



An
Bord
Pleanála

Inspector's Report

ABP 318291 – 23

(Section 48 Appeal)

Development

Retention of alterations to previously approved two storey house (97936) including revised site boundary, revised site layout and retention of outbuildings including a farm workers apartment.

Location

Dowdstown, Wilkinson, Co. Meath.

Planning Authority

Meath County Council

Planning Authority Reg. Ref.

23 60141

Applicant(s)

Edward Kenny

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

First Party

Appellant(s)

Edward Kenny

Observer(s)

None.

Date of Site Inspection

19th August 2024

Inspector

Aisling Dineen

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The site is located in the rural area of Dowdstown, Wilkinstown, Co. Meath. It is accessed off a local county road. The site contains a two-storey dwelling house and outbuilding.

2.0 Proposed Development

- 2.1. Retention permission is sought for alterations to previously approved house (Planning Register Reference No 97 936) and for revised site boundaries, revised layout and retention of outbuildings including a farm workers apartment.

3.0 Planning Authority Decision

3.1. Decision

The planning authority made a decision to grant retention permission subject to 7 No conditions on the 25th September 2023.

Conditions are of a generic nature.

Condition No's 5, 6 and 7 required development contributions as follows:

Condition 5

The applicant shall pay the sum of €3,300.00 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 benefiting 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 & Development Acts 2000-2022. 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 2023 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 6

The applicant shall pay the sum of €2,400.00 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 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 provisions of Section 48 of the Planning & Development Acts 2000-2022. 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 2023 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.

Condition 7

The applicant shall pay the sum of €300.00 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 of surface water drainage infrastructure 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 provisions of Section 48 of the Planning & Development Acts 2000-2022. 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 2023 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 surface water drainage 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

The Chief Executive's decision reflects the planner's report.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Following a request for further information requesting clarity on existing and proposed development, *inter alia*, the planners report, recommended a grant of permission subject to conditions.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

Planning Register Reference Number: 97 936 pertains to the grant of planning permission for a dwelling house and septic tank and new site entrance, subject to 12 No Conditions.

Condition No 12 related to the requirement to pay a development contribution to the sum of £ 1062.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The provisions of the Meath County Development Plan 2021 - 2027 are applicable.

5.2. Development Contribution Scheme

5.3. Meath County Development Contribution Scheme 2016 – 2021 (as amended) (the DCS)

This was the operable Development Contribution Scheme at the time of the decision and it is the application of the terms of this scheme, which are under assessment.

It is noted that a new development contribution scheme became operable on the 1st January 2024 and that the residential contribution for 1 No dwelling, under the current scheme, is €6 000, which amounts to the same contribution fee as the previous scheme, in totality.

- 5.3.1. Appendix B of the DCS (2016 – 2021) as amended sets out the breakdown of Development Contributions effective from the 1st January 2016.

Contributions in respect of Residential Development are set out as follows:

Residential - Zoned Land - Per Unit	Floor Area M ²				
Development Class	< 100	100 – 140	141 – 200	201 – 300	>300
<i>Class 1</i> Surface Water Drainage	€300	€325	€375	€450	€550
<i>Class 2</i> Roads and Public Transportation	€3,300	€3,575	€4,125	€4,950	€6,050
<i>Class 3</i> Social Infrastructure	€2,400	€2,600	€3,000	€3,600	€4,400
Total	€6,000	€6,500	€7,500	€9,000	€11,000

5.3.2. Section 7.1.1 of the DCS, refers that exemptions and reductions shall not apply to permission for retention of development.

5.4. Development Contributions – Guidelines for Planning Authorities 2013

These guidelines were issued under section 28 of the PDA 2000 (as amended) with a stated aim to provide guidance on the drawing up of development contributions to reflect radical economic changes.

5.5. Natural Heritage Designations

The site is not located within or adjoining a Natura 2000 site.

5.6. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal, which relates to a financial contribution condition only, wherein it is submitted that the application of the Development Contribution Scheme has been incorrectly applied to the application for retention of development.

The following points are put forward by the appellant.

- The retention application is for retention of out buildings associated with the main house.
- The outbuildings are used for purposes incidental to the enjoyment of the main farm house.

- Condition No 4 of the grant of planning permission limits the use of the staff apartment and prevents the sale of the unit as a separate entity. Therefore, the outbuildings cannot be considered to be residential development.
- Condition No 2 of the grant of permission requires that development be in accordance with the parent permission. It is therefore submitted that the planning authority consider it to be an extension.
- Under Planning Reference No 23/60042, a decision issued on the same week as the subject application and it did not consider that the subject development was residential rather an extension and no development contribution was applied. The application of the development contribution is inconsistent.
- The Development Contribution Scheme has not been properly applied as the outbuildings have been classed as 'new residential development' rather than 'domestic extension'.
- No development contributions are due under the Development Contribution Scheme.

6.2. Applicant Response

The applicant is the appellant.

