



An
Bord
Pleanála

Inspector's Report ABP-309764-21

Development	Construction of part two storey, part single storey dwelling
Location	Mayne, Clonee, Co Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	RA201433
Applicant(s)	Brendan Thornton
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party – Section 48 Condition
Appellant(s)	Brendan Thornton
Observer(s)	None
Date of Site Inspection	09.05.21
Inspector	Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located within the townland of Mayne, approx. 3.5km north of the village of Clonee, Co. Meath, proximate to the border with County Dublin.
- 1.2. The site, which has a stated area of 0.1432ha, is a greenfield site, located on the eastern side of local road L5027-6, located between existing rural dwellings. There are a number of rural dwellings located along this road and the area is overall rural in character.

2.0 Proposed Development

- 2.1. The proposed development is for a part single and part two storey dwelling, with a gross floor area of 271 sqm, a garage with a floor area of 35 sqm and a proprietary waste water treatment unit with percolation area.

3.0 Planning Authority Decision

3.1. Decision

GRANTED, following a FI request in relation to noise, subject to 19 conditions. Condition number 18 and condition number 19 are the subject of this appeal and state:

Condition 18

The developer shall pay the sum of €4,950.00 to the Planning Authority as a contribution towards expenditure that was and/or that is proposed to be incurred by the Planning Authority in the provision, refurbishment, upgrading, enlargement or replacement of public roads and public transport infrastructure by the Council benefitting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council adopted in accordance with the provisions of Section 48 of the Planning and Development Act 2000-2020. Payment of this sum shall be made prior to commencement of development unless the phasing of payments and the giving of security to ensure payment in full is agreed in writing with the Planning Authority prior to the commencement of development.

The above sum shall apply until 31st December 2021 and shall be subject to review on that date and to annual review thereafter unless previously paid. The contribution rates shall be updated effective from January 1st each year during the lifetime of the Development Contribution Scheme in accordance with the Wholesale Price Indices – Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: The provision of such roads and public transport infrastructure in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing these services.

Condition 19

The developer shall pay the sum of €3,600.00 to the Planning Authority as a contribution towards the expenditure that was and/or that is proposed to be incurred by the Planning Authority in the provision and extension of social infrastructure (open spaces, recreational and community facilities, amenities and landscaping works) by the council benefiting development in the area of the Authority, as provided for in the Contribution Scheme of Meath County Council adopted in accordance with the provision of Section 48 of the Planning and Development Act 2000-2020. Payment of this sum shall be made prior to commencement of development unless the phasing of payments and the giving of security to ensure payment in full is agreed in writing with the Planning Authority prior to the commencement of development.

The above sum shall apply until 31st December 2021 and shall be subject to review on that date and to annual review thereafter unless previously paid. The contribution rates shall be updated effective from January 1st each year during the lifetime of the Development Contribution Scheme in accordance with the Wholesale Price Indices – Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: The provision of such social infrastructure in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing these services.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority to grant permission.

3.2.2. Other Technical Reports

Transportation Section – No objection.

Environment Flooding – No objection.

3.3. **Prescribed Bodies**

Dublin Airport – request to address the existing and predicted noise environment given the site's location within Dublin Airport Noise Zone C.

3.4. **Third Party Observations**

One letter of support was received.

4.0 **Planning History**

None.

5.0 **Policy Context**

5.1. **Meath County Development Plan 2013-2019**

Chapter 10 Rural Development - Section 10.2 Rural Settlement Strategy

Chapter 12 Implementation and Monitoring

Section 12.4.3 Development Contributions: Meath County Council may, when granting planning permission, attach conditions requiring the payment of contribution(s) in respect of public infrastructure and facilities, benefiting the development. Details of such contributions must be set out in a Development Contribution Scheme.

5.2. **Meath County Development Contribution Scheme 2016-2021 (as amended 1st October 2018)**

The document sets out, inter alia, the rationale and function of the development contributions scheme, the type of development contributions, classes of public infrastructure and facilities, basis for the determination of development contributions, schedule of charges, and exemptions. Appendix B sets out a 'Breakdown of Development Contributions effective from 1st January 2016'.

