



An
Bord
Pleanála

Board Direction
BD-002412-19
ABP-302292-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/02/2019.

The Board decided to treat this case under section 139 of the Planning and Development Act, 2000. The Board also decided, based on the Reasons and Considerations set out below, that the planning authority be directed, as follows:

- 1- Remove conditions numbered 4 and 16,
- 2- A separate condition to secure the completion of the development be added as follows:

Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion, and maintenance until taken in charge by the local authority, of roads, sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The security to be lodged (which may be lodged in phased portions in accordance with a phasing plan agreed in writing with the planning authority prior to commencement of development) shall be in the form specified by the planning authority, comprising either -

(a) a cash sum of €272,000 (two hundred and seventy-two thousand euro) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or

(b) an approved insurance company bond in the sum of €272,000 (two hundred and seventy-two thousand euro), or

(c) such other security as may be accepted in writing by the planning authority.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

3- Amend conditions numbered 15 and 17 as follows:

Condition No. 17 to be **amended** to the sum of, as follows -

*The developer shall pay to the planning authority a financial contribution of **€105,480 (one hundred and five thousand, four 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 Castlebar Town Council Development Contribution Scheme 2011 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. 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 An Bord Pleanála to determine.*

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.

Condition No 15 to be amended as follows:

Model ABP condition on Fenestration and external finishes.

Reasons and Considerations

The boundary treatments proposed in drawing no.18.258.Boundary 01 (received 22/06/18) are consistent with the standards for residential development (section 14.4.4. *Overlooking / Minimum Rear Garden Size*) in *Castlebar Town and Environs Development Plan 2008-2014* (the operative Development Plan) and condition no.4 is therefore unwarranted; the planning authority did not properly apply the terms of the development contribution scheme adopted under Section 48 of the Act, being the *Castlebar Town Council Development Contribution Scheme 2011*, and it is necessary therefore to amend the contribution figure applied under condition no.17; the requirement to provide an artistic feature constitutes double charging as a contribution is applied in this regard under the development contribution scheme, and condition no.16 is therefore unwarranted; and the requirement for security bond does not fall within the scope of a scheme adopted under section 48 of the Act and the inclusion of same under a condition no.17 is unwarranted and should properly be attached as a standalone condition, the nature and phasing of which is at discretion of the planning authority; the elevation treatment including fenestration and all finished materials should be submitted to the Planning Authority and therefore condition no.15 is included.

Board Member:

Date: 21/02/2019

Terry Ó Niadh