



An
Bord
Pleanála

Inspector's Report ABP-303779-19

Development	Fire escape and Retention of extension
Location	Swinford Road, Foxford, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	18983
Applicant(s)	Gerry Coleman.
Type of Application	Permission & Retention Permission.
Planning Authority Decision	Grant
Type of Appeal	First Party
Appellant(s)	Gerry Coleman.
Observer(s)	None.
Date of Site Inspection	29 th April.
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The site is located to the north east of Foxford town to the south of the N26. There is an existing kitchen sales and manufacturing facility on the site. The site slopes up gradually from the N26 and is bounded by a mature tree line and hedge to the east and west and a high earth bank to the rear.
- 1.2. The site is open and clearly visible from the public road with un-delineated car parking to the front and eastern side.
- 1.3. The existing building is industrial in appearance with large glazing panels at the front elevation and concrete plinth walls capped with silver cladding panels to the sides and rear.
- 1.4. Access to the showrooms is from the front of the building whilst access to the workshop is gained from the eastern side of the building.

2.0 Proposed Development

- 2.1. It is proposed to provide a number of fire escapes and retain alterations to an extension to the existing building.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission for the development subject to 5 conditions, of relevance is condition no. 5 as follows:

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:

- €1191 for roads
- €357 for amenities
- €357 for community open space and recreation facilities

- €238 for footpaths

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The planners report is consistent with the decision of the planning authority.

3.2.2. Other Technical Reports

- Regional Design Office – no concerns
- Architect – No concerns

3.3. Prescribed Bodies

- Transport Infrastructure Ireland – no objections

3.4. Third Party Observations

- None

4.0 Planning History

18983 Permission was **granted** for the provision of fire escapes and retention of extension

06414 Permission was **granted** to construct a new two storey showroom extension to front with new stairwell extension located to either side.

P95/330 Permission was **granted** to construct a factory comprising of production area, showroom, store and canteen.

5.0 Policy and Context

5.1. Development Plan

Mayo County Development Plan 2014-2020.

Development Contribution Scheme 2004, as revised 05/02/07

5.2. EIA Screening

5.3. The appeal is in relation to financial contributions and is not a project. The requirement for EIA therefore does not arise.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been submitted by the applicant Gerry Coleman and the issues raised can be summarised as follows:

- The contributions have been rounded up to 1 dwelling equivalent, this is incorrect and should be 0.44 dwelling equivalent.
- The Council have applied the contributions incorrectly.
- Footpath outside of site has been completed, no requirement for contributions.

6.2. Planning Authority Response

- None

6.3. Observations

- None

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 construction of fire escapes and the retention of alterations to an extension permitted under P06/414 at Swinford Road, Foxford, Co. Mayo.

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 no. 5 requires the developer to pay a financial contribution of €2,143 in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority in accordance with the terms of the Mayo Development Contributions Scheme 2004 as amended in 2007. This has been broken down into types of development as follows:
- €1191 for roads
 - €357 for amenities
 - €357 for community open space and recreation facilities
 - €238 for footpaths
- 7.4. It is contended by the applicant that the required contribution has not been determined correctly for two reasons. The applicant has carried out his own calculation and believes that the required contributions amount to €314.16.
- 7.5. The applicant's first concern is in relation to a 'rounding up' applied by the Council. It is stated by the applicant that the Council have rounded up the unit of measurement to a full single dwelling equivalent, rather than calculating the contributions based on a small proportion of a dwelling equivalent, which the applicant believes is the correct measure to apply. He states that the planner's report calculates the dwelling equivalent to be 0.44 dwelling equivalent and not 1. It is for this reason that he believes the development contributions scheme has not been applied appropriately.
- 7.6. It is further stated by the applicant that the Council has incorrectly levied for roads and footpaths, it is argued by the applicant, that under the Mayo contributions scheme these cannot be levied if already provided.
- 7.7. Most Development Contribution Schemes apply a cost per square metre in relation to commercial development. Mayo County Council however have adopted a scheme based on "cost per dwelling equivalent". The cost per dwelling equivalent is based on water consumption. The contribution as outlined in the planner's report, is based on the premise that the total water usage of a dwelling house is 600 litres per day. The formula in estimating financial contributions for commercial developments is based on a water usage of 60 litres per person per day and it is estimated that a person occupies 60sqm of commercial floor space. Therefore, it is estimated within the planners report that the proposed extension and works at 266 square metres will accommodate 4.4 persons using 60 litres of water per day per person. Based on the foregoing, it is

calculated that the water usage resulting from the proposed extension would be the dwelling equivalent 0.44. I note that this calculation has not been applied to the development and a dwelling equivalent of 1 has been utilised to calculate the financial contributions for the development. I have reviewed the Mayo Contributions Scheme 2004 as amended in 2007 and cannot find any reference within this document to justify the rounding up of the dwelling equivalent to 1.

- 7.8. It is of note that in accordance with Section 132 of the Planning and Development Act 2000, as amended, Mayo County Council were requested to submit specific comments relating to the financial contribution levied. No response has been received in relation to this request.
- 7.9. I therefore consider that in the absence of any response from the Council or reference within the contributions scheme to a practice or requirement of ‘rounding up’, the dwelling equivalent of 0.44 should be applied to the proposed development. That is the applicant should pay 44% of the contribution stipulated in Condition No. 5.
- 7.10. The following table outlines the contribution requirement per dwelling equivalent under each category as outlined in the Mayo Contributions Scheme, it also sets out the amount required as per condition no. 5 and the amended amount as calculated within the foregoing assessment.

Category	€ Amount per single dwelling equivalent (Mayo Contributions Scheme as amended 2007)	€ Amount charged by Mayo Co.co	Amended € amount at 0.44 single dwelling equivalent
Amenities	357	357	157.08
Roads	varies	1191	524.04
Footpaths	238	238	104.72
Community Open Space & Recreational Activities	357	357	157.08

Total		2,143	942.92
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- 7.11. I have considered the applicant's contention that the roads and footpaths are in situ and therefore a contribution under these categories should not apply, this is true of all urban development. I have reviewed the Mayo Contributions Scheme in this regard and note that there are no provisions within the scheme which make reference to exemptions in such circumstances. I therefore consider that there is no impediment to Mayo County Council applying contributions in relation to these categories.
- 7.12. In conclusion I consider that Mayo County Council has incorrectly applied the Mayo Contributions Scheme 2004 as amended in that the applicant has been charged for the dwelling equivalent of 1 and not 0.44.

8.0 Recommendation

- 8.1. 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 5 and directs the said Council to AMEND condition no. 5 so that it shall be as follows for the reason stated.

The developer shall pay to the planning authority a financial contribution of €942.92 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.

Sarah Lynch
Planning Inspector

30th May 2019