



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312624-22

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<b>Development</b>	Retention of two pig sheds and four feed silos.
<b>Location</b>	Nantinan, Killorglin, Co Kerry.
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	211259
<b>Applicant(s)</b>	Kilfilum Limited
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	First Party vs Financial Contribution
<b>Appellant(s)</b>	Kilfilum Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29/04/22
<b>Inspector</b>	Adrian Ormsby

## 1.0 Site Location and Description

- 1.1. The site is located in Nantinan, Co. Kerry, c. 5km east of Killorglin. The site is an existing large scale agricultural development with a number of existing buildings on site. The site appears to be in use mainly as a pig farm.
- 1.2. The main entrance to the site is a well surfaced access road off the public road. There is also a secondary access to the eastern boundary of the site more in keeping with the agricultural nature of the site and area. The main entrance includes a wide splay with high boundary walls and piers, with a weighing bridge and site office. The stated area of the site is 10.48ha.

## 2.0 Proposed Development

- 2.1. The application is for retention of the following-
  - 2 pig welfare sheds (1,236 sq.m)
  - amalgamations and reroofing to pre-existing sheds (3,302 sq.m) and
  - four feed silos

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to grant permission on the 10/01/22, subject to three conditions.

- Condition 2 sought a development contribution of €47,736 to be paid within three months.

## 4.0 Planning Authority Reports

### 4.1. Planning Reports

The planners report (07/01/22) generally reflects the decision of the Planning Authority. The following levy calculation is noted-

- Total floor area to be retained = 1,768m<sup>2</sup> For retention permission, development levies charged at 150% of standard rates
  - a) Roads and Transport Levy: 1,768m<sup>2</sup> x €9.30/m<sup>2</sup> x 150% = €24,663.60
  - b) Community and Amenity Levy: 1,768m<sup>2</sup> x €8.70/m<sup>2</sup> x 150% = €23,072.40
  - c) Total: €47,736.00

#### 4.2. Other Technical Reports

- County Archaeologist (22/11/22)- No mitigation required

#### 4.3. Prescribed Bodies

- Irish Water (08/11/21)- No objection

#### 4.4. Third Party Observations

- None

### 5.0 Planning History

- This site-
  - None recent
- Nearby sites-
  - None relevant

### 6.0 Policy Context

#### 6.1. Legislation

##### 6.1.1. Planning and Development Act 2000 (as amended)

- Section 48 Development Contributions states-
  - *(1) A planning authority may, when granting a permission under section 34, include conditions for requiring the payment of a contribution in*

*respect of public infrastructure and facilities benefiting development in the area of the planning authority and that is provided, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities).*

- *(3) (a) A scheme shall state the basis for determining the contributions to be paid in respect of public infrastructure and facilities, in accordance with the terms of the scheme.*

*(b) In stating the basis for determining the contributions in accordance with paragraph (a), the scheme shall indicate the contribution to be paid in respect of the different classes of public infrastructure and facilities which are provided or to be provided by any local authority and the planning authority*

*(c) A scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provisions of the scheme.*

- *(10) (a) Subject to paragraph (b), no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.*

*(b) An appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority*

## **6.2. Ministerial Guidelines**

### **6.2.1. Development Contribution Scheme for Planning Authorities - Circular PD4/2003**

- *Level of Contributions*

*The purpose of introducing the development contribution scheme is to introduce transparency into the way in which development contributions are levied and applied. Planning authorities must ensure that, when a prospective developer examines a scheme, he or she will be able to clearly see the level*

*of contribution they are expected to pay, as well as the basis for levying the contribution. Therefore a development contribution scheme must state clearly the level of contributions to be payable under the scheme, including any different levels of contributions in respect of different classes or descriptions of developments.*

- *Appealing Development Contributions*

*A developer can only appeal a general development contribution on the basis that the terms of the scheme were not properly applied. In order to minimise this type of appeal the planning authority should ensure that the terms of scheme are clearly stated and that planners and administrative staff implement the scheme in a way that is consistent and equitable.*

