

Board Order PL 16.249242

Planning and Development Acts 2000 to 2017

Planning Authority: Mayo County Council

Planning Register Reference Number: P17/71

Appeal by John and Michael Patten care of The Planning Partnership of McHale Retail Park, Castlebar, County Mayo in relation to the application by Mayo County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 11 of its decision made on the 14th day of August, 2017.

Proposed Development: Development consisting of (1) the demolition of the existing buildings on site and (2) the construction of a new nine bedroomed purpose built Hostel facility with lounge and dining facility and multi-purpose common room with all necessary ancillaries to the Hostel including a new wastewater treatment plant and car park facilities along with all necessary site works and ancillaries at Derreens, Achill, County Mayo.

Decision

The Board, 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 had not been properly applied in respect of condition number 11 and directs the said Council to AMEND condition number 11 so that it shall be as follows for the reasons stated.

11. The developer shall pay to the planning authority a financial contribution of €1,642.20 (one thousand, six hundred and forty-two euro and twenty 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, 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.

Reasons and Considerations

Having regard to the absence from the Mayo Development Contribution Scheme 2004, as amended, of a method of calculating the dwelling equivalent of commercial development, it is considered appropriate in this case to use a standard of 150 square metres of commercial floorspace being equivalent to a dwelling, which standard was advocated in the appeal and has previously been used by the planning authority and An Bord Pleanála in similar cases. The permitted development of 346 square metres would, therefore, be equivalent to 2.3 dwellings.

Furthermore, the terms of the Development Contribution Scheme do not provide for a reduction in the amount of the contribution in respect of buildings that are to be replaced on a site, and the Board's role in appeals under section 48(10) of the Planning and Development Act 2000, as amended, is restricted to a determination of the application of the terms of a Contribution Scheme rather than the imputation of terms into a Scheme that are not contained within it, and cannot take into account the 2013 Guidelines, as no change has been made to the Scheme in this regard.

A charge of €357 per dwelling equivalent is, therefore, due under each of the categories of Amenities and Community/Open Space/Recreational Facilities under Schedule 1 of the scheme. In the absence of any response by the planning authority to the appeal, and the lack of any specification by the planning authority of any actual road works or lengths of footpaths under the categories of Roads and Footpaths, it is considered that the amount of the contributions due under these categories should be zero.

It is, therefore, considered that the terms of the Development Contribution Scheme were not property applied in this instance, and that a reduced contribution is appropriate.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Member of An Bord Pleanála duly authorised to authenticate the seal of the Board.

Dated this day of 2017

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