



An  
Bord  
Pleanála

## Inspector's Report ABP-302292-18

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<b>Development</b>	Erection of 68 houses
<b>Location</b>	Newport Road, Snugborough, Castlebar, Co Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	171061
<b>Applicant(s)</b>	Gene McConway / Wyckam Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	
<b>Type of Appeal</b>	First Party against conditions
<b>Appellant(s)</b>	Gene McConway / Wyckam Ltd.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	27/11/18
<b>Inspector</b>	John Desmond

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## 1.0 Site Location and Description

- 1.1. The site is located on the west side Castlebar town, within the contiguous built up suburban area. The site has been subject to extensive preparatory works, including excavations and use for storage, presumably associated with a grant of permission for the development of the wider suburban development to which the proposed development will be connected.

## 2.0 Proposed Development

- 2.1. It is proposed to erect 68no. dwellings.

## 3.0 Planning Authority Decision

### 3.1. Decision

To **GRANT** permission subject to 17no. conditions. The following conditions are subject of this first party appeal:

**No.4** – *The boundary treatment between all dwelling houses and the perimeter boundary treatment shall consist of a block wall, capped with a nap plaster finish. All walls facing open public view shall be stone faced on both sides. To comply with this condition a site layout plan shall be submitted indicating the boundary treatment to be used throughout the site by means of a colour coded reference key. In addition please submit details including elevations and plans, which indicate the heights, depths and detailed finishes of the walls.*

*Reason: In the interests of residential amenity.*

**No.15** – *Final elevations of the dwelling houses to be agreed in writing with Mayo County Council prior to the commencement of any development on site. The elevations should detail all external finishes including fenestration and all finished materials including the type and colour scheme to be used.*

*Reason: In the interests of visual amenity.*

**No.16** – *The developer shall provide an artistic feature, the effect of which would, in the opinion of Mayo County Council, stimulate public interest in the Arts or promote the knowledge, appreciation and practice of the Arts. The developer shall provide the feature before the development is completed and full details shall be submitted to and agreed in writing by Mayo County Council prior to the installation of the feature.*

*Reason: In the interests of visual amenity.*

**No.17** – *The following contributions 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:*

- €24,276 Amenities
- €103,292 Roads
- €16,184 Footpaths
- €24,276 Community open space and recreational facilities
- €40,528 Surface water drainage
- €16,184 Housing estate
- €272,000 Cash deposit

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

### **3.2. Further information (21/02/18)**

Sought on 9no. points relating to (1) proposed mix of house types, (2) Japanese knotweed onsite, (3) boundary treatments, (4) construction works programme, (5) play area, (6) landscaping plan, (7) FFLs of existing neighbouring houses and location of ESB substation, (8) RSA stage 1, and (9) ownership of lands to west and issue of proposed access to development.

A note advised that access through the existing housing estate is unacceptable in terms of traffic safety; the layout and design is unacceptable and revised suitable mix of house types and sizes with design respecting border location with rural landscape and visual amenity of the countryside, vernacular traditions and safeguard the built

and natural environment, in addition to setting out detailed layout (related to traffic) and design advice (single-storey housing to north, issue of bulky design and complication fenestration).

### 3.3. **Clarification of further information (19/06/18)**

Sought on 2no. points relating to (1) anomalous boundary treatment details, and (2) letter of consent to relevant land owner allowing construction traffic access.

A note advised bulk and scale of design needed to be reduced (omit protruding pitched roofs and gables), simplify fenestration and requiring all roofs to be pitched roofs.

### 3.4. **Planning Authority Reports**

#### 3.4.1. Planning Reports

The **planner's report (03/07/18)** is consistent with the decision of the planning authority to grant permission and the conditions attaching thereto.

The **planner's report of 20/02/18** is the same as the official further information request except without numbering.

The **planner's report of 18/06/18** is the same as the official clarification of information request.