5.3. Natural Heritage Designations

The site is not located within or adjacent to a European site.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal is against condition number 18 and condition number 19, which require the payment of development contributions under section 48 of the Planning and Development Act 2000 (as amended). The grounds of appeal can be summarised as follows:

- Condition 18 relates to expenditure for the provision, refurbishment, upgrading, enlargement or replacement of public roads and public transport infrastructure by Meath County Council. The roads in the area are poor due to flooding, cannot be upgraded or enlarged due to their narrowness, therefore there is no scope for enlargement or upgrading, and there is no public transport/infrastructure in the area.
- Condition 19 relates to the provision and extension of social infrastructure which includes open spaces, recreational and community facilities, amenities and landscaping works. There are no open spaces in the townland of Clonee, there are no soccer pitches, public swimming pools, gyms, playground or park, there are no community facilities, including community centre, public library, health clinic, senior centres in the townland of Clonee, and there is no landscaping in Clonee.
- The applicant considers that the contributions payment is unreasonable given the above points and questions where this money is allocated as it doesn't seem to be directed towards the locality where the site is located.

6.2. Planning Authority Response

The planning authority has responded to the first party appeal as follows:

- Development contributions have been applied as per the adopted Meath County Development Contribution Scheme 2016-2021 (effective 1st January 2016 and as amended 1st October 2018); as set out in section 5 (classes of Public Infrastructure and Facilities) and section 7 (Schedule of Charges) of said document. The planning authority requests that An Bord Pleanála uphold the Development Contributions in this case.

6.3. Observations

None

7.0 Assessment

- 7.1. This is a first party appeal against planning condition number 18 and condition number 19, which require a development contribution in line with section 48 of the Planning and Development Act 2000 (as amended).
- 7.2. Section 48(10) (b) of the Planning and Development Act 2000, as amended, makes provision for an appeal to be brought to the Board where an applicant for permission under section 34 considers that the terms of the relevant development contribution scheme have not been properly applied in respect of any condition laid down by the planning authority. I note that the Board in considering the appeal is required under the provisions of the legislation to apply the scheme as adopted by the Planning Authority. The Board has no legal jurisdiction to interpret or evaluate the merits of any financial contribution scheme as adopted by the Planning Authority.
- 7.3. As this is an appeal in relation to the application of a development contribution only, the Board will not determine the application as if it was made to it in the first instance and will only determine the matters under appeal, which is whether the terms of the Scheme have been properly applied.

Application of Development Contribution Scheme

- 7.4. Three of the conditions attached to the grant of permission relate to development contributions. Condition 17 relates to a contribution towards expenditure in the provision of surface water drainage, condition 18 relates to public roads and public transport infrastructure, and condition 19 relates to social infrastructure. The first party is appealing condition number 18 and condition number 19 on the basis that the infrastructure in the area of the site is poor and that improvements covered by such contributions don't relate to the area of the appeal site.
- 7.5. Section 48(1) of the Planning and Development Act 2000 (as amended) states Planning Authorities may when granting planning permission, include conditions requiring the payment of a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the Planning Authority that is provided, or that it is intended will be provided, by or on behalf of the Local Authority. I note that contributions relate to the functional area of the Planning Authority and are not solely related to the immediate locality of the appeal site, as argued by the applicant.
- 7.6. The Meath County Development Contribution Scheme 2016-2021 (as amended 1st October 2018) identifies three class of infrastructure and facilities including Class 1: Surface Water and Drainage, Class 2: Roads and Public Transport Infrastructure, and Class 3: Social Infrastructure. The contributions payable for a residential dwelling are applied on the basis of floor area. In the case of the appeal site, the floor area of the proposed dwelling is 271sqm, therefore the contribution applicable relates to the floor area band 201-300sqm, which equates to €9,000 euro (section 7 of the adopted Development Contribution Scheme). The breakdown of this development contribution payable is set out in Appendix B of the adopted scheme, which details in the case of a residential dwelling within the size band of 201-300sqm that the €9,000 is arrived at through application of contributions of €450 for Class 1; €4,950 for Class 2; and €3,600 for Class 3, which totals €9,000. Under the terms of the adopted scheme no exemptions or reduced contributions are applicable to the appeal site.
- 7.7. Condition number 18 has correctly applied the figure of €4,950 which relates to Class 2 and condition number 19 has correctly applied the figure of €3,600, which relates to Class 3. The Planning Authority has in my opinion applied the adopted development contribution scheme correctly.

8.0 Recommendation

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to **ATTACH** condition number 18 and condition number 19 and the reasons therefore.

9.0 Reasons and Considerations

The Board, in accordance with section 48 of the Planning and Development Act, 2000 (as amended) considered that the terms of the Meath County Council Development Contribution Scheme for the area had been properly applied in respect of condition number 18 and condition number 19 and directs the said Council to ATTACH condition number 18 and condition number 19.

Una O'Neill
Senior Planning Inspector

9th May 2021