



Development

Retention: Site levelling and raising of ground along with continuation of temporary storage of engineering parts. Erection of boundary fence and gate along with all associated site works.

Location

Killybegs, Co. Donegal

Planning Authority

Donegal County Council

Planning Authority Reg. Ref.

2561829

Applicant(s)

Sinbad Marine Services Ltd

Type of Application

Retention

Planning Authority Decision

Grant Retention with Conditions

Type of Appeal

First Party Normal Planning Appeal

Appellant(s)

Sinbad Marine Services Ltd

Observer(s)

None

Date of Site Inspection

23rd March 2026

Inspector

Terence McLellan

1.0 Site Location and Description

- 1.1. The subject site measures c. 4.2ha and is located on the outskirts of Killybegs in an industrial area, accessed via a private roadway. The subject lands have been modified over the years through filling. The site itself is adjacent to an Uisce Éireann treatment works which sits to the south-west at the end of the private road. The neighbouring plot to the north-east is in industrial use (Premier Fish). At the time of my site inspection, large parts of the site were being used for the storage of wind turbines, and it was clear that levelling/filling and regrading works were ongoing.

2.0 Proposed Development

- 2.1. Permission is sought for retention of the temporary storage of engineering parts and components. Planning permission is further sought for site levelling, raising of ground levels, and the temporary storage of engineering parts and components, including the erection of perimeter fencing.

3.0 Planning Authority Decision

- 3.1. Permission was granted by Donegal County Council by order dated 5th December 2025, subject to 8 conditions. Of specific relevance to the appeal is Condition 8 which reads as follows:

8. The Applicant (or person at the relevant time entitled to the benefit of the permission) shall pay a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is already provided or is intended will be provided by the Authority. The amount of the contribution will be as set out below and is determined in accordance with the "Donegal County Council Development Contribution Scheme 2016 - 2021" (made under Section 48 of the Planning and Development Act, 2000 (as amended)). The total contribution and breakdown of same in respect of the different classes of public infrastructure and facilities provided/to be provided by the Authority are

Commercial (retention) € 61,490

Commercial (open storage) € 70,434

TOTAL: €131,924

The total contribution shall be paid to the Council prior to commencement of the development unless the Council have agreed in writing beforehand to facilitate phased payment of the contributions in which event as part of any such agreement the Council may require the giving of security to ensure payment.

Reason: To facilitate provision of capital works.

3.2. **Planning Authority Reports**

3.2.1. The Planner's Report contains the following points of note:

- Permission was previously granted for retention and completion of fill on the subject site. The principle of the development is acceptable.
- Materials to be imported to the site shall be subject to Article 27 approval from the EPA and shall comprise soil and stone. The estimated volume capacity of the site is 110,00m³.
- Surface water is to connect to an existing open drain located along the eastern boundary.
- No internal or external referrals.

3.3. **Prescribed Bodies**

3.3.1. No referrals.

3.4. **Third Party Observations**

3.4.1. No submissions received.

4.0 Planning History

- 4.1. **Planning Authority Reference 14/50983:** Permission was granted by Donegal County Council in May 2015 for the raising of ground levels using excavated material and permission for further deposition of excavated material.

5.0 Legislative Context

- 5.1. Planning and Development Act 2000, as amended

Section 48 Development Contributions

- 5.1.1. (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).
- 5.1.2. (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.
- 5.1.3. (10) (a) Subject to paragraph (b), no appeal shall lie to the Board (Commission) in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.
- 5.1.4. (10)(b) An appeal may be brought to the Board (Commission) 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.
- 5.1.5. (13) (a) Notwithstanding sections 37 and 139, where an appeal received by the Board (Commission) after the commencement of this section relates solely to a condition dealing with a special contribution, and no appeal is brought by any other person under section 37 of the decision of the planning authority under that section, the Board (Commission) shall not determine the relevant application as if it had been made to it in the first instance, but shall determine only the matters under appeal.

- 5.1.6. (13)(b) Notwithstanding section 34(11), where an appeal referred to in paragraph (a) is received by the Board (Commission), and no appeal 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 furnishes to the planning authority, pending the decision of the Board (Commission), security for payment of the full amount of the special contribution as specified in the condition referred to in paragraph (a).

