



Development

(a) foirgneamh a bhí á úsáid mar ionad oideachais, sóisialta agus traenála a athrú go foirgneamh tionsclaíochta, (b) athchóiriú agus athraithe a dhéanamh taobh istigh agus ar na clónna, (c) carrchlós nua agus umar réamhchóireála nua a thógáil agus (d) oibreacha láithreáin eile gaolmhara a dhéanamh ag Aonad 8, Eastát Tionsclaíochta.

Location

Doire an Fhéich, Casla, Co. na Gaillimhe.

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

19890

Applicant(s)

Udaras na Gaeltachta

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

First Party

Appellant(s)

Udaras na Gaeltachta

Date of Site Inspection

01st May 2020

Inspector

Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.30 hectares, is located in Casla approximately 37km to the west of Galway City. The appeal site is occupied by an existing single-storey commercial unit currently used as an education, social and training centre. The appeal site is part of an existing industrial park (Udaras na Gaeltachta). To the east of the site is a single-storey industrial unit and to the north, west and south is undeveloped scrub land. There is an existing service road providing access to the site running to the south of the site.

2.0 Proposed Development

2.1. Permission is sought for conversion of a building used as an educational, social and training centre to an industrial building with alterations to the interior layout and external elevations of the building, a new car park and treatment tanks.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 6 conditions. Of note is the following condition...

Condition no. 6: A Development Contribution of €117,000 under the provision of Section 48 of the Planning and Development Act 2000.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (01/08/19): Further information required in relation to wastewater treatment including layout, capacity and assessment of risk of groundwater/surface water.

Planning report (01/08/19): The proposal was considered to be acceptable in the context of the proper planning and sustainable development of the area. A grant of permission was recommended subject to the conditions outlined above.

3.2.2. Other Technical Reports

Environment (01/08/19): Further information required in relation to wastewater treatment including layout, capacity and assessment of risk of groundwater/surface water.

Environment (13/01/20): No objection subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

4.1 18/1617: Permission refused for change of use of a building used as a social education and training centre to an industrial building, the conversion and alteration of the interiors and elevations and the carrying out of other related site works at Unit 8, State Industrial. Refused based on capacity issues concerning wastewater treatment and water supply.

4.2 082986: Permission granted to remove buildings and change from storage space to offices (Gross floor area 161 sqm).

4.3 073535: Permission granted to expand and to make changes to factory number 7 on the Industrial Estate. It is intended to split up the production unit to include a relationship room, an axle room, a kitchen and classrooms as well as modifying the bells, providing new artistic doors and building a conservatory extension (Gross floor area 21 sqm).

4.4 053792: Permission granted for the refurbishment of the Seaside Centre.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the Galway County Development Plan 2015-2021. The site is located in Gaeltacht Are for which there is Gaeltacht Plan adopted under variation 2(b) of the County Development Plan.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Urdaras na Gaeltachta. The grounds of appeal are as follows...

- The applicant considers the development contribution of €11,700 specified in condition 6 to be much too high.
- The application is for change of use of a building that is already there and not a new structure. The facilities and services are already there and have been paid for by the applicant to the county council over many years.
- This is an excessive cost to place on a new company that is just starting out its business. The board should reduce to amount of the contribution or cancel it altogether

6.2. Planning Authority Response

No response.

7.0 Assessment

- 7.1. This is an appeal in relation to the application of a development contribution only. The Board will not determine the application as if it was made to it in the first instance and will only determine the matters under appeal.
- 7.2. An appeal may be brought to the Board under section 34 where it is considered the terms of the Development Contribution Scheme have not been properly applied in respect of any condition laid down by the planning authority. In this appeal, the issue concerns the level of contribution charged under the adopted Development Contribution Scheme.
- 7.3. Permission is sought for conversion of the building used as an educational, social and training centre to an industrial building with alterations to the interior and external of the building, a new car park and treatment tanks. The existing structure is 790sqm in floor area. The proposal entails no change to the floor area of the existing structure with all alterations being internal changes and some alterations of the external elevations.
- 7.4. Condition no. 6 applies a Development Contribution of €11,700. This contribution is based on the fact the proposed use comes under Industrial/Commercial and Other Development Sub-Area 1, Development Sub-Type Group 2 which incurs a charge of €15 per sqm giving a total charge of €11,770 (790 x 15).
- 7.5. The issue raised in the appeal is the level of development contribution charged is too high with the application being a change of use of a building that is already there and not a new building. The applicants/appellants note that the facilities and services are already there and have been paid for by the applicant to the county council over

many years. The proposal is a change of use and the level of development contribution charged is the full amount that would be incurred were the proposal to be an application for a new structure of 790sqm for industrial purposes. In applying the condition no consideration or credit was given to the fact that the proposal is a change of use of an existing structure and that no new floor area is proposed.

- 7.6 I would note that under the 2016 Galway County Development Contributions Scheme (amended 01/08/19) that the proposed use does fall under Industrial/Commercial and Other Development Sub-Area 1, Development Sub-Type Group 2 which incurs a charge of €15 per sqm giving a total charge of €11,770 (790 x 15). I would note that under Part 4, Exemptions there is a section relating to Changes of Use. This section notes the following...

“Where a Change of Use permission is sought, due regard shall be had to any Development Contributions paid previously and any additional levies shall only be applied where there is a substantial increase in output or intensity of use or where additional gross floor space or functional area is created”.

This section clearly states that due regard must be given the fact the proposal is a change use of an existing structure and the fact that it entails no increase in floor space. In applying condition no. 6 the Planning Authority paid no regard to the existing use or structure on site and applied a charge that would have applied if the proposal was for a new structure. In this regard I would consider that the terms of the Development Contribution scheme have been applied improperly and that the level of development contribution is excessive.

- 7.7 I would note that the existing use, which is described as educational, social and training centre falls under Sub-Area 1, development Sub-Type Group 3 which incurs a charge of €13 per sqm. As noted above the proposed use is in Sub-Type Group 2 and incurs a charge of €15 per sqm. I would consider based on the terms of Development Contribution scheme credit should be given for existing structure and use and only the difference between the two uses should be charged. In this case

the difference between the levies for the existing use (€13) and the proposed use (€15) is €2. I would consider that the proposed development should incur a Development Contribution of €1,580 based on 790sqm by €2.

8.0 Recommendation

8.1. I recommend that Galway County Council be directed to AMEND condition no. 6 as follows...

6. The developer shall pay to the planning authority a financial contribution of €1,580 (one thousand five hundred and eighty 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. 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.

9.0 Reasons and Considerations

1. Having regard to the fact the proposal is a change of use of an existing structure with no increase in floor area proposed and to the provisions of the 2016 Galway Council Development Contribution Scheme (as amended on the 1st August 2019), which require consideration of change of use and existing floor space in calculating Development Contributions, the level of contribution applied under condition no.s 6 is

excessive and failed to taken into account the established use and existing floor space on site as required under the published Development Contribution Scheme.

Colin McBride
Planning Inspector

11th May 2020