



An
Bord
Pleanála

Inspector's Report PL16.248176

Development	Demolition of 2-storey building and construction of retail premises, adaption of boundary wall, construction of wall, shopfront, signage, drainage, lighting and associated works.
Location	Market Street, Castlebar, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	16/589
Applicant(s)	Jackita Ltd.
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	First party against condition
Appellant(s)	Jackita Ltd.
Observer(s)	None
Date of Site Inspection	None required
Inspector	Donal Donnelly

1.0 Site Location and Description

- 1.1. The appeal site is located on Market Street in Castlebar town centre, Co. Mayo. The site comprises a derelict street fronting shop unit with associated outbuildings to the rear. The gross floor area of existing buildings on site is given as 295 sq.m.
- 1.2. The site extends back a distance of approximately 100m, with the rear boundary addressing Castle Street public car park. The stated area of the site is 0.17 hectare.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following works:
 - Demolition of existing derelict 2-storey building on Market Street;
 - Construction of a new part 2-storey part 3-storey commercial retail premises;
 - Demolition of existing outbuildings, boundary walls and fencing;
 - Adaptation of the rear boundary wall;
 - Construction of a new boundary wall, vehicular drop-off, shopfront, new signage, landscaping, drainage, lighting and all associated site works.
 - Gross floor area of proposed works: 1,626 sq.m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Mayo County Council issued notification of decision to grant permission for the proposed development subject to five conditions.
- 3.1.2. Condition No. 17 the subject of this appeal states as follows:

“The following contribution shall be paid to Mayo County Council prior to commencement of the development. The development contributions shall increase in accordance with the Wholesale Price Index for Building and Construction in January of each year from the date of grant of permission up to the date that payment is made to Mayo County Council:

- *Amenities* €3,166.59
- *Roads* €13,473.53
- *Footpaths* €2,111.06
- *Community open space and recreational facilities* €3,199.59
- *Car parking* €116,718.00
- *Surface Water* €5,286.52

Reason: *To comply with Mayo County Council's Development Contribution Scheme."*

3.2. Planning Authority Reports

- 3.2.1. The recommendation to grant permission, as outlined in the Planner's Report, reflects the decision of the Planning Authority.
- 3.2.2. The Road Design Office states that it has no objection to the proposed development subject to conditions. It is advised that the proposed development generates an additional requirement for 22 no. car parking spaces¹ and the developer shall arrange for payment to the Council as a contribution towards expenditure that has or may incur in respect of road improvements services which facilitate the proposed development.
- 3.2.3. It is noted that the ground floor retail (146.1 sq.m. at 1 space per 25 sq.m.) and first floor residential (122.4 sq.m. – 3 spaces) would generate a requirement for 9 no. spaces. The proposed office (569.3 sq.m. at 1 space per 45 sq.m.) and retail (446.7 sq.m. at 1 space per 25 sq.m.) would generate a requirement for 31 no. spaces.
- 3.2.4. The Planner's Report sets out the calculation in accordance with the Mayo County Council Development Contributions Scheme, 2007 and the Castlebar and Environs Development Plan 2008-2014 (as varied). It is stated that there will be a net increase in floor area of 1,331 sq.m. which is a housing equivalent of 8.87. The net increase in retail floorspace of 225.67 sq.m. would require 11 no. spaces (1 space per 20 sq.m.) and the total office floor area of 1,025.9 sq.m. would require 41 no.

¹ Based on County Development Plan parking standards for retail and office space.

spaces at 1 space per 25 sq.m. There are 3 no. disabled parking spaces being provided on site and the deficit will therefore be 49 no. spaces.

4.0 Planning History

4.1. No planning history.

5.0 Policy Context

5.1. Castlebar and Environs Development Plan, 2008-2014

5.1.1. The appeal site is zoned "town centre" where the objective is to *"enhance the special physical and social character of the existing town centre and to provide for new and improved ancillary services."* The site is also within Regeneration Lands.