#### 3.4.2. Other Technical Reports

**NRDO (25/01/18)** no issues relevant to the office.

**SEE (09/02/18)** raised no objections subject to compliance with standard type conditions relating to roads and footpath construction standards, minimum estate road width of 6m, surface water drainage requirements including compliance with SuDS, public lighting standards, dishing of footpaths at all junctions, traffic signage and markings, and 2no. onsite parking spaces per dwelling.

**EE Castlebar Area (email 21/02/18)** requested that the applicant submitted further information concerning specific details of surface water drainage and concerning the possibility of providing a pedestrian footpath along L17253.

### 3.5. **Prescribed Bodies**

None

### 3.6. **Third Party Observations**

None

## 4.0 **Planning History**

**Reg.Ref.P03/3076** - The planner's report (03/07/18) refers to this case as the original planning permission granted on the application site. I was unable to locate this case on Mayo County Council's online planning search facilities.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

**Castlebar and Environs Development Plan 2008-2014** (extend to 2020 by resolution of the County Council).

Land use zoning objective – New residential (medium density). Residential Phase 1  
Section 14.4.4 Overlooking / Minimum Rear Garden Size

### 5.2. **Other relevant documents**

Castlebar Town Council Development Contribution Scheme 2011

Mayo County Council Development Contribution Scheme 2004

### 5.3. **Natural Heritage Designations**

River Moy SAC site code 002298 c.4.3km at nearest distance (to northeast), but c.21km downstream of the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of the first party appeal can be summarised as follow:

#### General

- Appeal against conditions nos. 4, 15, 16 and 17.
- Part A of the appeal is made under s.37(1) and 139 of the Act.
- Requests the Board to limit its considerations only to the conditions. Any other consideration would be unwarranted due to the nature of the conditions not impact on any other aspect of the proposed development.
- Should the Board determine to consider the case de novo, the appellant requests to be given the opportunity to make its full case in support of the development in the interest of natural justice.
- Part B of the appeal against development contribution condition no.17 is made under the provisions of s.48(10)(b) of the Act, where the terms of the DCS have not been properly applied.

#### Part A

##### Condition no.4 specifying block and stone wall boundaries

- This condition concerning boundary treatment should be amended. The details (Drawings no.18.258 Boundary01) submitted 22/06/18, comprising concrete posts and concrete panel fence treatments consistent with prevailing treatment in previous phase of the Dun Beag and Carrabeag scheme, should be upheld and would be covered by standard condition no.1.
- The requirement for capped and plastered block walls is excessive and will add significantly to cost per unit, at c.€2000, totalling €136,000, seriously jeopardising the viability of the project, with the local housing market in recovery mode and very little construction taking place due to tight margins.



- Concrete post and panel fencing is considerably more efficient, is a finished solution that does not require painting or staining and is far easier to repair and maintain than block walls.
- There is no policy in the Plan requiring block wall boundaries.
- The applicant is amenable to providing stone facing to the external side of walls facing public view but considers double-sided stone walls to be unnecessary and unjustifiable in terms of substantial additional cost for no material benefit.
- Low level 2-sided stone walls are proposed to the front of dwellings as per Drawings no.18.258 Boundary01.
- A timber post and rail fence is proposed to the northern site boundary as per Drawings no.18.258 Boundary01 in order to address the requirement of the planning authority that the existing hedgerow be maintained to the greatest extent possible. The construction of a block wall, necessitating considerable ground and clearance works could impact on the hedgerow. The timber fencing would complement the visual amenities and the natural hedgerow which is a barrier in itself.

**Condition no.15 requiring final elevations to be agreed**

- Unwarranted requirement having regard to the extensive discussions prior to lodgement and during the planning application regarding design and elevational treatments.
- The applicant revised the elevation treatments where appropriate having regard to comments of the planning authority, and the elevations are of a high quality and an appropriate style for the location and for market demand, determined through in-depth analysis of the market and observing contemporary development elsewhere.
- The planning authority is imposing stylistic preferences.
- It is not the role of the planning authority to dominate the design process but to assess the qualities of the proposed development.

