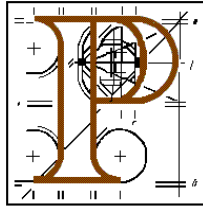


An Bord Pleanála



Inspector's Report

PL16. 245545

DEVELOPMENT: 2 windows on the side of a commercial building

ADDRESS: Castlebar Retail Park, Breaffy Road, Castlebar,
Mayo

PLANNING APPLICATION

Planning Authority: Mayo County Council

Planning Authority Reg. No.: 15//441

Applicants: Julia and Brendan Chambers

Application Type: Permission

Planning Authority Decision: Grant permission subject to conditions

APPEAL

Appellants: Julia and Brendan Chambers

Type of Appeal: 1st party vs. financial contribution

Observers: None

INSPECTOR: Stephen J. O'Sullivan

1.0 INTRODUCTION

- 1.1 This report deals with a first party appeal against a condition requiring a financial contribution on a permission to alter a warehouse.

2.0 SITE

- 2.1 The site lies on the outskirts of Castlebar within a recently constructed estate of functional commercial buildings. It consists of the curtilage of one such building that has a stated floor area of 992m² on two storeys. It is currently empty.

3.0 PROPOSAL

- 3.1 It is proposed to install two windows onto the side elevation of the building on the site. The windows would serve first floor offices.

4.0 SCHEME

- 4.1 A contribution scheme was adopted by the planning authority under section 48 of the planning act in 2004, with the applicable rates updated in on 31st December 2006. There is no indication on the file that any further amendment or any new scheme has since been made by the planning authority. The rates are set out in column 2 of schedule 1 on the scheme, and the basis on which those rates are applied in column 3.
- 4.2 The rates applied to commercial development include a variable amount for roads that relate to the actual cost of road works apportioned pro rata; €357 is payable for amenities for each equivalent of a dwelling; €357 is payable for community, open space, recreational facilities for each equivalent of a dwelling; and €238 shall be payable for each linear metre of footpath.
- 4.3 The rates applied to industrial development include a variable amount for roads that related to the actual cost per HGV; €357 is payable for amenities for each 3 employees; €357 is payable for community, open space, recreational facilities for each equivalent of a dwelling; and €238 shall be payable for each linear metre of footpath.

5.0 HISTORY

- 5.1 Reg. Ref. 00/2319 – On the 6th June 2001 the planning authority granted permission for a business park that included a warehouse/workshop building on the current appeal site. Condition no. 6 restricted office uses in the authorised buildings to those ancillary to the principal business in each of the buildings.

Reg. Ref. 03/2242 – In November 2003 the planning authority granted permission for variations to the development authorised under 00/2319. Condition no. 4 required the payment of €5,000 to the planning authority for amenities that would benefit the development.

6.0 DECISION

6.1 The planning authority decided to grant permission subject to 4 conditions. Condition no. 4 required €2,471 to be paid in accordance with the section 48 contribution scheme, comprised of €1,519 for roads, €357 for amenities, €357 for community, open space and recreational facilities and €238 for footpaths.

7.0 REPORTS TO THE PLANNING AUTHORITY

7.1 Planner's report – A grant of permission was recommended, including a condition requiring a contribution in the same amount and manner as that required by the planning authority's decision. The basis for the calculation of the amount to be paid under each heading was not set out.

8.0 GROUNDS OF APPEAL

8.1 Development contributions were paid under the planning permissions that authorised the building on the site - Reg. Ref. Nos. 00/2319 and 03/2242. The development that is now proposed would involve no additional use of local authority services. The estate containing the site has not been taken in charge by the planning authority. The contribution imposed by the planning authority in this case amounts to double charging; the basis for the imposition has not been explained by the planning authority; and the amounts are excessive in relation to the proposed works.

9.0 RESPONSES

9.1 The planning authority did not respond to the appeal, nor to a request under section 132 of the planning act that it submit the basis for its calculations.

10.0 ASSESSMENT

10.1 The planning authority has not indicated how it applied the terms of the contribution scheme in its calculation of the contribution that would be required by condition no. 4 of its decision. The proposed development would not provide additional floorspace and it could not be reasonably regarded as equivalent to a dwelling. It would not require any road works or the construction of any footpaths. Therefore, following the basis for the determination of contributions for commercial or industrial development set out in column 3 of schedule 1 of the adopted contribution scheme, no actual contribution is required in respect of the authorised development.

12.0 RECOMMENDATION

12.1 I recommend that the board omit condition 4 of the planning authority's decision.

REASONS AND CONSIDERATIONS

The proper application of the rates set out in column 2 of schedule 1 of the contribution scheme adopted by the planning authority on the basis set out in column 3 of that schedule determines that no contribution is payable under the scheme in respect of the authorised development, which is of limited scale and significance.

Stephen J. O'Sullivan
12th January 2016