

KILDARE COUNTY COUNCIL



DEVELOPMENT CONTRIBUTION SCHEME 2023 – 2029

Prepared under Section 48, Planning and
Development Act, 2000 (as amended)

Adopted on 19 December 2022

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1. Introduction

The Development Contribution Scheme is prepared in accordance with Section 48 of the Planning and Development Act, 2000 (as amended). Section 48 (1) enables a planning authority, when granting a planning permission under Section 34 of the Act, to include conditions requiring the payment of a contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority, and that it 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.

The adoption of a development contribution scheme is a reserved function of the members and applies to the administrative area of Kildare County Council.

2. Duration of the Scheme

The Scheme is effective for 7 years from **1 January 2023** or until such time as the scheme is reviewed or a subsequent scheme is adopted.

3. Legislation

Section 48 and Section 49 of the Planning and Development Act 2000 (as amended) enable a planning authority to include conditions requiring the payment of a contribution in respect of public infrastructure and facilities benefitting development in the area of the Planning Authority and that is provided, or that is intended to be provided, by or on behalf of the Local Authority, regardless of other sources of funding for the infrastructure and facilities.

Under subsections (2) and (3) of Section 48 of the Act, a scheme

- *shall* state the basis for determining the contribution to be paid in respect of different classes or descriptions of development;
- 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 the Local Authority having regards 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 on any such determination;
- may make provision for payment of different contributions in respect of different classes or descriptions of development;
- may 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 a local authority in respect of public infrastructure and facilities which benefit the proposed development;
- may allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provisions of the scheme;

- may facilitate phased payment of contributions under Section 48 of the Planning and Development Act 2000, as amended and may require the giving of security to ensure payment of contribution.

Section 48 of the Planning and Development Act (amended by Section 29 of the Urban Regeneration and Housing Act 2015) also permits a reduction in a development contribution included on a grant of permission where the basis for the determination of the contribution has changed (i.e. a new development contribution scheme) on units which had not commenced prior to the date of adoption of the Scheme.

4. Guidelines

The Development Contribution Scheme has been prepared in accordance with the following guidance documents:

- Development Contributions Guidelines for Planning Authorities (Department of the Environment, Community and Local Government, January, 2013)
- Departmental Circulars PL3/2013, PL15/2013, PL18/2013, PL032018.
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5. Types of Development Contribution Schemes

The Development Contribution Scheme is legislated for under Section 48 of the Planning and Development Act 2000 and under Ministerial Guidelines published in January 2013. Section 49 legislates for supplementary schemes.

There are three separate potential schemes:

5.1 Development Contribution Scheme

Under section 48 of the Planning and Development Acts, planning authorities must draw up a 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 in operation in the area of the planning authority.

5.2 Special Development Contributions

A special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution.

5.3 Supplementary Development Contribution Scheme

Section 49 of the Act provides for the drawing up of a supplementary development contribution scheme to facilitate a particular public infrastructure service or project which is provided (or proposed to be provided) by a local authority, a public authority or a private developer on behalf of and pursuant to an agreement with a local authority (e.g. through Public Private Partnership), and which will benefit the development on which the development contribution is imposed.

In Section 49(7) of the Act 'public infrastructure project or service' means:

- (a) The provision of particular light rail, light rail or other public transport infrastructure, including car parks and other ancillary development,
- (b) The provision of particular new roads,
- (c) The provision of new surface water sewers and ancillary infrastructure, and
- (d) The provision of new schools and ancillary infrastructure.

6. Classes of Public Infrastructure and Facilities

Section 48 of the Planning and Development Act 2000 as amended gives the following meaning to public infrastructure and facilities:

- (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, surface water sewers, flood relief work and ancillary infrastructure;
- (d) the provision of bus corridors and lanes, bus interchange facilities (including car parks 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, surface water sewers, flood relief and ancillary infrastructure;
- (f) the provision of high-capacity telecommunications infrastructure, such as broadband;
- (g) the provision of school sites; and
- (h) any matters ancillary to (a) to (g)

7.1 Basis for Determination of Contribution

The basis for determination of the contribution under the Kildare County Council Development Contribution Scheme is on a projected investment of €711 million under the Capital Programme 2022-24 and a increased projected level of investment in future capital programmes. Development contributions of €43.2 million (€14.4 million per annum) are

required to deliver this three-year programme and a similar level in future capital programmes.