- A review of the FI and RFI shows that the design commentary appears to be style-led and focussed on fenestration as opposed to any concern regarding the quality of the proposals in terms of materials, etc.
- DoEHLG's *Delivering Homes, Sustaining Communities* (2007) recognises that some questions of design come down to individual taste and preference and that what matters is quality, not style.

#### **Condition no.16 requiring provision of artistic feature**

- This condition is unwarranted in the context of the DCS including a levy for Artistic Features.
- The planning authority have not applied an Artistic Feature levy, but the application of the DCS would include such a levy (€4,500) and render condition no.16 moot or constitute double charging.
- Condition no.16 should be omitted and the DCS levy for Artistic Feature be addressed under condition no.17.

#### **Condition no.17 requiring payment of a cash deposit**

- The wording refers to the €272,000 cash deposit as part of the s.48 DCS condition, whereas it relates to an operational matter.
- The requirement for upfront payment represents a significant and detrimental imposition to the viability of the proposed development.
- Requests that security be provided on a phased basis as the development is intended to be carried out on a phased basis, and that an insurance bond be allowable in lieu of a cash deposit as is common practice.
- The Board has modified conditions to this effect – PL46.227898 and PL46.227310.
- An appropriately formulated insurance bond should be no more difficult to redeem where necessary than a cash deposit.
- Suggested wording for condition no.16:

*Prior to the commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, or other security in*

*the total amount / value of €272,000 (or phased portions thereof) to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the proposed 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.*

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

## **Part B**

### **Condition no.17 S.48 DCS condition to sum of €224,740.**

- Requests condition be revised to a total sum of €144,660 [*total actually calculates at €144630*] with the following breakdown:
  - €30,600 surface water services (reduced from €40,528 SW drainage)
  - €18,360 amenities (reduced from €24,276)
  - €24,480 road maintenance / repair (reduced from €103,292 roads)
  - €9,180 footpaths & public lighting (reduced from €16,184 footpaths)
  - €4,500 artistic feature (new inclusion; subject of separate condition no.16 without sum specified)
  - €12,240 community, open space & recreational facilities (reduced from €24,276)
  - €3,030 recycling facilities (new inclusion)
  - €12,240 housing estate takeover (reduced from €16,184)
- The Castlebar Town Council DCS 2011 applies not the Mayo DCS 2004.
- The amalgamation of the town council into the county council functional area does not render the CTC DCS redundant; it remains in force, as do the other instruments adopted by the TC prior to its abolition / amalgamation.

- S.25(1)(a) of the Local Government Reform Act 2014 states:  
*All acts done and decisions duly made, whether by resolutions, manager's order or otherwise, before the transfer date in respect of a town council shall, subject to this Act, continue to have all such force and effect as they had immediately before that date.*
- The CTC DCS has not been repealed and has not been superseded by a contemporary County Mayo DCS.
- The County DCS 2004 was formulated based on the exclusion of development and infrastructure within the TC functional area and has no applicability to the TC geographical area.
- Mayo County Council has inherited the CTC DCS which operates in parallel with and over a separate geographical area to the County DCS as facilitated by s.48 of the Planning and Development Act 2000, as amended.
- The CTC DCS scheme rates are considerably lower than the County DCS and the imposition of the latter would result in a significant financial burden on the proposed development, inconsistent with that applied to the Dun Beag and Carrabeag schemes.

## 6.2. Planning Authority Response

None received.

## 7.0 Assessment

7.1. This is an appeal against conditions attaching to a grant of permission for a medium sized suburban housing scheme in Castlebar. The conditions under appeal include condition no.17, a development contribution condition attached under section 48(1) of the Act; condition no.16, requiring the provision of an artistic feature within the development; and two conditions that fall within the scope of section 34(4) of the Act, no.4 relating to boundary treatment and no.15 relating to agreeing of final elevations of dwelling houses. As the appeal is not limited to an appeal against a contribution condition the Board is not restricted to consideration of the condition only under section 48(10), however having regard to the nature of the conditions subject of appeal, I would advise the Board that determination of the application as if it had been made to the Board in the first instance is not warranted and the Board should exercise discretion under section 139(1) and limit its considerations to the content of the appeal.