6.0 Policy Context

6.1. County Donegal Development Plan 2024-2030 and Seven Strategic Towns Local Area Plan 2018-2024

- 6.1.1. The current adopted plan is the County Development Plan 2024-2030. The site is located within an area designated Economic Development in the town of Killybegs on Map 7 of the Seven Strategic Towns Local Area Plan (2018-2024) with an objective 'To reserve land for appropriate economic development (Including industry, warehousing/storage, offices/call centres and R&D. Excluding retailing)'. The LAP expired in 2024 and has not been extended but I note that Donegal County Council have stated that they will continue to apply the LAP until a replacement Plan is adopted. Proposed Variation 1 to the County Donegal Development Plan 2024-2030 seeks to include new area plans (including for Killybegs) to replace the current Local Area Plans in the Seven Strategic Town Local Area Plan 2018-2024. Under the proposed Area Plan for Killybegs, the site would be zoned Business/Enterprise.
- 6.1.2. Policy GEN-ED-1: It is a policy of the Council to consider proposals for appropriate new commercial developments, including industrial uses, (or proposals for extensions to or redevelopment of existing commercial/industrial uses) on lands zoned 'Economic Development' on the accompanying land-use zoning maps (Map 1-7 refer), subject to compliance with all relevant policies of this LAP, compliance with the Habitats Directive and subject to all other material planning considerations including environmental considerations.
- 6.1.3. Objective KB-ED-1: To safeguard and enhance the role of Killybegs as a centre of fleet activity, processing and ancillary services and to facilitate diversification into new areas of appropriate investment and employment opportunities, including marine related

economic activity, tourism, information technology, telecommunications, pharma and bio-technology, transit and logistics, energy related technologies and research and development.

- 6.1.4. Policy KB-ED-1: It is a policy of the Council to consider proposals for appropriate new commercial developments, including industrial uses, (or proposals for extensions to or redevelopment of existing commercial/industrial uses) on lands zoned 'Economic Development' on the accompanying land-use zoning map (see Map 7), subject to compliance with all relevant policies of this Local Area Plan. Any development proposals located in close proximity to the existing lake within the area zoned Economic Development must be designed and configured so as to preserve the visual amenities of the lake and its immediate environs.

6.2. **Donegal County Council Development Contribution Scheme 2016-2021**

- 6.2.1. Section 1.2 of the Scheme relates to General Development Contributions. This outlines that under Section 48 of the Planning & Development Acts, 2000-2015 Planning Authorities may prepare a Development Contribution Scheme (DCS) in respect of certain public infrastructure and facilities provided by, or on behalf of, the local authority that generally benefit development in the Local Authority's functional area. The Scheme identifies the types of public infrastructure that can be funded under the scheme including:

- a) The acquisition of land.
- b) The provision of open spaces, recreational and community facilities and amenities and landscaping works.
- c) The provision of roads, car parks, car parking places, sewers, waste water and water treatment facilities, service connections, watermains and flood relief work.
- d) The provision of bus corridors and lanes, bus interchange facilities (including carparks for those facilities) infrastructure to facilitate public transport, cycle and pedestrian facilities and traffic calming measures.
- e) The refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, sewers, waste water and water treatment facilities, service connections or watermains.

f) The provision of high capacity telecommunications infrastructure, such as Broadband.

g) The provision of school sites,

h) Any matters ancillary to paragraphs (a) to (g).

6.2.2. Section 3.0 relates to Proposed Infrastructure Provision. This outlines that: “The types of ‘public infrastructure and facilities’ that can be funded by the Development Contribution Scheme are identified at Section 1.2 above. A schedule of potential infrastructural projects which may be partially funded from DCS income is presented at Appendix I”.

6.2.3. Table 2 sets out the schedule of general exemptions. Table 4 sets out the schedule of general reductions and Section 3 provides for a 70% reduction for open storage and hard surface commercial spaces.

6.2.4. Section 4.0 relates to Notes on Implementation of the Scheme. Section 4.1 of the Scheme relates to the duration of the scheme upon adoption. This outlines that the Scheme will operate between 2016-2021 unless it is revised within that period. If a new Scheme is not adopted prior to the expiry date of this Scheme, this current Scheme will also remain operational after these dates until a new scheme is adopted.