5.1.2. It is stated under section 14.8.1, Contributions and Securities that *"developers will be required to make financial contributions, as a condition of a grant of planning permission, towards the cost of infrastructure services, already provided, or proposed to be provided at a future date by the Local Authority, and which are necessary to properly develop the area in the public interest, or which otherwise facilitate private development. The works required would be carried out to the design and specification and under the supervision of the Planning Authority. The level of development contributions required will be determined by the Development Contributions Scheme prepared by the Council under Section 48 of the Planning and Development Act 2000 and any supplementary Development Contributions Scheme prepared under Section 49 of the said Act."*

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal was submitted on behalf of the applicant in relation to Condition 17 of the Council's notification of decision to grant permission. The appeal submission includes amended plans showing the replacement of a permitted landscaped lawn to the rear of the site with 34 no. car parking spaces accessed from Castle Street car park to the rear.

6.1.2. The grounds of appeal and main points raised in this submission can be summarised as follows:

- It is important to consider the application in the context of the broader aspirations of the town when considering the implications of the car parking levy imposed under Condition 17.
- It is envisaged that a second phase of the development would comprise a “mirror” of the application scheme to provide a new frontage onto the car park to the rear – this would provide a template for a new streetscape.
- Car parking provision, as conditioned, is both punitive to this scheme and future schemes; acts as a disincentive to any future development by landowners on Main Street; and is contrary to the promotion of ideals around the development of a second street frontage.
- Car parking levy makes Phase 1 of the scheme financially unviable and therefore Phase 2 also unviable – this is a retrograde step in the future development of Castlebar town centre.
- It is stated in the Castlebar and Environs Development Plan, 2008-2014 (extended to the life duration of the Mayo County Development Plan, 2014-2020) that *“within the centre of town – this is within the E1 and E2 zoned – rigid adherence to these standards will not be required. It will often be more appropriate to utilise public parking or multi-storey car parks”*.
- There should be a dispensation around the provision of car parking with a view to promoting development in the town centre.
- Castle Street car park has in excess of 185 spaces and McHugh’s car park on the other side of Main Street has more than 290 public spaces. There are also hundreds of spaces elsewhere in the town centre in close proximity to the site.
- There is adequate car parking to serve the retail operations in the town and therefore the spaces or levies are not justified.
- Four spaces should have been offset against the Council’s calculation of 49 spaces, as credits have not been allocated to the previous first floor of the building (offices). There was also an entitlement for 2 no. on-street spaces for

the previous shops. Ancillary buildings should also be considered, which would allow for a credit of at least 7 no. spaces at ground level and 7 no. at upper level.

- Proposal for increase in the provision of car parking is put forward for the Board's consideration – however, this does not resolve the parking situation for any future Phase 2 development.

7.0 **Assessment**

- 7.1. This is an appeal against a financial contribution condition only attached to Mayo County Council's decision to grant permission for the demolition of a 2-storey building on Market Street, Castlebar and the construction of part 2-storey part 3-storey commercial/ retail premises.
- 7.2. Under Section 48 10 (b) of the Planning and Development Act, 2000 (as amended), an appeal may be brought to the Board where an applicant for planning permission considers that the terms of the Development Contribution Scheme have not been properly applied in respect of any condition laid down by the Planning Authority.
- 7.3. Condition 17 requires the developer to pay contributions totalling €143,955.29 in respect of amenities; roads; footpaths; community open space and recreational facilities; car parking; and surface water to comply with Mayo County Council's Development Contribution Scheme.
- 7.4. From the outset it should be noted that the applicant has submitted revised plans with the appeal submission that show a permitted area of landscaped lawn replaced with car parking for the Board's consideration. As noted above, the appeal relates solely to the proper application of the terms of the Scheme adopted under Section 48 of the Act in respect to the condition under appeal. Thus, I would be of the opinion that the Board cannot consider any revised plans within an appeal under Section 48 10 (b).
- 7.5. The appellant has also raised a number of other issues which relate to the unfairness or otherwise of the contribution applied rather than the application of the development contributions scheme. In this regard, the Board cannot consider the

application in the context of the future development of the site or the wider town centre, or the existing provision of car parking in the surrounding area.