### 7.2. Condition no.4 specifying boundary treatment

7.2.1. I consider the proposed boundary treatments as detailed in drawing no.18.258.Boundary01 (received 24/05/18), which are location specific, to be consistent with those provided at the existing neighbouring development to the southeast and southwest and to be reasonable within their proposed and therefore to be generally acceptable. The development management standards under the Castlebar Town & Environs Development Plan (Section 14.4.4 *Overlooking / Minimum Rear Garden Size*) allows that rear garden boundaries to housing development may be demarcated by, *inter alia*, fences of substantial construction and the applicant's proposals are therefore consistent with the Plan. I am satisfied that the planning authority should be directed to OMIT condition no.4.

### 7.3. Condition no.15 requiring final elevations to be agreed

7.3.1. The planning authority issued a further information (on 9no. points) request and clarification request (2no. points), neither or which requested the applicant to revisit

the elevational treatment of the proposed dwellings. However an advice notes appending to the requests advised (FI) that the design approach should respect the vernacular traditions in order to safeguard the built and natural environment at the edge of settlement location; and (CFI) the Georgian design should be reconsidered for a more vernacular design, bulk needs to be reduced through omitting protruding pitched roof and gables, overcomplicated fenestration should be simplified and requiring all roofs to be pitched roofs. The applicant made some amendments to the design through further information submission and clarified other aspects of the design, including material finishes, but declined to make amendments through the clarification of further information submission.

7.3.2. The proposed development is a suburban housing scheme on the periphery of a reasonably large country town. There is a variety of house sizes, with a coherent style to the scheme. The style is not so dissimilar to the design of the existing neighbouring suburban estates. The proposed development is not adjacent or in close proximity to a significant area of vernacular buildings, such as might exist within the historic centre of a rural settlement or town, which could set contextual basis for implementing a vernacular design. In general, I see no issue with the proposed design.

7.3.3. It is an objective (RHO 3) under the Plan to ensure that new housing in the low-density zoned lands, respect the character, visual quality environment and amenity of the countryside and its vernacular traditions in order to safeguard the built and natural heritage of the area. As the site is zoned for medium density housing, not low density, objective RHO 3 does not apply. There would appear to be no other policy, object or standard requiring a vernacular design be applied for suburban housing development under the operable Plan. I am satisfied that the planning authority should be directed to OMIT condition no.15.

#### 7.4. **Condition 16 requiring provision of artistic feature**

7.4.1. It is a strategic objective under the Plan, section 9 Natural Environment and Recreation, '*To promote the maintenance and development of opportunities for sport, recreation, leisure and the arts in accessible locations, in order to meet the needs of local communities and the overall population of Castlebar and its environs.*'

- 7.4.2. The Plan, chapter 12 Town Centre (12.12 Amenity), considers amenity value of the town centre can be considerably enhanced through environmental improvements including public art and it is the policy (TCP 6) '*to seek the enhancement of the environmental quality and physical appearance of the town centre, through the use of street furniture, public art, tree planting and general landscaping, where feasible.*' The site is not located in the town centre but on peripheral phase 1 residential zoned lands. There is no policy or objective under the operative Development to require the provision of an artistic feature as part of a housing development or any other development.
- 7.4.3. Whilst section 34(1) provides significant latitude to the planning authority in attaching conditions to a grant of permission, section 34(4) provides some guidance on the scope of conditions that may be attached and it is evident that a condition requiring provision of an artistic feature would not fall within the provisions of the said subsection and imposes an additional financial burden (of unspecified sum) on the development without justification under the statutory plan.
- 7.4.4. I do not consider condition no.15 to meet the basic criteria for conditions under the Development Management Guidelines (2007) which indicates that any condition attached should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable. I am satisfied that the planning authority should be directed to OMIT condition no.16.