6.3. **Relevant Guidelines**

6.3.1. The following key national planning policy documents and Section 28 Ministerial planning guidelines are of relevance:

- Development Contributions Guidelines for Planning Authorities, January 2013
- Development Management Guidelines for Planning Authorities, June 2007
 - Section 7.12 Conditions requiring development contributions (Sections 48 and 49 of the Planning Act) - provides guidance on planning conditions relating to development contributions. Any scheme may be the subject of an appeal where the applicant considers that the terms of the scheme were not properly applied. To help minimise unnecessary appeals, the planning decision should clearly set out how the relevant terms were interpreted and applied to the proposed development.

- Section 8.12 Contribution Conditions - refers specifically to appeals in respect of development contribution conditions and reiterates that an appeal against a contribution condition can only be made where the applicant contends that the terms of the contribution scheme have not been properly applied.
- Circular Letter PD 5/2007 Development Contributions.

6.4. Natural Heritage Designations

- 6.4.1. Under the provisions of section 48(13)(a) the Commission shall determine only the matters relating solely to the contribution condition. Appropriate Assessment is therefore not required.

7.0 EIA Screening

- 7.1. Under the provisions of section 48(13)(a) the Commission shall determine only the matters relating solely to the contribution condition. Preliminary examination and/or EIA is therefore not required.

8.0 The Appeal

8.1. Grounds of Appeal

- 8.2. A First Party appeal has been received from Carr Consulting Engineers, for an on behalf of the Applicant, Sinbad Marine Services Ltd, against the development contributions condition imposed by Donegal County Council, Condition 8 of Order dated 5th December 2025, which reads as follows:

8. The applicant (or person at the relevant time entitled to the benefit of the permission) shall pay a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is already provided or is intended will be provided by the Authority. The amount of the contribution will be as set out below and is determined in accordance with the "Donegal County Council Development Contribution Scheme 2016 - 2021" (made under Section 48 of the Planning and Development Act, 2000 (as

amended)). The total contribution and breakdown of same in respect of the different classes of public infrastructure and facilities provided/to be provided by the Authority are

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Reason: To facilitate provision of capital works.

8.3. The grounds of appeal can be summarised as follows:

- The contribution charge is excessive given the nature of the development.
- No commercial or industrial buildings are proposed. If such buildings are proposed in the future, it may then be appropriate to apply the development charge.
- No new infrastructure is required for the development.
- The site is accessed from a private access road from the public road, with services and footpath already in place.
- Question the calculation of the development contribution charge.
- Question the fairness and equity of the amount levied based on the proposed use.

8.4. **Planning Authority Response**

8.4.1. The Planning Authority responded to the grounds of appeal by response dated 4th February 2026. The response sets out the basis of the calculation

- The works are assessed as commercial, charged at €5.59 per sqm.

- 1.1 hectares were sought for retention. Retention incurs a 50% additional charge. This equates to €92,235.
- Permission for the entire lands is 4.2 hectares. Equating to €234,780. A 70% reduction can be applied to areas of open storage. This was applied to the proposal, and the amended charge equates to €70,434. Giving a total charge of €162,669.
- The total charge was considered to be excessive and as such the additional charge relating to retention was set aside. The total charge applying to the development is now €131,924.

8.5. Observations

8.5.1. None.

8.6. Further Responses

8.6.1. A First Party response to the Planning Authority was received on the 20th March 2026 and can be summarised as follows:

- The entire site area is 42,000 sqm (4.2 hectares). The 11,000 sqm (1.1 hectares) appears to have been charged twice.
- The rate applied by the Planning Authority is €5.59 per sqm, with open storage subject to a 70% reduction. The rate provided in the Development Contribution Scheme is €4.14 with a 70% reduction for open storage.
- The higher rate may be index related but basing the rate on sqm is not appropriate and would be excessive even with the 70% reduction.
- The proposal is open storage and does not require site services such as water, wastewater, stormwater.
- The site is zoned for industrial development. Further development with industrial buildings is likely in the future and that would be the appropriate time to apply development charges.
- The Council applied a reduction of €31,245, suggesting that they realised the charge was excessive and that they have flexibility regarding the charges levied.

- Development charges should be reconsidered and reduced to a more fair and equitable level.