The list of projects that will benefit from the Development Contribution Scheme are those generally contained within the current and future capital programmes.

The following table outlines the anticipated future delivery of development in the County taking into account the *Draft* Kildare County Development Plan 2023-2029 and the National Planning Framework 2017-2031.

	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
<i>* 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</i>			

Notes:

- The additional waivers and other discounts contained in the scheme mean that the actual funding is less than what would be projected if all development was charged at the same rate.
- The basis for determination has been classified into two areas of public infrastructure and facilities in accordance with the Capital Programme.

In order to deliver the classes of public infrastructure required, contributions to be paid shall be apportioned as follows:

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| (a) Transportation, Surface Water and Flood Relief | 60% |
| (b) Open Space, Recreation, Environment, Public Realm, Community Facilities and Economic Development
(*Apportioned 32% by Municipal District and 8% Countywide) | 40%* |

7.2 Area of Calculation

The area of calculation in respect of buildings for the purposes of this scheme shall be the gross floor area.

8. Level of Contribution

The following sections set out the development contribution applicable on planning permissions granted from the date of the adoption of this Scheme.

8.1 Residential Development

The development contribution rate shall be **€62** per square metre.

8.1.1 Extensions to Residential Development

The first 40 square metres of an extension to a house, including attached garages and conversion of attic to habitable or storage areas shall be exempt. All domestic extensions shall be charged at the residential rate for any area above the first 40 square metre extension.

The exemption in this section shall not apply to development for which retention permission is sought.

8.1.2 Garden structures and sheds

The first 25 square metres of Garden sheds / garden offices / garages shall be exempt from a contribution and the balance shall be at **50%** of the residential rate, where the use is ancillary to the main residential use.

8.2 Non-residential Development (e.g. Commercial / Retail Development / Warehousing)

The development contribution rate shall be **€62** per square metre.

8.2.1 Renewable Energy and Climate Change

Wind turbines and solar energy shall be charged at a rate of:

- €1,000 per 0.1 megawatt,

The first 0.5 megawatts for non-commercial use shall be exempt from a development contribution.

8.2.2 Extractive Industries

The development contribution on extractive industries / quarrying shall be €0.50 per cubic metre of material.

8.2.3 Land Filling / Reclamation

The development contribution rate shall be €15,000 per hectare.

8.3 Agriculture / Equine / Horticulture

Agriculture / Equine or Horticultural development shall be charged at €5 per square metre.

The first 600 square metres of agricultural, equine or horticultural development on any land holding shall be exempt from a charge (including polytunnels and glasshouses).

8.4 Advertising Structures

A development contribution of €30 per square metre shall apply to advertising structures requiring planning permission. Advertising structures deemed ancillary to the structure, i.e. a fascia sign, shall be exempt from development contributions.

8.5 Miscellaneous

All other development, not covered elsewhere in the Scheme shall be charged at the following rates.

Built: €30 per square metre

Open : €15,000 per hectare

Built development refers to development not covered elsewhere in the Scheme for example covered areas.

Open development includes development not included elsewhere in the Scheme which involves the carrying out of works on, in, over or under any land or the making of any material changes in the use of land for example, hard standing, carparking, surface storage, motor/garage forecourts.

8.6 Car-Parking Shortfall

A rate of €10,000 per car parking space shortfall shall apply in all towns and settlements.

9. Retention Permission

No exemptions or waivers shall apply to any developments subject to retention permission.

10 Exemptions and Reduced Contributions

The following exemptions and reduced rates shall be applicable:

10.1 Temporary Permission

Where a temporary permission is granted the following reduced rates shall apply:

- 33% of normal rate for permissions of up to 3 years
- 50% of normal rate for permissions of up to 5 years
- 66% of normal rate for permissions of up to 10 years.

Where permission is subsequently granted or a combination of temporary permissions exceeds 10 years, previous contributions paid may be taken into account.

10.2 Protected Structures

A **75%** reduction of development contributions shall be granted in respect of renovation to restore or refurbish protected structures included in the Register of Protected Structures in the Kildare County Development Plan.

Residential extensions to protected structures are not exempt, except for the first 40 square metres in respect of residential use only.

10.3 Supporting Town and Village Centre Development

A **33%** reduction of development contributions shall apply to land zoned as 'Town Centre' for all development (including commercial, retail and residential) as designated in statutory local area plans for each of the relevant towns; and villages and settlements as designated in the County Development Plan.