#### 6.2.2. Development Contribution Scheme for Planning Authorities - Circular PD 5/2007

- *This circular sets out revised guidance agreed on foot of the deliberations of the Interdepartmental Committee. It is intended to supplement, not replace, circular letter PD 4/2003. It should be noted that no legislative changes are proposed at this time, and the general terms of sections 48 and 49 will therefore continue to apply.*
- *.....Authorities are reminded that one of the primary objectives in introducing the current schemes was to bring greater transparency the way in which development contributions are levied and applied. It is essential therefore that all prospective developers can clearly identify from a scheme the level of payment required in addition to the basis for the levy in the first instance.*

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

- 'Status of the Guidelines'- Page 2-

*This guidance updates and supplements non-statutory guidance previously issued in Departmental Circulars PD 4/2003 and PD 5/2007*

- Transparency (Page 21)
  - *A development contribution scheme must state clearly the level of contributions to be payable under the scheme, including any different levels of contributions in respect of different classes or descriptions of*

*developments, the percentage of reduction to be applied to development attracting such reductions and development deemed to be exempt from the payment of development contributions .*

6.2.4. Development Management – Guidelines for Planning Authorities (2007)

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

6.3. **The Kerry County Council Development Contribution Scheme 2017 (DCS)**

- The Executive Summary (Page 3) details the amount of development contribution to be levied on new developments as follows-

Type	Total
Residential	€1,500 + €20.00 per m <sup>2</sup> >125 m <sup>2</sup>
Commercial	€18.00 per m <sup>2</sup>
Office	€12.00 per m <sup>2</sup>
Industrial	€12.00 per m <sup>2</sup>

- Section 4 (Page 8) deals with ‘Development Contribution Charges’ and sets out two main categories-
  - Roads & Transport Infrastructure, e.g. road projects, public lighting, flood relief work.
  - Community & Amenity Infrastructure, e.g. cycle & walk ways, sport facilities, arts/heritage, libraries, burial grounds, school facilities.
- Page 9 and 10 of the scheme breaks down development types by contribution rate for the two categories above before providing a total. For the purpose of this appeal it can be summarised as follows-

Type	Roads & Transport	Community & Amenity (per m <sup>2</sup> )	Total

		unless otherwise stated)	
Commercial Buildings (including extensions)	€9.30	€8.70	€18.00
Industrial Buildings (including extensions)	€6.20	€5.80	€12.00
Buildings for Agriculture (per m <sup>2</sup> in excess of 250m <sup>2</sup> )	€4.10	-	€4.10

- Pages 12 deals with 'Agriculture' and states-

*“New farm buildings shall be subject to Development Contributions as they are a form of commercial development. A roads and transport contribution of €4.10 per m<sup>2</sup> shall apply to the floor area of any agricultural development in excess of 250m<sup>2</sup>. Agricultural development in this instance excludes silos, yards, silage bases, and slurry pits/towers.*

*In relation to horticultural polytunnels, glasshouses and mushroom tunnels, the flat rate agricultural charge (€4.10 per m<sup>2</sup>) applies.*

*Garden Centres & Nurseries shall be subject to the development contribution charge for Commercial Development in respect of the covered floor area which is retail based. There is also a charge of €9.00 per 0.1ha (50% of commercial rate) for outdoor retail areas.*

*Development Contributions for Stables/Kennels shall only apply to kennels above 100m<sup>2</sup> and stables above 200m<sup>2</sup> in floor area. The agriculture rate shall apply, €4.10 per m<sup>2</sup>. Charges shall apply, should the total of an extension or new building bring the total area of kennels/stables on the site to over 100/200m<sup>2</sup> respectively.*

*Development Contributions for intensive agricultural use, e.g. pig or poultry farms shall be a subject to the standard development contribution rate for industrial development.”*

- Section 9 (Page 20) deals with ‘Retention of Development’ and states-  
*“No reductions/exemptions shall apply in the case of an application for retention permission.*

*Applications for retention shall be charged a rate of 150% of the standard Roads & Transport Contribution and Community & Amenity Contribution. This follows what is suggested in the Guidelines.*