9.0 **Assessment**

- 9.1. The appeal is made under the provisions of Section 48(10)(b) of the Planning and Development Act, 2000 as amended, and therefore the Commission is restricted to consideration of Condition No. 8 only and cannot consider the proposed development de novo. The assessment is therefore confined to the application of the terms of the County Donegal Development Contribution Scheme 2016 – 2021 and any index related increase that may be in place. The Commission's remit in appeals against financial contribution conditions is restricted to the proper application of the adopted scheme and any discussion in regard to the merits of the scheme are not necessary on this basis.
- 9.2. The main substantive points raised by the Applicant are that the charge is excessive given the nature of the development, including the fact that no buildings are proposed and that no new infrastructure is required to enable it. The Applicant raises further concerns regarding the calculation of the contribution, which they believe to be incorrect having regard to the site area and potential double charging. Whilst acknowledging that the Planning Authority opted to forego the 50% retention penalty, the Applicant argues that this indicates the Planning Authority accepted the charge to be excessive and that it indicates that they have the ability to be flexible regarding charges. It is the Applicant's position that the charges should be reconsidered and reduced to a fair and equitable level.
- 9.3. I note the Applicant's view that a charge should not be applied given the nature of the development and that no buildings are being proposed. The use of the site, both retention and permission, is for the temporary storage of engineering parts and components with the proposal including site levelling and regrading of land in order to allow this to take place, in addition to the provision of secure boundary treatments.
- 9.4. The Planning Authority have assessed the development as commercial under the DCS. The DCS sets out 14 classes of development at Table 1 of Section 3.2. The second class in this table refers to Commercial/Industrial, which has four further sub-classes listed as Industrial, Shopping, Offices, and Other. All of the sub-classes are

charged at the same rate. The DCS does not provide any further definition for the various development classes, nor is there a prescriptive list of uses. I acknowledge that such schemes do not provide an exhaustive list of all development types and that it is necessary in practice to assign developments to the most appropriate class, having regard to their nature and characteristics as well as the broader terms of the DCS.

- 9.5. In this respect, the proposed use of the site is for the storage of engineering parts and components, such as wind turbines, which I consider to be intrinsically commercial/industrial in nature and aligns with the Applicant's role as a shipping/cargo handling specialist. The proposal would broadly be akin to storage/warehousing, and distribution, which is a fundamentally commercial/industrial form of development. I therefore consider the Planning Authority's classification of the development under commercial/industrial - 'other', to be reasonable and appropriate.
- 9.6. In considering the Applicant's argument that no buildings are being proposed, I note from Section 3.3, Table 4 of the DCS that the scheme includes a provision for a 70% reduction in contributions for open storage proposals. In my mind, this clearly indicates that the DCS considers open storage to be a chargeable form of development, albeit at a heavily reduced rate accounting for the difference in scale between buildings and open yards. If open storage were to be regarded as exempt from development contributions by virtue of not being listed as a standalone class, then the explicit provision of this reduction would be meaningless. It is therefore my view that open storage falls within one of the listed primary classes of development, in this case commercial/industrial – other, and that the reduction is applied afterwards in line with the terms of the DCS.
- 9.7. The Applicant raises an important point regarding the potential double charging of elements of the proposal. The Planning Authority calculated the contribution in two parts, that of the retention permission and that of the proposed planning permission. The total site area is 4.2 hectares. The retention permission relates to 1.1 hectares, and the planning permission relates to a further 3.1 hectares. The Planning Authority calculated the contribution for the retention permission based the 1.1 hectare area, which is correct. The contribution for the planning permission was based on 4.2 hectares which is the total site area, rather than the 3.1 hectares to which that part of

the permission would apply. I therefore agree with the Applicant that the calculation is incorrect and results in double charging.

9.8. I also note a query raised by the Applicant regarding a commercial rate of €5.59 having been applied rather the rate of €4.14 as set out in the DCS. I would agree with the Applicant that this is likely to be a result of indexation, which the DCS allows for under Section 4.2. However, the Planning Authority have not indicated the indexation rate and there are no published rates on the DCS page of the Council's website. Given the lack of transparency on this matter, I consider it appropriate to apply the rate of €4.14 specifically set out in the DCS, with appropriate and standard wording added to the condition to allow for indexation. Having regard to the foregoing, I consider the appropriate contributions to be calculated as follows:

- Retention area of 1.1 hectares x €4.14/sqm + 50% retention penalty = €68,310.
- Proposed development area 3.1 hectares x €4.14/sqm = €128,340
- Total = €196,650

