



An
Coimisiún
Pleanála

Inspector's Report

ACP-323374-25

Development	Retention of house as constructed and associated works.
Location	Langton Road, Newbridge, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	2560575
Applicant(s)	Davoc Geraghty
Type of Application	Retention permission
Planning Authority Decision	
Type of Appeal	First Party V Condition 7
Appellant(s)	Davoc Geraghty
Observer(s)	None on file
Date of Site Inspection	None required
Inspector	Ronan Murphy

1.0 Introduction

- 1.1. This is a first party appeal against financial contribution conditions which were attached to the Planning Authority's notification of decision to grant permission. As this is an appeal in respect of conditions requiring a financial contribution, the provisions of section 48 of the Planning and Development Act 2000 apply, and the Commission is restricted to considering this matter alone and cannot consider the matter de novo. I have therefore confined my assessment to the condition in question.
- 1.2. Having regard to the nature of the S.48 appeal before the Commission and the information available on file, a site inspection was not deemed necessary in this instance.

2.0 Proposed Development

- 2.1. The proposed development comprises of the retention of an 'as constructed' dormer house including alterations to the design of the dwelling granted planning permission under Reg. Ref. 01/684.
- 2.2. The dwelling for which retention is sought has a floor area of 123m² which is slightly lower than that granted planning permission under Reg. Ref. 01/684 (129.3m²) while the height is the same as that previously permitted.
- 2.3. The alterations for which retention are sought include alterations to the design of front elevation including the removal of a porch. Retention is also sought for alterations to the fenestration of the rear elevation.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 By order dated 17/7/25 the planning authority decided to grant planning permission, subject to 7 conditions. Of relevance to the appeal currently being considered is Condition 7 which requires that:

7. The Applicant/Developer to pay to Kildare County Council the sum of €7,626.00 being the appropriate contribution to be applied to this development in accordance

with the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022 in accordance with Section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in accordance with Section 13 of the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022.

Note: Please note water and wastewater development contribution charges now form part of the water connection agreement, if applicable, with Uisce Éireann.

Reason: *It is considered reasonable that the Developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority*

3.2. Planning Authority Reports

Planning Reports

- 3.2.1 There is one planning report on file dated 14/7/25. The area planner states that the form, massing, design, and materials of the constructed dwelling are very similar to that permitted and not inconsistent with the character of dwellings in the vicinity or the streetscape and is considered acceptable. In addition to this, it was noted that the proposal does not have any impact on the residential amenity of surrounding properties and as a result planning permission was recommended by the area planner.

3.3 Other Technical Reports

- **Area Engineer:** Report dated 25/6/25 outlining no objection, subject to conditions.
- **Chief Fire Officer:** Report dated 20/6/25 outlining no objection.
- **Water Services:** Report dated 10/6/25 outlining no objection, subject to condition.
- **Environment:** Report dated 9/6/25 outlining no objection, subject to condition.

3.4 Prescribed Bodies

- 3.4.1 None on file

4 Planning History

Appeal site

Reg. Ref. 01/684: Application for a dormer style bungalow. Permission granted, subject to conditions. Condition 13 stated the following:

13) Before development is commenced, the developer to arrange the payment to Kildare County Council of £750.00 towards the expenditure which the Council has or may incur in respect of the provision of services facilities which facilitate the proposed development.

5 Policy Context

5.1 Section 48 of the Planning and Development Act 2000, as amended provides as follows:

48.—(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).

(2) (a) Subject to paragraph (c), the basis for the determination of a contribution under subsection (1) shall be set out in a development contribution scheme made under this section, and a planning authority may make one or more schemes in respect of different parts of its functional area.

(b) A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.

(c) A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific

exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

(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 shall have regard to the actual estimated cost of providing the classes of public infrastructure and facilities, except that any benefit which accrues in respect of existing development may not be included in any such determination.

(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.

Section 48(10) provides:

(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.

(c) Notwithstanding section 34(11), where an appeal is brought in accordance with paragraph (b), and no other appeal of the decision of a planning authority is brought by any other person under section 37, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal. provided that the person who takes the appeal in accordance with paragraph (b)

furnishes to the planning authority security for payment of the full amount of the contribution as specified in the condition.

5.2 Kildare Development Contribution Scheme 2023-2029

5.2.1. The operative Development Contributions Scheme is *the Kildare Development Contribution Scheme 2023-2029*, (under Section 48, Planning & Development Act, 2000 as amended) provides for

Section 7.1 of the *Kildare Development Contribution Scheme 2023-2029* provides for the level of contribution payable:

	Residential Development	Required Contribution rate	Anticipated Funding
Residential Development	1,535 units per annum	€62 per square metre	€9.5 million
Non-residential development	131,000 square metres*	€62 per square metre	€4.9 million
Total			€14.4 million
* The level of anticipated development takes account of waivers and reductions in Section 10(for example Town Centre, change of use) which will significantly reduce the average level of contribution per square metre			

Section 9 states that no exemptions or waivers shall apply to any developments subject to retention permission.