6.3. Planning Authority Response

- The upper floor of the outbuilding (apartment) is deemed to be subject to development contributions.
- A total of € 6 000 is applicable based on a floor area of less than 100 sq. m. banding i.e. 40 sq. m. This is the lowest band.
- The allocation of contributions is as follows:

a	Class 1 Surface Water Drainage	€ 300
b	Class 2 Roads & Public Transportation	€ 3 300
c	Class 3 Social Infrastructure	€ 2 400

	Total	€ 6 000
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- Under the application the applicant demonstrated a need for a residence for farm workers based on the scale of agricultural activity on the landholding and therefore the upper floor of the building is not considered to be ancillary to the principal residential dwelling.
- The ground floor use is considered to be ancillary domestic use with a small area for agricultural administration.
- The subject building is not considered to be a domestic extension as it is a separate building.
- The planning authority considers that the building is residential in nature and is separate to the principal residential home.
- In accordance with Section 7.1.1 of Meath Development Contribution Scheme 2016 -2022, exemptions and reductions shall not apply to permissions for retention of development.
- The planning authority is satisfied that all matters outlined above were considered in the course of its assessment of the planning application as per the planning officers report. The financial contributions are consistent with the Meath Development Contribution Scheme.
- It is respectfully requested that the Board uphold the decision to grant permission and the associated development contribution.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 Assessment

- 7.1. This is an appeal made under the provisions of Section 48 of the Planning and Development Act 2000, as amended and therefore the Board is restricted to considering Condition No's. 5,6 and 7 alone and cannot consider the proposed development *de novo*. I have therefore confined my assessment to the conditions relevant to the development contributions applied, that have been appealed and the consideration of whether or not the terms of the relevant Meath Development Contribution Scheme 2016 – 2021 (as amended) was properly applied in this instance.
- 7.2. The appeal centres on the first party's contention that the Planning Authority has not correctly applied the terms of the development contribution scheme. The appellant refers that he wishes to appeal 'the financial conditions' attached to the grant of planning permission. Therefore, the financial contributions under assessment refer to conditions No 5, 6 and 7 of the decision to grant.
- 7.3. The appellant submits that the outbuildings associated with the main farm house are in close proximity to the main farm house and are used for purposes incidental to the enjoyment of the main farm house. It is submitted that the terms of the contribution scheme have not been properly applied as the outbuildings have been classified as 'new residential development' as opposed to 'domestic extension', and therefore, it is asserted that no development contributions are due under the Development Contributions Scheme.
- 7.4. The planning authority has submitted to the appeal that the upper floor of the subject building is not considered ancillary to the principal residential dwelling. Under the application the applicant demonstrated the need for a residence for farm workers based on the scale of agricultural activity on the landholding. The planning authority states that the upper floor is considered an apartment for farm workers and not for family members and is therefore classified as residential under the Meath Development Contribution Scheme 2016 -2022. However, the planning authority notes that the use of the ground floor is ancillary domestic use. The planning authority considers that the building is not a domestic extension as it is a separate building.
- 7.5. I consider there to be three issues in respect of the subject appeal, as follows:

- Whether the first floor of the outbuilding described as farm workers apartment is considered to be an extension of the principal dwelling and whether it is for purposes incidental to the enjoyment of the main dwelling, or whether it is a separate dwelling unit.
- Whether there are circumstances where no contribution or a reduced contribution apply.
- Other Issues/Conditions

7.6. Issue No 1: Whether the first floor of the outbuilding described as farm workers apartment is considered to be an extension of the principal dwelling and whether it is for purposes incidental to the enjoyment of the main dwelling, or whether it is a separate dwelling unit.

- 7.7. It is noted that the planning authority has accepted that the ground floor area of the outbuilding has ancillary use to the principal dwelling. Having examined the details on file, I would concur with this viewpoint.
- 7.8. Having inspected the site, it is apparent that the two-storey outbuilding, the subject of the appeal, is clearly a separate independent structure to the principal dwelling on the site. It is noted that the first floor of the outbuilding is accessed via an external stairwell, which also provides functional separation between the ground floor and first floor uses of the subject outbuilding.
- 7.9. In relation to the argument that the first-floor apartment is an extension of the principal residence the planning authority submits to the appeal that it is not an extension as it is not attached to the principal dwelling.
- 7.10. I concur with this viewpoint as the outbuilding is clearly a stand-alone independent structure.
- 7.11. I draw the Boards attention to Class 1 of Part 1 of the Second Schedule to the Planning & Development Regulations 2001 (as amended), which states the following regarding the definition of an extension: *The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of the house, or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.*

