An Coimisiún Pleanála

Inspector's Report

PL-500519-DF-25

Development	Retention of prefabricated offices, equestrian structures, and planning permission for solar panels with all associated site works
Location	Drumanagh House, Loughshinny, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F24A/0171
Applicant(s)	Paul Clarke
Type of Application	Retention Permission
Planning Authority Decision	Grant Retention with Conditions
Type of Appeal	First Party Appeal on Planning Contribution Condition
Appellant	Paul Clarke
Inspector	Peter Nelson

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1.0 Introduction

The appeal concerns the attachment of a financial contribution condition to a grant of retention permission for Prefabricated Offices, Circular Horse Exerciser, Long Stable Block, 4 No. Loose box stables and 1 No. Tack Room building with feed storage area, and for planning permission to install 100 kW of roof-mounted solar PV panels on the Long Stable Block.

This appeal under section 48(10) concerns the potential improper application of the terms of a development contribution scheme. It is not a de novo appeal but a limited appeal by the first party concerning the application of the development contribution scheme that was in force at the time of the planning authority's decision.

The Fingal County Council Development Contribution Scheme 2021-2025 was in place at the time of the planning authority's decision.

Retention permission and planning permission was granted on 27th November 2024.

NOTE:

The Fingal County Council sent a letter, dated 11th December 2024, to the applicant informing them that, due to an administrative error, Condition 3(b) needed to be amended. The applicant referred this issue to the High Court. The Court ordered that the decision of the planning authority dated 11th December 2024 and the subsequent clarification dated 23rd December 2024 be quashed, and ordered that the planning application be remitted to Fingal County Council for determination in accordance with the law. Condition 3(b) is not relevant to the subject of this appeal.

2.0 Site Location and Description

2.1. The site is located in Loughshinny and has a stated area of 0.738ha. It is within an existing equestrian premises and is bounded to the north by residential properties and to the south, east and west by fields. The site is accessed via two laneways from Loughshinny Park. It is less than 200m from Loughshinny Beach.

3.0 Proposed Development

3.1. Retention permission is sought for Prefabricated Office (c. 20.0 m2), Prefabricated Office (c. 24.0 m2), Circular Horse Exerciser 14 m (c. 163 m2), Long Stable Block (c. 830 m2), 4 No. Loose box stables (c. 52.83 m2) and 1 No. Tack Room building with feed storage area (c. 82.8 m2), and planning permission is sought for the installation of 100 kW (c. 472 m2) of Roof Mounted Solar PV Panels on the Long Stable Block and all associated works.

4.0 Planning Authority Decision

4.1. Decision

4.1.1. Nine points of Further Information were requested on 23rd April 2024.

Point No.1 requested that the applicant provide full details of the intended use of the stables and to confirm if the facility is for the private use of the applicant or is intended to be operated as a commercial facility.

4.1.2. Five Points of Clarification of Further Information were requested on 11th October 2024.

4.1.3. Permission was **GRANTED** on 15th November 2024 subject to 8no. conditions.

4.2. Conditions

4.2.1. Condition No.1 states:

The development shall be retained and carried out in its entirety in accordance with the plans, particulars and specifications lodged with the application, Additional Information received on 13/09/2024 and Clarification of Additional Information received on 21/10/2024, save as may be required by the other conditions attached hereto.

REASON: To ensure that the development shall be in accordance with the permission, and that effective control be maintained.

4.2.2. Condition No.8 states:

The developer shall pay to the planning authority a financial contribution of €131,586.46 in respect of public infrastructure and facilities benefiting the *development in the area of the planning 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 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.*

REASON: It is considered reasonable that the payment of a contribution be required in respect of the public infrastructure and facilities benefiting development in the area of the Planning Authority and which is provided, or which is intended to be provided by, or on behalf of the Local Authority.

Condition No.8 is the subject of this appeal.

4.3. Planning Authority Reports

4.3.1. Planning Reports

The planning report dated 23rd April 2024 stated:

'it would appear that the proposed development may result in an intensification of the permitted use of the site and may result in a commercial use on the subject site.'

'the Planning Authority would therefore require additional information relating to the intended use(s) of the proposal and to confirm if the facility is for private use of the applicant or is intended to operate as a commercial facility.'

The planning report dated 10th October 2024 states that the Planning Authority note that the Equestrian Centre remain private and would not operate as a commercial facility.