9.9. The Planning Authority waived the retention penalty, although it is not clear from the DCS that they are afforded this discretion. Furthermore, a 70% reduction applies to Open Storage, although in line with the terms of the DCS, this cannot apply to the retention contribution. My updated calculations, including the PA retention waiver, are as follows:

- Retention area of 1.1 hectares x €4.14/sqm = €45,540
- €128,340 minus 70% open storage reduction = €38,502
- **Total = €84,042.00**

9.10. The planning documentation states that retention/permission is for the temporary storage of engineering parts and components. The Applicant gives no indication in the planning or appeal documentation as to what constitutes temporary in this case. That is, is it the overall use of the land for these purposes that is temporary, or is it the case that the engineering components will be stored here on a temporary basis prior to onward transfer to their final destination and then being replaced on-site with further engineering components for temporary storage, i.e. is this a staging area?

- 9.11. In that regard, I note that a temporary permission period was not applied for and that the Planning Authority did not impose a restriction by way of condition. Whilst the Commission could seek to address this matter by way of Further Information, I would note that the DCS provides contribution reductions for temporary permissions, with permissions for a period of up to three years benefitting from a 67% reduction. This would be less than the 70% open storage reduction already applied and I note that the DCS states that where a development proposal may be eligible for more than one reduction, only one reduction will apply. The issues referred to above with regards to the potential temporary nature of the development would not therefore result in any reduction in the development contributions.
- 9.12. I would also draw the Commission's attention to a slight anomaly in the planning documentation for clarity only. Firstly, the site plan in the Applicant's Planning Report is incorrect. I would however note that the site plan submitted as a standalone document as well as all other plans are correct. I do not consider it necessary that this be rectified by further information.
- 9.13. Secondly, having regard to the correct site plan and associated plans, I note that the area hatched blue for retention states that this is the part of the site used for the temporary storage of engineering parts and components, with the pink hatched area missing this annotation. Based on the information submitted with the application, the details set out for the proposed development in the Application Form, and the submissions of the Applicant and the Planning Authority, it is clear that the whole site is proposed for the temporary storage of engineering parts and components and not just the area hatched blue. Indeed, the site filling and regrading works on the pink hatched area are being undertaken in order to level the site to enable the open storage. Furthermore, from my site inspection, it was clear that open storage of engineering parts/components/wind turbines was already taking place well beyond the blue hatched area. For clarity, the temporary storage of engineering parts and components applies to the whole site, and this is not disputed by the Applicant.
- 9.14. The Applicant argues that the site is zoned for industrial development and that further development with industrial buildings is likely in the future and on that basis, it is submitted that this would then be the appropriate time to apply development charges. Whilst this would be a matter for the Planning Authority, in the event of buildings being

subsequently developed on the same area in the future, a composite contribution would usually be applied, with credit given against the assessment of the new building of the amount previously paid.

10.0 Recommendation

10.1. I recommend that Donegal County Council be directed to AMEND Condition 8 of Planning Authority Reference 25/61829 as follows:

8. The applicant (or person at the relevant time entitled to the benefit of the permission) shall pay a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is already provided or is intended will be provided by the Authority. The amount of the contribution will be as set out below and is determined in accordance with the "Donegal County Council Development Contribution Scheme 2016 - 2021" (made under Section 48 of the Planning and Development Act, 2000 (as amended)). The total contribution and breakdown of same in respect of the different classes of public infrastructure and facilities provided/to be provided by the Authority are –

- Commercial (open storage - retention) €45,540
- Commercial (open storage) €38,502
- **TOTAL: €84,042**

Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced. The total contribution shall be paid to the Council prior to commencement of the development unless the Council have agreed in writing beforehand to facilitate phased payment of the contributions in which event as part of any such agreement the Council may require the giving of security to ensure payment.

Reason: To facilitate provision of capital works

11.0 Reasons and Considerations

11.1. Having regard to Section 34(5) and Section 48 of the Planning and Development Act 2000 (as amended), the provisions of the County Donegal Development Contributions Scheme 2016-2021, the planning application and the documentation submitted as part of the appeal, the Commission consider that the Planning Authority correctly applied the terms of the Development Contributions Scheme and it is therefore considered appropriate to direct Donegal County Council to attach Condition 8 as amended.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Terence McLellan

Senior Planning Inspector

15th April 2026