- 7.12. The key phrase in this definition is '*or other similar structure attached to the rear or the side of the house*'. The subject outbuilding is not 'attached' to the rear or side of the house, and therefore it is not considered to be an extension.
- 7.13. Further, in terms of the use of the first floor of the subject outbuilding, a clear case was made for the need for a farm workers apartment, under the subject planning application and it is noted that public notices included retention of 'farm workers apartment' in the development description.
- 7.14. Accordingly, I consider that the first-floor apartment, the subject of the appeal, is not an extension to the principal dwelling, does not have ancillary use to the principal dwelling and is in fact a separate residential dwelling unit and therefore, is subject to the terms of the DCS. Therefore, I consider that the planning authority applied the terms of the DCS correctly.
- 7.15. **Issue No 2: Whether there are circumstances where no contribution or a reduced contribution apply.**
- 7.16. Section 7.1 of the Meath Development Contribution Scheme 2016 – 2021 (as amended) provides a policy on circumstances where exemptions and reduced contributions may apply.
- 7.17. Para 7.1.2. states that residential extensions shall be exempt. As the subject development is not a residential extension, this exemption is not applicable.
- 7.18. It is stated under para 7.1.1. that, 'Exemptions and reductions shall not apply to permissions for retention of development'.
- 7.19. Accordingly, it is considered that there are no provisions under the DCS, which would facilitate an exemption or reduction of development contributions.
- 7.20. Therefore, it is considered that under the Appendix B of the DCS, (Breakdown of Development Contributions), Residential, that development contributions are payable under Class 1, 2 and 3 for the category of development, which is less than 100 sq. m. Accordingly, it is considered that the planning authority applied the terms of the DCS correctly in its decision to apply condition no's 5, 6 and 7 to the decision to grant retention permission.

7.21. Issue No 3: Other Issues/Conditions

- 7.22. The appellant considers that by applying condition No 2 where the proposed development was to be in accordance with the parent permission, that this is an indication that the planning authority view the outbuildings as an extension. I disagree with this assumption. The development description clearly advertised for *'retention permission for the existing dwelling house'* etc., it also included in the development description *'and permission for the retention of outbuildings including farm workers apartment'*. This is a standard condition in terms of retention applications and does not imply any interpretation that the outbuildings are considered to be an extension.
- 7.23. Regarding condition No 4 the appellant considers that by preventing the sale of the outbuildings as separate from the farm house, that it cannot be considered to be residential development. This is also a standard condition. The planning authority under its application assessed the 'need' for a farm workers apartment and recommended a grant of permission. The fact that this condition is applied does not, in any way confer, that there cannot be a residential component in the outbuildings.
- 7.24. The appellant refers that the planning officer referred to the outbuildings as agricultural buildings in the planner's report. The planners report clearly requested more detailed information regarding floor plans etc at further information stage. It is reasonable that the planning authority sought clarity in this instance. It is also reasonable that following receipt of such information, that more clarity was brought to the nature of the proposed development, which was the purpose of the further information request. I do not consider that the use of the term agricultural buildings in the planning officers report to justify the farm workers apartment as not being residential. The planner's report is quite concise in that it states that the ground floor has ancillary use to the main dwelling and also an office associated with agricultural purposes. The planner's final assessment, which states that the first floor is a farm workers apartment is accurate and it is therefore it is residential and is therefore subject to development contributions is correct in my viewpoint.
- 7.25. The appellant raises issue with another application, Planning Register Reference No 23/60042, which it is stated, was granted planning permission by Meath Co. Co. at around the same time as this decision was made. It is stated that as a development

contribution was not applied in this instance it should not apply to the subject development. It is considered that as this is a Section 48 appeal, the question before the Board is whether the terms of the DCS were applied correctly, in this instance. However, for clarity, it is noted that under the reply to the further information request relating to Planning Register Reference No 23/60042 that the area, which was subject of the application, was 'hatched in pink' and was in fact 'attached' to the main dwelling house, and therefore this is a material difference to the subject application/appeal and is not a like with like comparison.

8.0 Recommendation

- 8.1. Having regard to the nature of the conditions, which are the subject of the appeal and based on the reasons and considerations set out below, I am 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. I consider that the terms of the development contribution scheme have been properly applied and I recommend that the Board directs the Council under subsection (13) (a) of Section 48 of the Planning and Development Act, 2000 (as amended) to ATTACH Condition No's 5, 6 and 7.

9.0 Reasons and Considerations

Having regard to:

- (a) Section 34(5) of the Planning and Development Act 2000, as amended,
- (b) The provisions of the Meath County Council Development Contribution Scheme, 2016 – 2021 as amended,
- (c) Section 48 of the Planning and Development Act 2000 (as amended),
- (d) The submissions on file, and the planning history of the site.

It is considered that it would be appropriate to attach Section 48 Development Contributions for development in this instance.

10.0 Conditions

Condition 5

The developer shall pay to the planning authority a financial contribution of € 3 300 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 – Residential, Class 2, made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate 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.

Condition 6

The developer shall pay to the planning authority a financial contribution of € 2 400 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 – Residential, Class 3, made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate 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.

Condition 7

The developer shall pay to the planning authority a financial contribution of € 300 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 – Residential, Class 1, made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate 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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Aisling Dineen
Planning Inspector
4th September 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 318291 – 23 Section 48 Appeal		
Proposed Development Summary	Retention of alterations to previously approved two storey house (97936) including revised site boundary, revised site layout and retention of outbuildings including a farm workers apartment.		
Development Address	Dowdstown, Wilkinstown, Co Meath.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: Aisling Dineen

Date: 4th September 2024