeast, while the subject application of this appeal was lodged in October 2019. During consideration of these planning applications, the planning authority required consistent and accurate details of the adjoining developments proposed to be retained. This retention permission effectively split the land parcel previously permitted under RCC Ref. PD/04/1673 into two sites, including the appeal site and the more recently constructed larger house to the northeast. No contributions were requested with respect to this permitted development and I am not aware of any contributions having previously been paid for this development based on the planning history, including those details provided by parties to the appeal.

- 8.5.** When adjudicating on appeals made under Section 48 of the Planning and Development Act 2000, as amended, the Board is limited solely to considering whether or not the terms of the Development Contributions Scheme have been properly applied. Consequent to the implementation of the permission for a new house to the northwest under RCC Ref. PD/04/1673, including the conditions attached, the existing two stonewall buildings on the appeal site, comprising the cottage and shed, were required to only be used as a domestic store and garage. Under the subject application, the appellant has been granted retention permission for the cottage and associated outbuildings, a wastewater treatment system and a vehicular access serving the site. This permission allows for a new and distinct residential unit to be retained on the appeal site, and this unit would be separate from the house and associated development on the adjoining site to the northeast. As an additional distinct residential unit, it would clearly benefit individually from public infrastructures and services, including those funded, managed and maintained by the planning authority. The Development Contributions Scheme sets out that a €3,600 contribution per additional residential unit in a rural area is required. Therefore, I am satisfied that the subject new rural house to be retained would incur a requirement for a development contribution to be paid based on the terms of the Development Contributions Scheme.
- 8.6.** The Development Contribution Scheme applies exemptions and reductions for specific development categories, including social housing, changes of use and housing for those commencing management of family farms or long-term agricultural operations. The Scheme does not strictly differentiate with regards to standard permissions and retention permissions. I am satisfied that the proposed development to be retained would not fit into any of the stated exemption or reduction categories, while also noting that the Development Contributions - Guidelines for Planning Authorities (January 2013) support that exemptions and reductions should not apply to applications for the retention of development.
- 8.7.** In conclusion, I am satisfied that the reason for attaching the condition would be appropriate, reasonable and necessary, and that the terms of the Development Contributions Scheme, including the levy, have been properly applied by the planning authority in attaching condition number five to the grant of retention

planning permission. Accordingly, condition number five should remain attached to the retention permission under RCC Ref. PD/19/540.

## **9.0 Recommendation**

- 9.1.** In accordance with section 48 of the Planning and Development Act 2000, as amended, and based on the reasons and considerations set out below, the terms of the Development Contributions Scheme for the area have been properly applied in respect of condition number five and the planning authority should be directed to attach condition number five, for the reasons and considerations set out below.

## **10.0 Reasons and Considerations**

- 10.1.1. Having regard to the nature and scale of the proposed development to be retained, including the formation of a separate and distinct residential planning unit, the planning history for the site and the adjoining site, and the provisions of the Roscommon County Council Development Contributions Scheme 2014 made under Section 48 of the Planning and Development Act 2000, as amended, it is considered reasonable that the developer should contribute towards expenditure that is proposed to be incurred by the planning authority in respect of the provision of public infrastructure and services. In accordance with Section 48 of the Planning and Development Act 2000, as amended, the Board considered that the terms of the Roscommon County Council Development Contributions Scheme 2014 had been properly applied in respect of condition number five and directs the planning authority to attach condition number five of Roscommon County Council Planning Ref. PD/19/540, to reflect the nature and scale of the proposed development to be retained and the terms of the Roscommon County Council Development Contributions Scheme 2014.

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Colm McLoughlin  
Planning Inspector

15<sup>th</sup> June 2020