#### 7.5. **Condition no.17 requiring payment of a cash deposit**

- 7.5.1. The Plan, Section 14.8.1 *Contributions and Securities*, provides that the planning authority will require developers to provide a security for the proper completion of proposals, the sum of which will be linked to the quantity of roads, footpaths, lighting services and open space proposed. For larger schemes developed in phases, it allows for provision of security on a phased basis as each phase is commenced. It is a requirement of the Plan (section 14.8.3 *Management Companies*) that only a cash deposit shall be accepted as security/ bond for the proper completion of the development.
- 7.5.2. The planning authority attached a requirement for payment of a cash security bond of €272,000 as part of the section 48 development contribution condition. The

appellant does not dispute the attaching of a security deposit, or the sum applied, but correctly points out that the requirement for a security deposit should not be included as part of its development contribution condition but attached as a separate condition.

- 7.5.3. The appellant requests that it be permitted to provide the required security on a phased basis as the development is intended to be carried out on a phased basis. This is reasonable and is allowed for under the Plan, although I could locate no drawing indicating the intended phases of development. Department Circular Letter PL11/2013 advises that schemes in excess of 50 dwellings should allow for phased security. A condition requiring lodgement of security for completion of the scheme should therefore allow for phased lodgement to be agreed between the parties.
- 7.5.4. The appellant also requests that an insurance bond be allowable in lieu of a cash deposit as is common practice. Departmental Circular Letter PL11/2013 confirms that it is a matter for the relevant local authority to decide what type of security to require, including a cash deposit, as part of the terms of a planning permission. It is a requirement of the Council under the Plan that such security comprise a cash lodgement. The Board's standard security for completion condition allows for the agreement of the type of security to be lodged, which would allow the local authority require cash security, or an alternative.
- 7.5.5. I am satisfied that the planning authority should be directed to ATTACH a separate condition to secure the completion of the development to the sum of €272,000, to allow for a phased payment in line with the phased completion of the proposed development, the form of the security to be at the discretion of the planning authority.

## 7.6. **Condition no.17 s.48(1) development contribution condition**

- 7.6.1. The appellant considers the planning authority to have incorrectly applied the terms of the *Mayo County Development Contribution Scheme 2004* (charges updated 2007) when the applicable scheme is the *Castlebar Town Development Contribution Scheme 2011*<sup>1</sup>. The CT DCS does not appear to be available on the Mayo County Council website, however the applicant has submitted a copy (adopted 14 April

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<sup>1</sup> The copy attaching to the appeal is as per the official copy notified to the Board and, accordingly, I have not appended an additional copy to my report.



2011, although the copy also states 'draft'). As section 48(2)(a) allows the planning authority to make one or more schemes in respect of its functional area, the operation of separate DCS for the county and former town council area is not incompatible with the legislation.

- 7.6.2. The Local Government Reform Act 2014, dissolving town councils, including Castlebar Town Council, provided (section 25) for the continuance of all acts done and decisions made, whether by resolution, manager's order or otherwise, before the dissolution to continue to have all such force and effect as they had immediately before that date. The CTC DCS will not have ceased to have effect by virtue only of the dissolution of the town council. In this regard, the Board has received no notification of a replacement DCS for the former town council area and I am satisfied that the CTC DCS 2011 continues as the operative scheme for the subject area.
- 7.6.3. A comparison of the development contributions applied by the Council to the permitted development under the County DCS and that which would apply under the CTC DCS are set out in table 1. The total sum calculated by the Council is €224,740 (excluding the sum of €272,000 for security deposit which does not fall within the scope section 48 DCS, as addressed above) whereas a figure of €105,480 would apply under the CTC DCS, which is consistent with the figure calculated by the appellant (under para.3.2 of the appeal) except that the applicant applied a contribution for footpaths at a rate of €135 per dwelling when the rate applies on a per metre basis. There is nothing to indicate that additional footpaths are required external to the site to accommodate the development which would tie in with the footpath network on the public road (and to Castlebar town centre) via the existing housing estate, therefore no contribution is required.

