



An
Bord
Pleanála

Inspector's Report ABP315525-23

Development	Erection of 1,490.00m ² or 500.90kWp of photovoltaic panels on the roof of the existing building.
Location	Monread Shopping Centre, Monread Road, Naas, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	22/1026
Applicant(s)	Tesco Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Applicant-v-Contribution Condition.
Appellant(s)	Tesco Limited
Observer(s)	None
Date of Site Inspection	None
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The application site comprises a Tesco supermarket on the Moneard Road, Naas, County Kildare.

2.0 Proposed Development

- 2.1. Erection of 1,490.00m² or 500.90kWp of photovoltaic panels on the roof of the existing Tesco supermarket building at Monread Shopping Centre, Monread Road, Naas, Co. Kildare.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission and attached condition 7 which required the applicant to pay a contribution of €5,009.00 in accordance with the Kildare Development Contribution Scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended a grant of permission as set out in the County Manager's order.

3.2.2. Other Technical Reports

No other technical reports.

4.0 Planning History

Register reference 22/353 permission granted for a "click and collect" signage, a sheltered canopy and associated works to Tresco on this site.

Reference ABP311227-21 permission refused change of use to dental surgery because a dental surgery is not permissible/open for consideration on lands zoned retail/commercial in the Naas Town Development Plan.

5.0 Policy and Context

5.1. Development Plan

5.2. The **Development Management Guidelines for Planning Authorities (2007)** are issued under section 28 of the Planning and Development Act 2000, as amended, and provide guidance in relation to development contribution schemes at paragraph 7.12. The Guidelines, *inter alia*, make the point that a contribution scheme under Section 48 should clearly set out how the relevant terms are interpreted and applied to the proposed development.

5.3. **Development Contributions Guidelines for Planning Authorities (DoEHLG 2013)** are issued under section 28 of the Planning and Development Act 2000, as amended. The Guidelines make the point that a key aim for development contribution schemes must be to promote sustainable development patterns, secure investment in capital infrastructure and encourage economic activity.

5.4. Section 48 of the Planning and Development Acts, provides that planning authorities must draw up a development contribution scheme in respect of certain public infrastructure and facilities provided by, or on behalf of, the local authority that generally benefit development in the area. All planning permissions granted are subject to the conditions of the development contribution scheme in operation in the area of the planning authority.

5.5. The Guidelines advise that when planning authorities are drawing up development contribution schemes that “in order to achieve a standard basis on which rates could be determined, broad estimates of the floor area (m²) of anticipated development should be prepared, including the assumptions and any other relevant factors which have shaped the estimates” (see page 17 of the Guidelines).

5.6. **Circular Letter PL04/2023 from the Minister for Housing, Local Government and Heritage** sets out mechanisms whereby in certain cases contributions payable by developers can be paid instead to the local authority by the Minister for Housing, Local Government and Heritage

5.7. **The Kildare County Development Plan 2017 to 2023** is the relevant development plan for the area.

5.8. The **Kildare County Council Development Contribution Scheme 2023 – 2029** is the relevant development contribution scheme for the area.

5.9. **Natural Heritage Designations**

Not relevant

5.10. **EIA Screening**

Not relevant.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The appeal is against condition 7 which required the payment of €5,009.00 to the planning authority in accordance with the Development Contribution Scheme.
- The planning authority did not apply the Development Contribution Scheme properly.
- Solar panels are exempted from the requirement for planning permission.
- The application referenced the peak generating capacity whereas when converted to AC current the output is 0.31 MW AC.

6.2. **Planning Authority Response**

- The application was for 500.90kWp. The development is subject to the contribution scheme and the scheme was correctly applied.

6.3. **Applicant's response to PA Comments.**

- There is a reduction for non-residential solar energy production in the scheme.
- The energy output is 0.31MW not 0.5009MW.

6.4. Further Responses

None

7.0 Assessment

- 7.1. The appeal states that the application was made in August 2022 and that an exemption from the requirement to seek planning permission for solar energy projects was introduced on the 5th October 2022.
- 7.2. It is not entirely clear what the appeal means in relation to exempted development but an exemption from the requirement to seek planning permission was inserted by article 5 of S.I. No. 493/2022 Planning and Development Act 2000 (Exempted Development) (No. 3) Regulations 2022 by Schedule 2, Part 1 for development within the curtilage of a house including (c) The placing or erection on a roof of a house, or within the curtilage of a house, or on a roof of any ancillary buildings within the curtilage of a house (this class does not include apartments) of a solar photovoltaic and/or a solar thermal collector installation.
- 7.3. This is not a relevant consideration in this case because (a) the proposed development is to be placed on a retail building not within the curtilage of a dwelling house and (b) since the applicant has applied for permission the planning authority has a duty to apply the adopted development contribution scheme in its decision.
- 7.4. The applicant's response to the planning authority's submission states that there is an exemption within the scheme for commercial development which produces solar energy greater than 0.5MW (i.e. that the first 0.5MW is exempt from a charge). There was an exemption from the requirement to pay development contributions in the Kildare Development Contribution Scheme 2015-2022 scheme but there is such exemption in the current scheme (effective 1st January 2023).
- 7.5. The application as advertised to the public, described in the application and determined by the planning authority is for "1,940 m² or 500.90kWp". Accordingly, the permitted development has a capacity of 500.90kWp. The development contribution scheme provides that wind turbines and solar energy projects are subject to development contribution charge of €1,000 per 0.1 megawatt. 500.90kWp converts to is 0.5009 megawatts and therefore attracts a contribution of €5,009.00.

7.6. On the basis of the foregoing, I conclude that the planning authority has correctly applied the development contribution scheme and I recommend that the Board direct the attachment of condition 7.

7.7. **Appropriate Assessment Screening**

7.8. Not relevant.

8.0 **Recommendation**

8.1. I recommend that condition 7 be attached for the reasons and consideration set out below.

9.0 **Reasons and Considerations**

The Kildare County Council Development Contribution Scheme 2023 – 2029 provides that wind turbines and solar energy developments shall be charged at a rate of €1000 per 0.1 megawatt or output. The present application applied for and was granted permission for the erection of 1,940 m² or 500.90kWp of photovoltaic panels on the roof of an existing building. 500.90kWp equates to 0.5009 megawatts and therefore the proposed development is subject to a charge of €5,009.00.

The Board is satisfied on this basis that the planning authority correctly applied the provisions of the current contribution scheme and that condition 7 should be attached in this case.

Hugh Mannion
Senior Planning Inspector

4th June 2023.