4.3.2. Other Technical Reports

An attached report to the planning report includes a calculation of the planning contribution. It applies a commercial retention levy to a retention floor area of 1046.33 m2. The Solar Panels are deemed to be exempt from contributions.

5.0 Planning History

P.A. Ref: F03A/1133

Permission granted on 29th January 2024 for the construction of stables, the provision of external lighting to the existing sand arena and associated siteworks.

6.0 Policy Context

6.1. Fingal County Council Development Contribution Scheme 2021-2025

The Fingal County Council Development Contribution Scheme 2021–2025 (“the Scheme”) is made under Section 48 of the Planning & Development Act 2000, as amended.

Under the Scheme, the contributions to be paid (except where an Exemption or Reduction applies,) in respect of the different classes of public infrastructure and facilities are as follows:

Class of Public Infrastructural Development	**€ per square metre of Residential Development**	**€ per square metre of Industrial/Commercial Class of Development**
Class 1: Transportation Infrastructure & Facilities	€54.02	€42.18
Class 2: Surface Water Infrastructure & Facilities (incl. Flood Relief)	€ 4.91	€ 3.83
Class 3: Community & Parks facilities & Amenities	€39.28	€30.68
Total of Contributions Payable	€98.21	€76.69

These rates of contribution shall be effective from 1st January 2021 to 31st December 2025.

RETENTION PERMISSIONS

10. All retention permissions will be charged a multiple of 1.25 times the appropriate rates for any development in excess of the exemptions provided for under Section 11 of this Scheme.

EXEMPTIONS AND REDUCTIONS –

11. (i) The following categories of development will be exempted from the requirement to pay development contributions or may pay a reduced rate, as stated, under the Scheme;

(k) Agricultural Buildings, glasshouses, and poly tunnels used for agricultural purposes by persons primarily engaged in farming are exempt.

6.2. Ministerial Guidelines

Development Contributions Guidelines for Planning Authorities (2013)

The Guidelines provide guidance on the drawing up of development contributions. Under section 48 of the Act, planning authorities must draw up a development contribution scheme (a general 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.

7.0 Statutory Provision

7.1. Section 48 Development Contributions

Section 48 of the Planning and Development Act 2000, (as amended) details the methodology and guiding principles by which Development Contributions Schemes should be arrived at. This includes:

Section 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).

Section 48(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.

Section 48(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.

8.0 The Appeal

8.1. Grounds of Appeal

The appeal relates only to Condition 8, which is a financial condition.

The main points of the ground of appeal can be summarised as follows

- The enterprise at Loughshinny is exclusively an agricultural one.

- The planning fee submitted for this application was calculated using the agricultural fee.
- Section 11 Part (k) of the Contribution Scheme states that 'Agricultural Buildings, glasshouses and poly tunnels used for agricultural purposes by persons primarily engaged in farming are exempt'.
- The definition of 'Agriculture' in Section 2 of the Planning and Development Act 2000 (as amended) includes '…the breeding and keeping of livestock' and 'the training of horses and the rearing of bloodstock'.
- It has been confirmed to the Planning Authority that there is no public access provided and that there is no commercial development, with the use exclusively limited to agricultural.
- The son of the owner is a fully qualified and registered farmer and operates the land and structure at this location as a full-time farmer and has no other income; there is no other use carried on these lands.
- It is submitted that, as an agricultural activity exclusively carried out in the structures and on the lands, no Development Contribution of a type contained in Condition 8 or at all should be imposed.

8.2. **Planning Authority Response**

In their response dated 26th January 2026, the planning authority states:

"The applicant's reply of 09/09/2024 to the planning authority's request for Further Information states that 'the facility is and will remain a Private Equestrian Centre for the breaking, rearing and training of Sport Horses for the Irish and International market'. The planning authority assessed the development as commercial rather than agricultural, and the terms of the scheme have been applied correctly."

The planning authority requests that Condition No. 8 remain unchanged in the Commission's determination.