- 7.6. The applicant implies that the Development Contribution Scheme was misapplied, as credit was not given for pre-existing development. It is stated in the Development Plan that *“in dealing with planning applications for change of use or for replacement buildings, an allowance will be given for the former site use in calculating the car parking requirements generated by new development. Furthermore, in relation to infill development a flexible application of the car parking standards will be considered”*. The Planning Authority has used a figure of €2,382 per space for the purposes of calculating the car parking requirement, (52 no. spaces). This is based on the floor area of 1,026.451 sq.m. office use and a 225.665 sq.m. increase in retail floorpace, together with the Development Plan car parking standards of 1 car space per 25 sq.m. of gross floor space for office use and 1 car space per 20 sq.m. of gross floor space for shops. Three disabled spaces are proposed on site which results in the 49 space deficit.
- 7.7. The applicant submits that no allowance has been made for the previous office use at first floor level (122 sq.m.), which would have had a car parking provision of 5 no. spaces despite the fact that an allowance was made for the pre-existing retail use at ground level. Furthermore, ancillary buildings to the rear were demolished before the applicant took ownership of the site. It is submitted that these buildings would have been in retail warehousing use and had a total floor area of 716 sq.m. This would result in a further provision of 14 no. spaces. It is also considered that there was an entitlement for 2 no. on-street spaces for the previous shops. In my opinion, it is reasonable to include all pre-existing uses and floor areas for the purposes of the calculation. On-street parking, however, is for public use and there would be no entitlement for dedicated spaces.
- 7.8. The Planning Authority has used a figure of 8.87 housing equivalent to calculate the contributions for amenities, roads, footpaths, community open space and recreational facilities and surface water. The existing floor area is deducted from the proposed floor area within this calculation. However, a total floor area of 1,626 sq.m. was used when the total floor area, as submitted with further information plans, was reduced to 1,547.116 sq.m. The calculations for amenity, roads, footpaths and

community open space and recreational facilities should therefore be amended to reflect same.

7.9. Having regard to the above, I consider that the development contributions payable are as follows:

Category	Amount of Contribution (€)	Housing Equivalent	No. of Spaces	Amount Payable (€)
Amenities	357	8.35		2,980.95
Roads	1519	8.35		12,683.65
Footpaths	238	8.35		1,987.30
Community, Open Space & Recreation	357	8.35		2,980.95
Surface Water	596	8.35		4,976.60
Car parking	2,382		30	71,460
Total				97,069.45

7.10. It should also be noted that the Mayo County Council Development Contribution Scheme 2004 (updated 2007) makes provision for reduced contributions where the Council, at its own and absolute discretion, considers that the payment of the contribution would not be just and reasonable having regard to any of the following:

- The limited extent of the development;
- The limited cost of the development;
- Other exceptional circumstances.

7.11. It is stated that the amount payable for any reduced contribution shall not be less than one quarter the amount indicated opposite the relevant category of development, and a decision to allow a reduced contribution must be accompanied by a statement specifying the reasons for the decision.

7.12. Notwithstanding the above, I consider that the development contribution calculated above is reasonable for the scale of the development and there are no other exceptional circumstances that would warrant a reduction in the rate payable.

8.0 Recommendation

- 8.1. It is recommended that Condition 17 should be amended for the following reasons and considerations.

9.0 Reasons and Considerations

The Board, in accordance with section 48 of the Planning and Development Act, 2000, (as amended) considered that the terms of the Mayo County Council Development Contribution Scheme for the area had not been properly applied in respect of Condition 17 and directs the said Council to AMEND said condition to reflect the accurate reckonable floor area following request for further information, and to give full allowance to the former use of the site in calculating the car parking requirements generated by the new development.

10.0 Conditions

17. The developer shall pay to the planning authority a financial contribution of **€97,069.45** (ninety seven thousand and sixty nine euro and forty five cents) 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.

Donal Donnelly
Planning Inspector

25th May 2017