*The following exceptions shall also apply:*

- *Retention of change of use where the proposed use is a take-away*
- *shall be subject to a contribution of double the standard Community & Amenity rate.*
- *Retention of commercial/shop front elevational changes shall be subject to a Community & Amenity Contribution of €2,500.*
- *Retention of signage/advertisements shall be subject to a contribution of double the standard charge for signage/advertisements.*
- *Revised site boundaries retention applications shall be exempt from any contribution.”*

#### **6.4. Natural Heritage Designations**

- Castlemaine Harbour SAC 000343 is located c. 2.1km south of the site.
- Castlemaine Harbour SPA 004029 is located c. 3.75km west of the site.

#### **6.5. EIA Screening**

- Not for consideration due to nature of this appeal



## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. This first party appeal relates solely to Condition no. 2 of Kerry County Council's decision, which requires the payment of a Section 48 Development Contribution of €47,736.00 within three months of the date of the grant of retention permission. The grounds of appeal can be summarised as follows-

- The ordinary development contribution rate for agriculture is €4.10. Only the area over and above 250m<sup>2</sup> is liable for development contribution and there is no community and amenity levy on agricultural development.
- The Development Contribution Scheme (DCS) details Contributions for intensive agricultural use, e.g. pig or poultry farm shall be subject to the standard development contribution rate for industrial development.
- This paragraph deals with the rate only and sets it at the industrial level, which can be seen at page 9 of the DCS is a rate of €6.20/m<sup>2</sup> for Roads and Transport.
- The Area Planners Report shows a number of areas where the methodology used to calculate the contribution is inconsistent with the Development Contributions Scheme 2017. The inconsistencies are-
  - There should be no application of the Community and Amenity levy to agricultural development - and even though the subject development is classified as "intensive" – it still classified as agricultural and consequently does not attract a Community and Amenity levy.
  - Given that the retained development is intensive then the industrial rate (€6.20/m<sup>2</sup>) must be used - not the commercial (€9.30) to calculate the Roads and Transport.
  - It did not allow for deducting the first 250m<sup>2</sup> of area, i.e., the first 250m<sup>2</sup> is at zero development contribution.
- Revised calculations are suggested as follows-
  - Area of retained (new sheds) = 1768m<sup>2</sup> (as per Planners Report)

- For retention permission development (contributions) levies charged at 150% of standard rates (agreed)
- Calculation
  - Roads and Transportation levy =  $(1768-250) \text{ m}^2 \times 6.20 \times 150\% = (\text{€}14,117.40)$
  - Community & Amenity Levy = 0 (not applicable)
  - Total (Levies) €14,117.40
- The Councils sum in condition 2 is punitive and inappropriate for agricultural activity- intensive or not.
- The appellants believe the terms of the DCS were applied in error and that €14,117.40 is fair and equitable.

## 7.2. Planning Authority Response

The Planning Authority's response to the grounds of appeal (21/02/22) can be summarised as follows-

- Condition No 2 attached to the decision to grant permission is not in accordance with the KCC DCS 2017 as the incorrect rates were applied.
- The DCS 2017 provides for the payment of contributions for intensive agricultural use such as pig and poultry farms at the standard rate for industrial development. In calculating contributions for its decision to grant retention permission, the development contribution rate for commercial development were used in error.
- The Scheme also requires for the payment of contributions at 150% of the standard rate for retention permission.
- Therefore, the correct contributions are as follows-
  - Roads & Transport:  $1,768\text{sqm} * \text{€}6.20/\text{sqm} * 1.5 = \text{€}16,442.40$
  - Community & Amenity:  $1,768\text{sqm} * \text{€}5.80/\text{sqm} * 1.5 = \text{€}15,381.60$
  - Total: €31,824.00

### 7.3. Observations

- None

### 7.4. Further Responses

The applicants have responded to the Planning Authority's submission. This can be summarised as follows-