8.3. **Further Responses**

The main points raised in the applicant's further response, received on 13th February, are as follows:

- Fingal County Council does not provide a reason or justification for why the sites do not fall within Section 11(k) of the Planning Authority's Development Contribution Scheme 2021-2025, which expressly exempts agricultural buildings and uses.
- The applicant's son is a full-time farmer, and the use falls within the definition of agricultural use as defined in Section 2 of the Planning Development Act 2000 (as amended).
- The definition expressly includes 'the training of horses and the rearing of bloodstock.'
- There is no public access, and no commercial use other than agricultural use.
- The planning application was treated as an application for agricultural use, and the planning fee was based on agricultural use.
- There is no basis or justification for the determination that the use is commercial rather than agricultural.

9.0 Assessment

9.1. Condition No. 8 of the grant of permission requires the applicant to pay the planning authority a financial contribution of €131,586.46 in respect of public infrastructure and facilities benefiting the development in the area of the planning, 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.

9.2. The Fingal County Council Development Contribution Scheme 2021-2025 (the Scheme) was the development contribution scheme in force at the time of the planning authority's decision.

9.3. Section 11(i) of the Scheme provides that Agricultural Buildings, glasshouses, and poly tunnels used for agricultural purposes by persons primarily engaged in farming are exempt from paying development contributions.

9.4. The applicant contends that the development to be retained should be exempt from the requirement to pay development contributions, as it is an agricultural development rather than a commercial one.

9.5. As part of a further information request dated 23rd April 2024, the applicant was requested to provide details of the intended use of the development and to confirm whether the development is for private use or intended to be operated as a commercial facility.

9.6. In their response to the Further Information request dated 13th September 2024, the applicant stated that the facility is and will remain a private equestrian centre for the breaking, rearing, and training of sport horses. They also stated that the public will not have access to the facility.

9.7. In the planning report dated 10th October 2024, the Planning Authority noted the applicant's response to the Further Information request, in which the applicant stated that the Equestrian Centre would remain private and would not operate as a commercial facility. The report further stated that this response was acceptable to the Planning Authority.

9.8. It appears from the planning authority's response to the appeal that they consider the use to be commercial because the development is for the rearing and training of sport horses for the Irish and international markets. I consider this to be contrary to the planning reports, which accepted that the development to be retained was not a commercial facility.

9.9. The definition of 'Agriculture' in Section 2 of the Planning and Development Act 2000 (as amended) includes '…the breeding and keeping of livestock' and 'the training of horses and the rearing of bloodstock'.

9.10. Having regard to the Planning and Development Act 2000 (as amended) and the applicant's stated use of the site for the breaking, rearing and training of sport horses, I consider the use of the development to be agricultural and therefore the buildings to be retained, such as the offices, stables and tack room, to be agricultural buildings.

9.11. As stated in Section 11(i) (k) of the Scheme, to benefit from an exemption from a financial contribution, agricultural buildings must be used for agricultural purposes by persons primarily engaged in farming. In the grounds of appeal, the applicant states that the owner's son is a fully qualified farmer who operates the land and structures at this location as a full-time farmer and has no other income, nor is there any other use of these lands. In their response to the appeal, the Planning Authority have not questioned or contradicted this. I am satisfied that the buildings to be retained are agricultural buildings which meet the definition in Section 11(i) (k) of the Scheme.

Conclusion

9.12. Having regard to the planning application, the grounds of appeal and the applicant's further response, I am satisfied that the buildings and structures to be retained are agricultural buildings and structures used for agricultural purposes by persons primarily engaged in farming. The development to be retained meets the criteria set out in Section 11(i)(k) of the Fingal County Council Development Contribution Scheme 2021-2025, which was in force at the time of the planning authority's decision. I therefore consider that the development to be retained falls within a category of development exempt from the requirement to pay development contributions under the Scheme. In conclusion, I consider that no financial contribution is required in this instance and recommend that Condition No.8 be removed.

10.0 Recommendation

10.1. I recommend that Condition No.8 be REMOVED.

11.0 Reasons and Considerations

Having regard to:

- Section 48 of the Planning and Development Act 2000 (as amended)
- Fingal County Council Development Contribution Scheme 2021-25,

- The plans and particulars submitted as part of the application and appeal,

It is considered that the development to be retained consists of agricultural buildings and structures which are used for agricultural purposes by persons primarily engaged in farming and are therefore, in accordance with Section 1 (i)(k) of the Fingal County Council Development Contribution Scheme 2021-2025, exempt from the requirement to pay development contributions under the Scheme.

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

Peter Nelson
Planning Inspector

20 August 2026