5.3 Natural Heritage Designations

5.3.1 Not relevant.

5.4 EIA Screening

5.4.1 Not relevant.

6 The Appeal

6.1 Grounds of Appeal

6.1.1 A first party appeal has been received from Davoc Geraghty. The appeal can be summarised as follows:

- Minor changes have been made to the house. The house is still roughly the same size, mass, shape, and scale but changes were made which resulted in small elements such as the placement of doors and windows, porches, and roof porched and internal floor layout.
- Development contributions were paid on the original permission. It was impossible to retain and show all small changes to the new house, penalised Doub ally, now exemption from development contributions for retention applications in the contribution scheme but change of use do not need contributions because there is no additional infrastructure, surely this is the same in this case.

6.2 Planning Authority Response

6.2.1 A response has been received from the planning authority by letter dated 6/10/25. The response can be summarised as follows:

- Please note under Section 9 of the Development Contribution Scheme 2023-2029 there are no exemptions for retention permissions and therefore development contributions were applied correctly.

6.3 Observations

6.3.1 There are no observations on file.

6.4 Further Responses

6.4.1 There are no further responses on file.

7 Assessment

Background

7.1 This appeal relates solely to Condition 7 of the planning authority's decision under Reg. Ref. 2560575 which requires the payment of a financial contribution in the sum of €7,626.00 being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022 in accordance with Section 48 of the Planning and

Development Act 2000 as amended. Having regard to Section 48(10)(b) of the Planning and Development Act, 2000, as amended, the remit of the Coimisiún is confined to considering whether the terms of the scheme have been applied in this case.

- 7.2 Section 48 of the Planning and Development Act provides for the attachment of financial contributions conditions, the basis for which must be set out within a Development Contribution Scheme. Section 9 of the Kildare Development Contribution Scheme 2023-2029 states that there will be no exemption or waivers shall apply to any developments the subject of a retention application.

Appeal

- 7.3 In their first party appeal, the appellant relies on the fact that they paid a development contribution of £750 on the original permission for the dwelling (Reg. Ref.01/684) as required by Condition 13 and that the alterations made to the design of the original dwelling are minor and that they are being penalised doubly.
- 7.4 In their response to the first party appeal the planning authority state that this levy was applied as there are no exemptions for retention permissions having regard to Section 9 of the Development Contributions scheme 2023-2029.

Assessment

- 7.5 While I acknowledge that the development for which retention is sought comprises of minor alterations (including a reduction in overall floor area) to a permitted dormer dwelling and that the appellant has paid £750 with respect to Condition 13 of Reg. Ref. 01/684 as confirmed by the planning authority on their development contributions sheet dated 16/7/25 (a copy of which is on file), in my opinion, Section 9 of the *Kildare Development Contributions Scheme 2023-2029* is clear that no exemptions or waivers shall apply to any developments subject to retention permission.
- 7.6 Having considered the wording of Section 9 of the *Kildare Development Contributions Scheme 2023-2029*, I am of the opinion, there is no scope for discretionary judgement for the planning authority or the Coimisiún on appeal to allow a development contribution for retention permission to be set aside so that the condition such as Condition 7 can be omitted.

- 7.7 The Development Contribution Sheet submitted by the Local Authority shows that the contribution was calculated as follows: $\text{€}62.00 \times 123\text{m}^2 = \text{€}7,626.00$. This figure is line with the Table set out in Section 7.1 (Basis of Calculation) of the *Kildare Development Contributions Scheme 2023-2029*.
- 7.8 Having considered all the foregoing, I am satisfied that the *Kildare Contributions Scheme 2023-2029*, has been correctly applied and that the Coimisiún should attach condition no. 7 to the permission as set out below.

8 AA Screening

- 8.1 Not relevant.

9 Recommendation

- 9.1 The Coimisiún, in accordance with Section 48 of the Planning and Development Act, 2000, as amended, considered, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area have been properly applied in respect of condition number 7 and directs that the said Council to RETAIN condition number 7.

10 Reasons and Considerations

- 10.1 Having regard to:

(a) the *Kildare Development Contributions Scheme 2023-2029*, specifically Section 9;
and

(b) the submissions made in the first party appeal.

it is considered that the terms of the Development Contribution Scheme were correctly applied in respect of Condition no. 7 of Reg. Ref. 2560575 in that Section 9 of the Scheme states that no exemptions or waivers shall apply to any developments subject to retention permission and that the Planning Authority is directed to attach condition no. 7 as set out below:

7. The developer shall pay to the Planning Authority a financial contribution of €7,626.00 (seven thousand six hundred and twenty six) in respect of public infrastructure and facilities benefiting development within 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 *Kildare Development Contribution Scheme 2023 - 2029*, made under Section 48 of the Planning and Development Acts 2000-2011 (as amended). The contributions under the Scheme shall be payable prior to commencement of development or as otherwise agreed in writing by the Council. Contributions due in respect of permission for retention will become payable immediately on issue of the final grant of permission. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced.

REASON: The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities benefiting.

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.

Ronan Murphy
Planning Inspector

29 October 2025