- The Planning Authority's clarification that the incorrect rates were used is welcomed.
- The critical argument remains that on Page 12 of the DCS in relation to agriculture in which the singular use of the word 'rate' is used. The 'rate' for industrial development must be imported into the equation used to calculate agricultural levy.
- It is important to separate the 'method of calculation' from the 'rate'.
- On page 9 of the DCS there is only one line dealing with Building for agricultural" with rates as follows:
  - Road & Transport                      €4.10
  - Community & Amenity                  €0
- For intensive agriculture a rate of €6.20 is used in the equation to calculate the Roads & Transport levy. There is no community levy on agriculture.
- It would be very strange and inconsistent that sheds should attract a community levy while all other agriculture budlings would not.
- The Planning Authority erred in their approach to charging development contributions in this case by classifying the buildings as industrial and using the industrial formula to calculate the levies.
- The error contains a further inconsistency. On one hand the Planning Authority accepts this is an agricultural development by excluding the silos as directed in the "Agriculture" section on page 12 of the Development Contributions Scheme 2017 directive but then proceed to reclassifying the

buildings as industrial so as to capture the development for both the Roads and Transport and the Community and Amenity development contributions.

- The correct development contribution levy charge for this retention development is calculated as follows:
  - Roads and Transportation =  $(1768\text{m}^2 - 250\text{m}) \times 6.20 \times 1.5 = \text{€}14,117.40$
  - Community and Amenity = Zero
- If there is any ambiguity in interpretation, then An Bord Pleanála has no option but to give the benefit of the doubt and apply the lowest allowable development contribution in this case.

## 8.0 Assessment

### 8.1. Introduction

- 8.1.1. The appeal relates to condition no. 2 only, which imposes a Development Contribution in accordance with the provisions of Section 48 of the Planning and Development Act 2000 (as amended).
- 8.1.2. Section 48 (10) (b) of the Act makes provision for an appeal to be brought to the Board where an applicant 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.
- 8.1.3. In that context, I consider that the Board is required to apply the scheme as adopted by the Planning Authority and not to evaluate the merits or otherwise of the scheme itself. Furthermore, as this appeal relates to a development contribution only, the Board cannot determine the application as if it was made to it in the first instance and is confined solely to the consideration of whether the terms of the scheme have been properly applied.

### 8.2. Condition 2

- 8.2.1. This condition requires the payment of €47,736.00. As this is an application for retention the condition requires payment within three months of the date of the grant of the permission. The contribution has been calculated as follows-

- Total floor area to be retained = 1,768m<sup>2</sup>
- For retention permission, development levies charged at 150% of standard rates
  - Roads and Transport Levy: 1,768m<sup>2</sup> x €9.30/m<sup>2</sup> x 150% = €24,663.60
  - Community and Amenity Levy: 1,768m<sup>2</sup> x €8.70/m<sup>2</sup> x 150% = €23,072.40
  - Total: €47,736.00

### 8.3. The Appeal

8.3.1. The applicants contend that the methodology used by the Planning Authority to calculate the contribution is inconsistent with the Development Contributions Scheme 2017 (DCS). They argue that

- There should be no application of the 'Community & Amenity' category to agricultural development and even though the subject development is classified as "intensive" –the development is still agricultural.
- the industrial rate (€6.20/m<sup>2</sup>) should be used and not the commercial rate (€9.30)
- the contribution doesn't deduct the first 250m<sup>2</sup> of area for agricultural development.

8.3.2. I note the applicants have not challenged the floor area of 1,768 sq.m used by the Planning Authority to calculate the development and they accept there is a charge of 150% for retention.

8.3.3. In their response to the appeal the Planning Authority have accepted an error was made in calculating the contributions rate i.e. €9.30 for commercial development was used in error instead of the rate of €6.20 per m<sup>2</sup> for intensive agricultural use such as pig and poultry farms i.e. the standard rate for industrial development.

8.3.4. In the applicants further submission they welcome the Planning Authority's clarification that the incorrect commercial rate rather than industrial rate was used. They still challenge the application of the rate.

