



Development	Retention of dwelling and all associated site works
Location	Lewinstown, Naas, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	2561385
Applicant(s)	Joseph Coleman
Type of Application	Retention
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	First Party Appeal against Condition
Appellant(s)	Joseph Coleman
Observer(s)	None
Date of Site Inspection	None
Inspector	Gillian Kane

Table of Contents

1.0	Background.....	3
2.0	Proposed Development.....	3
3.0	Planning Authority Decision	3
4.0	Planning History.....	4
5.0	Policy Context.....	4
5.1.	Planning and Development Act 2000, as amended.....	4
6.0	Kildare County Council Development Contribution Scheme 2023-2029 6	
7.0	EIA Screening.....	6
8.0	The Appeal	6
8.3.	Applicant Response to Planning Authority Response.....	8
9.0	Assessment	8
10.0	Recommendation.....	10
11.0	Reasons and Considerations	10
12.0	Conditions.....	10
	Appendix 1: Form 1 EIA Pre-Screening	12

1.0 Background

- 1.1.1. This is a first party appeal against financial contribution condition which were attached to the Planning Authority's notification of intention 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 Coimisiún 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.
- 1.1.2. Having regard to the nature of the appeal before the Coimisiún (i.e. first party against condition) and the information available on file, a site inspection was not deemed necessary in this instance.

2.0 Proposed Development

- 2.1. On the 5th December 2025, permission was sought to retain as constructed a reorientated dormer style house and garage, originally granted permission under Planning Authority reg. ref. 98/48.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. By order dated 06/02/2026, the Planning Authority issued a notification of their intention to grant permission subject to 6 no. conditions. Of relevance to the subject appeal is condition no. 6 which states:

6. The Applicant/Developer to pay to Kildare County Council the sum of €18,600.00 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**

3.2.1. **Engineering Report:** No objection subject to two standard conditions.

3.2.2. **Planning Report:** Proposed retention of dwelling is acceptable. Condition no. 6 of the planning report refers to development contributions. Report states that the dwelling permitted under PL. ref. 98/48 had a floor area of c. 300sq.m. and retention permission refers to 318sq.m.

3.3. **Prescribed Bodies**

3.3.1. None on file.

3.4. **Third Party Observations**

3.4.1. None on file.

4.0 **Planning History**

4.1. Planning Authority reg. ref. 98/48: Permission granted to erect two-storey dwelling with garage and septic tank.

5.0 **Policy Context**

5.1. **Planning and Development Act 2000, as amended**

5.1.1. 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.

6.0 Kildare County Council Development Contribution Scheme 2023-2029

6.1.1. Section 8 of the 2023 scheme provides details of the levels of contribution payable.

6.1.2. Section 8.1 states that the development contribution rate for residential development shall be €62 per square metre. Section 8.1.1 refers to extensions to residential development, stating that the first 40sq.m. shall be exempt. Section 8.1.1 states that “the exemption in this section shall not apply to development for which retention permission is sought”.

6.1.3. Section 8.1.2 states that the first 25sq.m. of garden sheds / garden offices/ garages shall be exempt and that the balance shall be at 50% of the residential rate, where the use is ancillary to the main residential use.

6.1.4. Section 9 of the scheme states “No exemptions or waivers shall apply to any developments subject to retention permission.”

7.0 EIA Screening

7.1.1. The proposed development is not a project for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

8.0 The Appeal

8.1. Grounds of Appeal

8.1.1. An agent for the applicant has appealed the decision of Kildare County Council to attach condition no. 6 of the decision to grant permission to retain. The grounds of the appeal can be summarised as follows:

- Permission was ought to regularise the planning situation in relation to the existing dwelling, as granted under pl. ref. 98/48.
- Current application seeks to retain the reorientation of the house. During construction it was found that living spaces were facing north, so the house plans were mirrored to correct this issue.
- Overall floor area is the same as originally granted. Most of the footprint remains in the same location, with the exception of the sunroom being outside the originally submitted and approved plans. Sunroom is the same size as granted but is now on the opposite side of the house.
- The house as constructed is substantially the same. Levies were calculated and collected by Kildare County Council at the time of construction.
- It is submitted that the imposition of condition no. 6 is unfair and excessive as the house and services originally provided by KCC have not changed.
- There are no additional service requirements resulting from this application.

8.1.2. The appeal is accompanied by a letter from the applicant. It can be summarised as follows:

- Following the grant of permission under 98/48, it became apparent during construction that the internal layout and solar gain would be significantly improved by mirroring the design.
- The house was constructed on the same footprint, overall gross floor area, height, massing and architecture design remain entirely consistent. No additional impact on local services.
- Confirmation that development levies were paid, attached to submission.
- The minor modification of mirroring is a non material variation that does not trigger new contribution liabilities.
- Request that condition no. 6 be removed.

