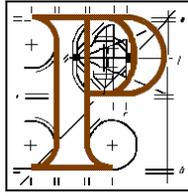


An Bord Pleanála



Inspector's Report

PL16.236955

Development

Description: Extension to nursing home comprising of 23 new ensuite bedrooms.

Address: Churchfield, Knock, County Mayo

Planning Application

Planning Authority: Mayo County Council

Planning Authority Reg. Ref.: 10/25

Applicant: MMM Partnership Ltd.

Type of Application: Permission

Planning Authority Decision: Grant

Planning Appeal

Appellant(s): MMM Partnership Ltd.

Type of Appeal: 1st Party -v- Financial Contribution Conditions

Observers: None

Date of Site Inspection: Not inspected

Inspector: Paul Caprani

1.0 INTRODUCTION

PL16.236955 relates to a first party appeal against a financial contribution condition attached to a notification to grant planning permission for an extension to a nursing home in Knock, County Mayo. The grounds of appeal argue that the financial contribution condition was not applied in accordance with the provisions of Section 48 of the Planning and Development Act 2000.

2.0 BACKGROUND

On 19th May 2010 Mayo County Council granted planning permission for an extension to an existing nursing home in the centre of Knock village. The extension comprised of 23 new ensuite bedrooms together with communal spaces and ancillary facilities. The gross floor area of the extension is 1,065 square metres and comprises of a two-storey over basement extension.

Condition No. 13 required that the following contribution be paid to Mayo County Council prior to the commencement of development.

€27,393 for water

€41,101 for sewage

€8,211 for amenities

€8,211 for community open space and recreational facilities

€34,937 for public roads

€5,474 for public footpaths

Total: €100,673

Reason: To comply with Mayo County Council's Development Contribution Scheme.

3.0 GROUNDS OF APPEAL

The grounds of appeal specifically relate to Condition No. 13. It is argued that Mayo County Council misapplied the adopted Development Contribution Scheme in the case of the current application. It is argued that the Development Contribution Scheme has been applied based on a one-off rural dwellinghouse equivalent to each bedroom. This is clearly not specified in the Development Contribution Scheme. A one-off rural dwellinghouse would generally relate to 4-5 bedroomed residential unit. This would result in the proposed 23 bedroom extension being equivalent to 5-6 dwellinghouses.

It is also noted that the contribution towards roads under the adopted scheme "varies". This is deemed to be unacceptable and it is no coincidence that the highest proportion of fees requested by the Council relates to roads. There should be clear and transparent charges for each item and specified clearly for each individual development. It is argued that there should be a separate category for nursing homes contained in the adopted Development Contribution

Scheme. The fact that the proposed project is an extension to an existing structure has not been taken into account, but is instead being treated as a new development. It is considered that a square metre basis for the calculation of Development Contribution Scheme would be fairer and a more accurate way of calculating fees. The Development Contribution is an exceptionally high proportion of the cost of the proposed development, to such an extent that it threatens the viability of the development.

4.0 APPEAL RESPONSES

Mayo County Council have not submitted a response to the grounds of appeal.

5.0 DEVELOPMENT CONTRIBUTION SCHEME

Initial Development Contribution Scheme was adopted on the 1st March 2004. Revised charges were adopted and will apply to all planning applications decided from 5th February 2007.

The amount of financial contribution for commercial developments as adopted in the revised scheme is calculated by way of “cost per dwelling equivalent”. The basis for determining the cost per dwelling equivalent for commercial developments is not set out in the Financial Contribution Scheme (The Board will note that the rationale for determining the cost per dwelling equivalent is based on water usage and is detailed in my assessment below). The revised amounts to be levied per cost per dwelling equivalent for commercial developments is as follows:

Water services	€1,191
Sewage services	€1,787
Surface water services	€ 596
Amenities	€357
Roads	varies
Footpaths	€238
Community open space and recreational facilities	€357
Car parking	€2,382

6.0 PLANNING ASSESSMENT

It appears that Condition No. 13 has been calculated on the basis that each bedroom to be provided as part of the nursing home extension attracted a financial contribution levy equivalent to that associated with a new dwellinghouse. This method of calculation is inappropriate in my view as what is proposed in this instance is an extension to a commercial development and therefore the commercial development should be calculated on the basis of “a cost per dwelling equivalent” which is used under the Mayo County Council

Development Contribution Scheme for calculating financial contributions associated with commercial and industrial developments.

The Financial Contribution Scheme however does not set out the methodology involved in calculating a cost per dwelling equivalent. Furthermore the Planning Authority in this instance have not submitted a response to the grounds of appeal and have not outlined the methodology involved in calculating a “cost per dwelling equivalent” in the case of commercial developments. In the case of other appeals before the Board (please see PL16.225104) the methodology involved in contributing an “cost per dwelling equivalent” has been set out by the Planning Authority. The cost per dwelling equivalent is based on water consumption. The contribution is based on the promise that the total water usage of a dwellinghouse is 600 litres per day. The formula in estimating the financial contribution for commercial developments is based on the water usage of 60 litres per person per day. Furthermore it is estimated that one person will occupy approximately 15 square metres of any commercial development.

Based on the above formula therefore an extension of 1,065 square metres would equate to approximately 71 persons being accommodated in the commercial development (1,065 square metres divided by 15). Based on a water consumption of one person using 60 litres per day the total water consumption associated with the extension would amount to a usage of 4,260 litres per day (71 persons multiplied by 60 litres). As the commercial contribution is based on the promise that the total water usage of a dwellinghouse is 600 litres per day the cost per dwelling equivalent in this instance would be 7.1 houses (4,260 litres divided by 600 litres).

I therefore consider that the financial contribution for the nursing home should be based on “cost per dwelling equivalent” of 7.1 dwellings as opposed to 23 dwellings using the Planning Authority’s calculation of the Development Contribution Scheme.

Specifically in relation to public roads the grounds of appeal argues that the statement in the Development Contribution Scheme which refers to the financial contribution for roads as “varies” is unacceptable and not transparent.

The amount levied for roads under Condition No. 13 amounted to €34,937. Based on the Planning Authority’s calculation of the Development Contribution Scheme the amount levied for roads would amount to €1,519 (€34,937 divided by 23). This is the same as the charge applicable for residential units under the Development Contribution Scheme (adopted 5th February 2007). It is appropriate in my view that the cost per dwelling unit to be levied under roads (€1,519) should be calculated on the cost per dwelling equivalent of the extension which I have calculated to be 7.1 dwellings. In conclusion therefore I consider that the Planning Authority have incorrectly calculated the financial contribution condition in this instance. The development proposed in this instance relates to an extension to a nursing home which constitutes a commercial development. In accordance with the Development Contribution Scheme adopted by Mayo County Council all commercial developments should

be calculated on the basis of a “cost per dwelling equivalent”. While the methodology involved in calculating the “cost per dwelling equivalent” has not been submitted by the Planning Authority in the case of the current appeal details of this methodology have been submitted in previous appeals before the Board. Based on this methodology I have calculated above that the gross floor area of the extension (1,065 square metres) would equate to a “cost per dwelling equivalent” of 7.1 dwellings. I therefore recommend that Condition No. 13 be revised as follows:

The developer shall pay to the planning authority a financial contribution of €38,688.10 (thirty eight thousand, six hundred and eighty eight euro and ten cent) 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. The contribution shall be paid prior to the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 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.

**Paul Caprani,
Senior Planning Inspector.**

28th September, 2010.

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