#### 8.4. Level of Contribution

- 8.4.1. The application is for retention of two pig sheds. In question 12 of the application form the applicants indicate that 1,236 sq.m (new sheds) and 3302 sq.m of (alterations) are to be retained. This gives a total of 4,538 sq.m for retention.
- 8.4.2. The drawings submitted with the application identify three buildings for retention. The floor area for each is identified as follows-
- Building 1- 736.980m<sup>2</sup>
  - Building 2- 1,030.941m<sup>2</sup>
  - Building 3- 3,782.145m<sup>2</sup>
  - Total- 5,550.066m<sup>2</sup>

It is not clear from the drawings which two of the three buildings identified are the new sheds to be retained as per question 12 of the application form and the development description.

- 8.4.3. The floor area used by the Planning Authority for the purposes of calculating the Development Contribution is 1,768 m<sup>2</sup>. I note the combined total of Building 1 and 2 equates to this figure. It would appear the Planning Authority only intend to charge for these two buildings and any new floor area associated with Building 3 has not been allowed for in their calculations. I note page 9 of the DCS does indicate that extensions are subject to contributions and this could be interpreted to include for 'amalgamations' as per the development description.
- 8.4.4. Based on the information on file and the drawings submitted it can be argued that the floor area to be used for the purposes of calculating the Development Contribution applicable is significantly lower than that being applied for through retention. The Board may wish to consider if a higher floor area should be calculable, but given that neither the Applicant nor the Planning Authority in their response, have raised any concerns over the figure of 1,768 m<sup>2</sup>, I am satisfied it is appropriate and reasonable to use same for the purpose of this appeal.
- 8.4.5. The application is for retention of pig sheds. The DCS provides a section on 'Agriculture' on page 12 in which it clearly states-

*“Development Contributions for intensive agricultural use, e.g. pig or poultry farms shall be a subject to the standard development contribution rate for industrial development.”*

The development description clearly details the buildings are for pigs and the applicants have not challenged if this should be considered an ‘intensive agricultural use’. Having visited the site and reviewed the drawings I am satisfied based on the scale and nature of the development it can be considered an ‘intensive agricultural use’ for the purpose of this appeal.

- 8.4.6. It is clear the Planning Authority were incorrect to use the ‘Commercial Building’ rate of €18 (i.e. €9.30 for ‘Roads & Transport’ and €8.70 for ‘Community & Amenity’) for the basis of their original calculations. This error has been identified and acknowledged in the Planning Authority’s response to the appeal in which they indicate the Industrial Building rate of €6.20 for ‘Roads & Transport’ and €5.80 for ‘Community & Amenity’ should be used i.e. €12 per m<sup>2</sup> in total as per the DCS.
- 8.4.7. The Applicants accept that the ‘Industrial Building’ rate should be used for the proposed development, but argue that the ‘Community & Amenity’ category should not be included for in the overall rate calculation. This is on the basis that the DCS does not charge ‘Buildings for Agriculture’ for the ‘Community & Amenity’ category.
- 8.4.8. While I appreciate the applicants argument, the Executive Summary of the DCS (page 3) clearly details the ‘Industrial’ rate as €12.00. Furthermore page 12 of the DCS specifically discusses Agriculture and clearly details *‘intensive agricultural developments’* such as pig farms shall be subject to *‘the standard development contribution rate for industrial development.’* The subject ‘Industrial’ rate requires a contribution for both categories i.e. ‘Roads & Transport’ and ‘Community & Amenity’. Therefore, there is no provision in the DCS whereby ‘Community & Amenity’ cannot be charged in this instance.
- 8.4.9. I note the Applicant’s contention that this section specifically states the singular use of the word ‘rate’ and accordingly as only the category of ‘Roads & Transport’ applies to standard agricultural developments. I do share the Applicant’s interpretation of the use of the word ‘rate’ in this context i.e. it should mean only one category of ‘Development Contribution Charge’ can apply. I refer to the use of the singular word ‘rate’ for the section titled ‘Residential Extensions’ on page 12, where it specifically

states €12.00 per m<sup>2</sup> as the basic 'rate' even though page 9 shows charges for the two categories of €5.28 and €6.72 and then a total of €12.00. Further examples of this approach is identified under the sections titled 'Telecommunications' and 'Energy Infrastructure'. In this regard I am satisfied that 'Total' is the 'rate' referred to and the categories 'Roads & Transport' and 'Community & Amenity' just detail how the 'rate' will be allocated to each future infrastructure project.

