



An
Coimisiún
Pleanála

Inspector's Report

PL-501173-CN-26

Development

RETENTION: construction of a house with new wastewater treatment system.
PERMISSION for the construction of a new vehicular entrance and all associated site works.

Location

Enagh, Lisduff, Virginia, Co. Cavan.

Planning Authority

Cavan County Council

Planning Authority Reg. Ref.

2560385

Applicants

John and Bridget McDermott

Type of Application

Retention

Planning Authority Decision

Grant Retention with Conditions

Type of Appeal

First Party against Conditions

Appellants

John and Bridget McDermott

Observers

None

Inspector

Margaret Commene

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 (as amended), 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.
- 1.2. Having regard to the nature of the Section 48 appeal before the Coimisiún and the information available on file, a site inspection was not deemed necessary in this instance.

2.0 Site Location and Description

- 2.1. The appeal site is situated in the townland of Enagh, c. 0.6km north-east of Lisduff, Virginia, Co. Cavan. More specifically, it is located on the northern side of Lisduff Meadows (Local Road L7106-0), c. 600 metres north-east of its intersection with the N3, and comprises an area of 0.25Ha. The dwelling to which this application pertains is developed centrally on-site.

3.0 Proposed Development

- 3.1. Retention Permission is sought for construction of a single storey pitched roof 2-bedroom detached dwelling, with new wastewater treatment system and percolation area, and new side and rear boundary fencing. Planning Permission is sought for the construction of a new vehicular entrance and roadside boundary fencing and all necessary ancillary site development works.

4.0 Planning Authority Decision

4.1. Decision

- 4.1.1. On 24th March 2026, the Planning Authority issued a notification of their intention to grant permission subject to 8 no. conditions. Condition No. 2 is relevant to the subject appeal, which reads as follows:

2. *The developer shall pay the sum of €7,500 to the Planning Authority 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 made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid within three months of the date of the final grant of planning permission 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.*

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.*

4.2. **Planning Authority Reports**

4.2.1. **Planning Reports**

Initial Planners Report (25th August 2025)

- The applicants have demonstrated a need for the retained dwelling.
- The dwelling does not have an undue visual impact at this location, and does not materially affect third party amenities.
- The retained and proposed development, both individually and in combination with other plans or projects, would not be likely to have a significant impact on the Natura 2000 site network. A stage 2 appropriate assessment is not required.
- The report recommends a request for further information in respect of the following: - the Emerging Preferred Route of the N3 Virginia Bypass road scheme; effluent treatment; and the adjacent mobile home.

Subsequent Planners Report (9th March 2026)

- The information received in response to the further information request was deemed acceptable/the relevant matters considered to be addressed. It was recommended that a grant of permission subject to conditions be issued.

4.2.2. **Other Technical Reports**

MD Engineer (12/8/2025): No objection, subject to conditions.

Roads Design Section (initial report, dated 25/08/2025): Recommended that the applicant be required to submit an updated site layout plan by way of further information which displays the refined corridor, indicative development boundary and developing design for the N3 Virginia Bypass Scheme.

Roads Design Section (subsequent report, dated 09/03/2026): In light of the revisions/information included in the further information response, no objection raised.

4.3. **Prescribed Bodies**

None.

4.4. **Third Party Observations**

None.

5.0 **Planning History**

5.1. **Subject Site**

5.1.1. There have been no previous applications pertaining to the subject site of relevance.

5.2. **Adjacent Sites**

5.2.1. There has been 1 no. recent application pertaining to the site immediately north-east of the subject site that is pertinent to the current proposal. This is summarised below.

PA Reg. Ref. 19/314

Ruth McDermott was granted permission, by Cavan County Council on 6th November 2019, for the construction of a new single storey 3-bedroom detached dwelling, wastewater treatment plant and percolation area, new shared vehicular entrance and all necessary ancillary site development works to facilitate this development. No development was carried out on foot of this permission and it has since lapsed.

In the context of the subject appeal, I note that Condition No. 2 of the applicable Grant of Permission read as follows:

2. *The developer shall pay the sum of €5,000 to the Planning Authority 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 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.*

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*

6.0 Policy Context

6.1. Planning and Development Act, 2000 (as amended)

- 6.1.1. 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.

6.1.2. 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.

6.2. Development Contributions – Guidelines for Planning Authorities 2013

6.2.1. These guidelines state that the primary function of such schemes is to contribute towards the funding of essential public infrastructure required for development. These guidelines provide guidance on how to address the economic changes since 2007 when drafting development contribution schemes.