<b>Table 1</b>				
Category of contribution & sum (per dwellinghouse unless stated otherwise)	County DCS	CTC DCS	Total sum applied under C DCS based on 68no. houses	Total sum applicable under CTC DCS
Surface water services	€596	€450	€40,528	€30,600
Amenities	€357	€270	€24,276	€18,360
Roads	€1519	€360	€103,292	€24,480
Footpaths & Public Lighting (per linear m in TC; higher rate applies if land acquisition req'd)	€238	€135	€16,184	€0
		€180		
Community, Open Space & Recreational Facilities	€357	€180	€24,276	€12,240
Housing estate take-over	€238	€180	€16,184	€12,240
Car parking (per space)	-	€3150	-	€0
Recycling facilities	-	€45	-	€3,060
Artistic feature (20+ houses)	-	€4,500	-	€4,500
<b>Total</b>			<b>€224,740</b>	<b>€105,480</b>

7.7. I am satisfied that the correct contribution sum to apply to the scheme is €105,480 and that the planning authority should be directed to AMEND condition no.17 accordingly.

## 7.8. EIA Screening

7.8.1. The proposed development is development within the scope of class 10(b)(i) of part 1 of the 5<sup>th</sup> Schedule, construction of more than 500 dwelling units, but at 68no.

dwellings it is significantly subthreshold. The site is not a sensitive environment and is not adjacent or within close vicinity of a sensitive environment, including a European site, pNHA, and etc. Therefore, having regard to the nature and scale of the development and its contextual environment, I am satisfied there is no real likelihood of significant effects on the environment and the submission of an EIAR is not warranted.

## 7.9. AA Screening

7.9.1. The nearest European site is the River Moy SAC site code 002298 c.4.3km at nearest distance (to northeast), but c.21km downstream of the site via the Castlebar River and lake, which have a WFD status of Moderate upstream of Castlebar, Poor downstream of the settlement and Good before entering the European site and is At Risk of not achieving the WFD objective of Good status or better except at its lower reaches before entering the European site. The site's conservation objectives are:

- To restore the favourable conservation condition, in the River Moy SAC, of: Active raised bogs (\*priority habitat). No separate conservation objectives have been set for two habitats inherently links to that for active raised bog: Degraded raised bogs still capable of natural regeneration; and Depressions on peat substrates of the Rhynchosporion.
- To maintain the favourable conservation condition, in the River Moy SAC, of: Alkaline fens, Old sessile oak woods with Ilex and Blechnum in the British Isles, Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) (\*priority habitat), Austroptamobius pallipes (White-clawed Crayfish), Petromyzon marinus (Sea Lamprey), Lampetra planeri (Brook Lamprey), Salmo salar (Salmon), Lutra lutra (Otter).

7.9.2. Given the length and nature of the pathway connection between source and receptor being the Castlebar River and the WFD quality and risk status of the lower reaches of that watercourse upstream of and at the point of entry to the European site, and on basis of the information on file which I consider to be adequate in order to issue a screening determination, it is reasonable to conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European site no. 002298, in view of the site's

conservation objectives and a stage 2 Appropriate Assessment and submission of a NIS is not warranted.

## 8.0 Recommendation

I recommend that:

(a) conditions numbers 4, 15 and 16 be **OMITTED**

(b) condition no.17 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.*

(c) A separate condition to secure the completion of the development be **ADDED**

*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.*

## 9.0 Reasons and Considerations

The boundary treatments proposed in drawing no.18.258.Boundary01 (received 24/05/18) are consistent with the standards for residential development (section 14.4.4. *Overlooking / Minimum Rear Garden Size*) in *Castlebar Town and Environs Development Plan 2008-2016* (the operative Development Plan) and condition no.4 is therefore unwarranted; the elevation treatment is acceptable within its suburban

context and within the context of said Plan and condition no.15 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.

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John Desmond  
Senior Planning Inspector

13 February 2019