8.4.10. The applicants also argue that the DCS allows only for the floor area in excess of 250m<sup>2</sup> to be calculable for the purposes of 'Buildings for Agriculture'. Again, I appreciate the Applicant's argument, however and as already discussed, page 12 of the DCS clearly details that '*intensive agricultural developments*' such as pig farms shall be subject to '*the standard development contribution rate for industrial development.*' This industrial rate makes no provision for the first 250m<sup>2</sup> to be excluded for the purposes of calculating the contribution.

8.4.11. I note the Applicant questions the inconsistent approach of the Planning Authority to classify the buildings as 'Industrial' yet exclude the areas of the silos in the calculations for contributions to be charged. Page 12 of the DCS states "*Agricultural development in this instance excludes silos, yards, silage bases, and slurry pits/towers*" As the proposal is considered an '*intensive agricultural use*' and therefore subject to the 'Industrial' rate, it would appear the DCS does not make specific provision to exclude silos from the chargeable rate.

8.4.12. Similar to section 8.4.4 above the Board may wish to consider if the floor area of the four silos to be retained should be calculable for the purpose of this appeal. Page 9 of the DCS details contributions for '*Industrial Buildings (including extensions)*'. I do not consider the silos to be 'buildings' or 'extensions' in this context and therefore should not be charged for.

## 8.5. **Appropriate Assessment**

8.5.1. Having regard to the nature and scale of the development and in particular this appeal type, and the separation distance to any European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site



## 8.6. Conclusion

8.6.1. As acknowledged by the Planning Authority, it is considered that Kerry County Council's Development Contribution Scheme 2017 has not been properly applied in respect of condition 2. The Planning Authority incorrectly calculated the contribution using the Commercial Buildings rate of €9.30 for 'Roads & Transport' and €8.70 for 'Community & Amenity' i.e. €18 in total for the basis of their original calculations.

8.6.2. The section dealing with 'Agriculture' on page 12 of the DCS clearly states-

*'Development Contributions for intensive agricultural use, e.g. pig or poultry farms shall be a subject to the standard development contribution rate for industrial development.'*

8.6.3. The Planning Authority have acknowledged this error. Therefore the contribution should have been calculated using the 'Industrial Building' rate of €6.20 for 'Roads & Transport' and €5.80 for 'Community & Amenity' i.e. €12 per m<sup>2</sup> in total.

8.6.4. The applicable development contribution should have been calculated as follows-

Roads and Transport:	$1,768\text{m}^2 * €6.20/\text{m}^2 * 1.5 =$	€16,442.40
Community and Amenity:	$1,768\text{m}^2 * €5.80/\text{m}^2 * 1.5 =$	<u>€15,381.60</u>
Total:		€31,824.00

## 9.0 Recommendation

9.1. I recommend that the Planning Authority be directed to *AMEND* condition No 2 as follows-

2. The developer shall pay to the planning authority a financial contribution of €31,284.00 (thirty one thousand, two hundred and eighty four euro) 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. The contribution shall be paid three months from the date of the grant of permission or as otherwise agreed with the planning authority which may facilitate phased payments and shall

be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

## 10.0 Reasons and Considerations

10.1.1. Having regard to the development to be retained, and the nature of use on the site for pig farming, which is considered an 'intensive agricultural use' for the purpose of calculating the applicable development contribution for such developments, it is considered that the terms of the Kerry County Council Development Contributions Scheme, 2017 were incorrectly applied by the planning authority in the calculation of the amount payable based on the reckonable gross floor area for 'commercial buildings' instead of 'industrial buildings'. It is therefore concluded that the amount payable, in accordance with the terms of the said scheme is €31,824.00.

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Adrian Ormsby  
Planning Inspector

05<sup>th</sup> of May 2022