Towns: Town Centre zoning (Naas, Maynooth, Newbridge, Leixlip, Kildare, Athy, Celbridge, Kilcock, Monasterevin, Sallins, Kilcullen, Kill, Clane, Prosperous, Rathangan, Athgarvan, Castledermot, Derrinturn)

Villages: Village Centre zoning (Johnstown, Straffan, Allenwood, Ballitore, Ballymore Eustace, Caragh, Coill Dubh/Cooleragh, Crookstown, Johnstownbridge, Kildangan, Kilmeague, Moone, Narraghmore, Robertstown, Suncroft, Timolin.

Land identified as 'Regeneration Lands' or 'key regeneration sites' in statutory local areas plans shall also qualify for an exemption of **33%** in development contributions.

10.4 Supporting Small Enterprise and Job Creation

The Development Contribution scheme will encourage sustainable development of Town and village centres for small enterprise. Refer to Section 10.3.

10.5 Telecommunications

Telecommunications infrastructure both mobile and broadband deployed as part of a Government endorsed telecommunications strategy shall be exempt from a contribution.

10.6 Change of Use

A **100%** reduction on contributions will be granted for change of use permissions where in the opinion of the planning authority, the development does not lead to the need for new or upgraded infrastructure or services or significant demand placed on existing infrastructure.

10.7 Voluntary, Community, Health and Education

Development which in the opinion of the Local Authority is proposed to be carried out by or on behalf of a voluntary organisation, and not for profit or gain, shall be exempt from a development contribution including community, charitable and sporting facilities. School and educational facilities shall be exempt from contributions except in the case of fee-paying schools.

Development by a publicly funded Further or Higher Education Institution or Education and Training Board, which is designated or intended to be used as a workshop, training facility, or educational facility, and is not to be used for profit or gain shall be exempt from a contribution.

10.8 Social Housing

Development consisting of social housing units purchased under an agreement in accordance with Part V of the Planning and Development Act 2000 as amended shall be exempt from a contribution. The exemption will be calculated after the Part V agreement is put in place. In addition social housing units developed by or on behalf of the local authority on local authority land shall be exempt from a contribution as will social housing units developed by an Approved Housing Body on land which is transferred to it from Kildare County Council.

10.9 Housing Adaptation Grants

Housing adaptation grants or similar grants administered by the Housing Department of Kildare County Council shall be deemed exempt from a contribution once accompanied by the appropriate written confirmation.

10.10 Replacement Buildings

Contributions will not be applied to permissions for the construction of replacement buildings on the same footprint or the same area as the original building following extensive damage by subsidence, flood or fire. Where extensions are added to such buildings, the contributions rates or relevant exemptions outlined in Section 8.1 or 8.2 shall apply.

10.11 Chief Executive

The Chief Executive shall have the discretion to reduce or waive development contributions where, in his or her opinion, it is warranted, having regard to National Policy in relation to specific classes of development, the particular economic, social or cultural benefits of the development or other exceptional circumstances.

N.B. For clarity purposes, only one discount or waiver determined under Section 10 of the Scheme may be applied on any contribution.

11. Special Development Contribution

A special development contribution may be implemented under Section 48 of the Planning and Development Act where exceptional costs are incurred by the Council in the provision of a specific public infrastructure or facility. Only developments that will benefit from the public infrastructure or facility will be liable for the contribution.

12. Appeals to An Bord Pleanála

In accordance with Section 48 (10) of the Act, an applicant may make an appeal to An Bord Pleanála if they consider that the terms of the Scheme have not been properly applied in respect of any condition laid down by the Planning Authority.

13. Payment of Contributions

Development Contributions are due for payment once a commencement notice is lodged. In the case of retention permission, development contributions are due on the issuing of a Final Grant of planning permission. Where a development contribution is not paid in accordance with the terms laid down by the Council (or An Bord Pleanála), the Council may recover any contribution due as a contract debt.

Payment of development contributions is as follows:

Development Contribution Scheme 2023-2029

- **50%** of contributions due with regard to planning permission for all development shall be payable on submission of commencement notice and the remaining **50%** within 12 months of the first payment due date.
- Contributions due with regard to Planning Permission for retention are payable immediately on issue of the final grant of permission.
- Where a contribution is not paid in accordance with the terms of the scheme, the Planning Authority shall recover any sums outstanding together with interest, in accordance with the Local Loans Fund Interest Rate (Department of Housing, Local Government and Heritage), calculated from the date the contribution becomes payable.