6.3. Cavan County Development Contribution Scheme 2026-2030

6.3.1. The operative Development Contributions Scheme is the Cavan County Development Contribution Scheme 2026-2030. Section 3.0 of the same provides for the level of contribution, exemptions and reductions payable. The following contribution to be paid in the context of dwelling houses is outlined in Table 4 contained therein:

Class of Development	Contribution
Dwelling house	€23 per square metre (subject to minimum payment of €5000)

6.3.2. Note 2 sets out the following stipulation in the context of retention permission: - *Retention permissions shall be charged at 1.5 times the applicable rate of the development contribution. No exemptions or reductions are applicable for retention permissions, other than developments considered to be exempt development as per the Planning and Development Regulations 2001 as amended.*

6.4. Natural Heritage Designations

6.4.1. Not relevant.

6.5. EIA Screening

6.5.1. Not relevant.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The subject building is located within Folio CN 13050, which is owned by the appellant. A previous planning permission for a single storey dwelling was granted permission within the same landholding, under Reg. Ref. 19/0314. This permission included a condition, Condition No. 2, requiring payment of a sum of €5,000 in respect of public infrastructure pursuant to the requirements of Section 48 of the Act.
- This previously approved dwelling was not constructed due to the financial costs involved. However, payment of the financial contribution required pursuant to Condition No. 2 was paid by the applicant.
- Condition No. 2 attached to the subject application, Reg. Ref. 25/60385, requires payment of a €7,500 financial contribution.
- It is submitted that given both planning permissions pertain to the same landholding/Folio, and a payment of €5,000 was made where no development was carried out, then this amount already paid should be transferred to the subject planning permission leaving a balance of €2,500 owing.

7.2. Planning Authority Response

The Planning Authority response can be summarised as follows:

- Condition No. 2 of the relevant decision seeks a development contribution of €7,500 in reference to the Cavan County Development Contribution Scheme 2026-2030. The method of calculation of the same is set out in the Planners Report and is the minimum development contribution for the retention of a dwelling in this local authority area.
- The payment of €4,500 referred to, related to a proposed new dwelling on the same landholding for which development did not commence and was attributed to a different applicant.

- Given the reduction sought relates to a different applicant on a different application site, it is submitted that consideration of the appeal for the reasons stipulated falls outside any provisions in the Development Contribution Scheme in place and the appeal is void.
- On the basis that no development commenced in relation to Reg. Ref. 19/0314 and the permission has also lapsed, the relevant applicant has been reimbursed the full amount paid, which was €4,500 (copy of relevant Managers Order provided).
- There are no grounds to reduce the development contribution sought in the context of Reg. Ref. 25/60385. The terms of the Development Contribution Scheme have been correctly applied and the appeal is void. It is requested that the Coimisiún not amend Condition No. 2 as requested.

7.3. Observations

- None.

7.4. Further Responses

- None.

8.0 Assessment

- 8.1. This is a first party appeal against a financial contribution condition (Condition No. 2) that was included as part of the decision of the Planning Authority to grant retention permission for the subject development. 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 (as amended), 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.
- 8.2. Section 48 of the Planning and Development Act, 2000 (as amended), provides for the attachment of financial contributions conditions, the basis for which must be set out within a Development Contribution Scheme. The Cavan County Development Contribution Scheme 2026-2030 is the applicable contribution scheme in this instance, with the level of contribution, exemptions and reductions payable outlined in and

Section 3.0 of the same. Note 2, also included in Section 3.0 of the Cavan County Development Contribution Scheme 2026-2030, states that retention permissions shall be charged at 1.5 times the applicable rate of the development contribution and that no exemption or waivers shall apply to any developments the subject of a retention application.

- 8.3. The Development Contribution Sheet submitted by the Local Authority shows that the contribution was calculated as follows:

€23.00 x 78m² = €1,794.00. Therefore, the minimum of €5,000 applies.

X 150% (as retention permission sought) = €7,500.

- 8.4. The appeal seeks an amendment to Condition No. 2, more specifically a reduction in the contribution payable. The appellants rely on the fact that a development contribution of €5,000 was previously paid in connection with a planning application for a single dwelling on the same landholding, under Reg. Ref. 19/0314. It is submitted that given both planning permissions pertain to the same landholding/Folio and no development was carried out on foot of this earlier permission, the amount already paid should be transferred to the subject planning permission (leaving a balance of €2,500 owing) and the condition should be updated accordingly.
- 8.5. In their response to the first party appeal, the Planning Authority argues that consideration of the appeal for the reasons stipulated falls outside any provisions in the Development Contribution Scheme as the reduction sought relates to a different applicant on a different application site.
- 8.6. Having considered the wording of Section 3.0 of the Cavan County Development Contribution Scheme 2026-2030, I am of the opinion that 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 or amended so that a condition, in this instance Condition No. 2, can be omitted or amended. Further to this, I do not find the justification put forward by the appellants compelling having regard to the fact that the financial contribution previously paid related to a different applicant, a different application site and a different dwelling layout.

- 8.7. I am satisfied that the Cavan County Development Contribution Scheme 2026-2030 has been correctly applied/the relevant contribution correctly calculated and that the Coimisiún should attach Condition No. 2 to the permission.

9.0 **AA Screening**

- 9.1. Not relevant.

10.0 **Water Framework Directive**

- 10.1. Not relevant.

11.0 **Recommendation**

- 11.1. 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 No. 2 and directs the said Council to **RETAIN** Condition No. 2.

12.0 **Reasons and Considerations**

Having regard to:

(a) the Cavan County Development Contribution Scheme 2026-2030, specifically Section 3.0; 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. 2 of Reg. Ref. 25/60385 in that Section 3.0 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. 2 as set out below:

2. *The developer shall pay to the planning authority a financial contribution of €7,500 (seven thousand five hundred euro) 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 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.

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

Margaret Commane
Senior Planning Inspector

2nd July 2026