



Planning and Development Acts 2000 to 2018

Planning Authority: Mayo County Council

Planning Register Reference Number: P17/1061

Appeal by Gene McConway care of The Planning Partnership of McHale Retail Park, Castlebar, County Mayo against the decision made on the 12th day of July, 2018 by Mayo County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of 68 number units comprising 34 number four bedroom semi-detached houses, 14 number three bedroom semi-detached houses, eight number four bedroom detached houses, 12 number three bedroom terraced houses, also include ancillary site works, open space, landscaping and access roads at Newport Road, Snughborough, Castlebar, County Mayo.

Decision

Having regard to the nature of the condition(s) the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE conditions numbers 4 and 16 and the reasons therefor, to AMEND conditions numbers 15 and 17 so that they shall be as follows for the reasons set out and to ATTACH a further condition so that it shall be as follows for the reason set out.

15. Details of the materials, colours and textures of all the external finishes including fenestration to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

17. 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.

New Condition

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.

Reasons and Considerations

The boundary treatments proposed in drawing number 18.258.Boundary 01 received on the 22nd day of June, 2018 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 number 4 is therefore unwarranted. The planning authority did not properly apply the terms of the development contribution scheme adopted under section 48 of the Planning and Development Act 2000, as amended, being the Castlebar Town Council Development Contribution Scheme 2011, and it is necessary therefore to amend the contribution figure applied under condition number 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 number 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 Planning and Development Act 2000, as amended and the inclusion of same under condition number 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 number 15 is included.

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.

Terry Ó Niadh

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2019.