8.2. **Planning Authority Response**

8.2.1. KCC issued a decision to grant permission on 30th January 2026. Having reviewed the appeal, the Planning Authority notes that as the house was not built in accordance with PL.Ref. 98/48, PL.Ref.25/61385 becomes the relevant planning permission which permits the house. A charge for development contribution must be included in this permission, in accordance with the current Development Contribution Scheme. Contributions have been calculated and charge correctly based on the entire floor area of the scheme to be retained. Contributions paid previously in relation to PL.Ref. 98/48 can be deducted from the amount now due, or refunded.

8.3. **Applicant Response to Planning Authority Response**

8.3.1. The applicant responded to the Planning Authority submission on the appeal. New matters raised in the response can be summarised as follows:

- The floor area of the house is the same as previously granted and on which development levies were paid in full.
- Development Contributions have been fully discharged.
- The application for retention does not generate any additional demand on public infrastructure or constitute an intensification of use that would justify the imposition of further contributions.
- Minor modification is not material.

9.0 **Assessment**

9.1.1. Having regard to the provisions of section 48(13)(a) of the Planning and Development Act 2000 as amended, this assessment and recommendation will only relate to the condition that is subject of the appeal.

9.2. **Condition no. 6**

9.2.1. The appellant has submitted a letter from KCC dated 04 December 2000. The letter acknowledges receipt of payment in the sum of £375 in respect of condition no. 11 of pl. ref. 98/48. The letter confirms that condition no. 11 has been complied with in full.

9.2.2. It is the submission of the appellant that as the current application is for retention of a 'mirrored' dwelling with the same floor area, that no additional impact on

infrastructure arises and therefore the imposition of a development contribution levy is unjust.

- 9.2.3. I note the reference in the KCC Planning Report that permission was granted under pl.Ref. 98/48 for a dwelling of 300sq.m. and that permission is being sought to retain a dwelling of 318sqm. This does not appear to be correct. I draw the Coimisiúns attention to the application form submitted with the original application, which states that the gross floor area of the proposed development was 312.68sq.m. The applicant states that the dwelling to be retained occupies the same floor area as that permitted. For the purposes of this appeal against a development contribution, the details provided in the current application form are accepted as a true reflection of the development on site.
- 9.2.4. The current application for retention (question 12 of the application form) states that the gross floor space of existing buildings is 318.7sq.m. The development contribution calculation sheet on file shows a calculation of 282sq.m. (dwelling) at a rate of €62 psqm and a garage of 36sq.m. levied at a rate of €31psqm. The total contribution payable is calculated to be €18,600.00.
- 9.2.5. I draw the Coimisiúns attention to section 9 of the KCC Development Contribution Scheme which unequivocally states “No exemptions or waivers shall apply to any developments subject to retention permission”. That the amendment (mirroring) of the dwelling is non-material, that there is no additional impact on infrastructure and that development contributions were paid on the original permission, is irrelevant. The scheme is clear. There are no exemptions or waivers for any developments subject to retention permission. The current application seeks permission to retain a development and therefore is subject to development contributions in accordance with the 2023-2029 development contribution scheme. I am satisfied that KCC have correctly applied the scheme and that the Coimisiún should attach the condition as stated in the Planning Authority decision to grant.
- 9.2.6. I note the offer of KCC that any monies previously paid can be refunded or deducted from the amount due under condition no. 6 and consider same to be reasonable.

10.0 Recommendation

- 10.1. The Commission, in accordance with section 48 of the Planning and Development Act 2000, as amended, considered that, based on the reasons and considerations set out below, the terms of the Development Contribution Scheme for the area had been properly applied in respect of condition number 6 and directs the said Council to ATTACH condition number 2, for the reason set out.

11.0 Reasons and Considerations

- 11.1.1. Having regard to the nature of the development to be retained, to the Kildare County Development Contribution Scheme 2023-2029 and to section 9 of the scheme which refers to Retention Permission, it is considered that the terms of the scheme have been properly applied and it is therefore appropriate to attach condition no. 6.

12.0 Conditions

6. The Applicant/Developer to pay to Kildare County Council the sum of €18,600.00 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.

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.



Gillian Kane
Senior Planning Inspector

27 May 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-500889-KE-26
Proposed Development Summary	Retention of dwelling as constructed
Development Address	Lewistown, Naas, Co. Kildare
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	<input type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2.
	<input checked="" type="checkbox"/> No, No further action required.

Inspector:  _____

Date: 27 May 2026