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Bord  
Pleanála

## Inspector's Report ABP304574-19

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<b>Development</b>	3 and 4 storey mixed-use development accommodating commercial and residential use including 13 apartments.
<b>Location</b>	The Junction of Doughiska Road and Sraith Fhada, Doughiska, Galway.
<b>Planning Authority</b>	Galway City Council.
<b>Planning Authority Reg. Ref.</b>	18/26.
<b>Applicant</b>	Evolution Asset Holdings Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	First Party -v- Financial Contribution Condition
<b>Appellant</b>	Evolution Asset Holdings Limited.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	Not Inspected.
<b>Inspector</b>	Paul Caprani.

## Contents

1.0 Introduction.....	3
2.0 Site Location and Description .....	3
3.0 Proposed Development .....	3
4.0 Planning Authority Decision.....	4
5.0 Planning History.....	5
6.0 Grounds of Appeal.....	5
7.0 Appeal Responses.....	5
8.0 Development Contribution Scheme .....	5
9.0 Planning Assessment .....	6

## 1.0 Introduction

ABP304574-19 relates to a first party appeal against a financial contribution condition in relation to a mixed-use development on the outskirts of Galway City. The grounds of appeal argue that the financial contribution was incorrectly calculated and therefore incorrectly applied in respect of the proposed development.

## 2.0 Site Location and Description

- 2.1. The 0.23 hectare site is located in the eastern environs of Galway City on a rectangular undeveloped plot of land approximately 6 kilometres from Galway City Centre. The site is located approximately 200 metres to the south-west of where the M6 Motorway terminates at the Bothar na d'Treabh roundabout. The site is currently vacant. A Lidl supermarket has recently been developed on lands to the immediate north of the subject site. The remainder of the site is surrounded by newly constructed apartment developments and townhouses.
- 2.2. As the appeal relates to a financial contribution condition only, a site inspection was not carried out for the purposes of preparing this report.

## 3.0 Proposed Development

- 3.1. Planning permission is sought for a mixed-use development ranging in height from 3 to 4 storeys on the subject site. The schedule of accommodation to be provided as part of the proposal as per the additional information submitted to the Planning Authority on the 31<sup>st</sup> August, 2018 is as follows:
  - A basement level car park providing 92 car parking spaces.
  - At ground floor level it is proposed to provide 331 square metres of café/bar/restaurant facilities as well as 110 square metres of retail accommodation.
  - At first floor level it is proposed to provide 330 square metres of café/bar/restaurant accommodation as well as residential units.

- The second floor of the building comprises of exclusively residential development.
- At third floor level it is proposed to provide 330 square metres of accommodation for use as a function room as well as residential accommodation.

3.2. In total the schedule of accommodation within the building as per the information submitted to the Planning Authority on the 31<sup>st</sup> August, 2018 is as follows:

- Basement (car parking) 1,657 square metres.
- Plant room/bin storage/services 232 square metres.
- Retail 110 square metres.
- Café/bar/restaurant/function room 1,013 square metres.
- Residential 13 units (3 no. one-bedroomed units, 9 no. two-bedroomed units and 1 no. three-bedroomed units).

#### 4.0 **Planning Authority Decision**

4.1. Galway City Council granted planning permission for the proposed development subject to 30 conditions. The development was the subject of an additional information request and the clarification of additional information prior to Galway City Council granting planning permission. The additional information submitted included a revision of the scheme dated 31<sup>st</sup> August, 2018 which included the Schedule of Accommodation as set out in the previous section above.

4.2. Condition No. 2 of the Planning Authority's grant of planning permission stated the following: "*Before the commencement of the development hereby approved the developer shall pay to Galway City Council a contribution of €173,040*".

4.3. Page 14 of the planner's report sets out the basis of the development contribution. In respect of the retail element a contribution of €49,733 was levied on the basis of a gross floor area of 1,213 square metres x €41 per square metre.

## 5.0 Planning History

The site was subject to a number of previous applications under 03/1178 where planning permission was granted for 108 apartments, 42 houses and a creche.

Under Reg. Ref. 04/865 planning permission was granted for a four-storey neighbourhood shopping complex, 116 apartments and 8 townhouses.

Under Reg. Ref. 08/28 alterations were permitted to the creche and apartments.

## 6.0 Grounds of Appeal

A first party appeal was lodged on behalf of the applicant by Future Analytics Consultants. The appeal specifically relates to the calculation of the development contribution set out in Condition No. 2. It is contended that the Council has misapplied the Galway City Development Contribution Scheme in calculating the financial levy set out under Condition No. 2. The appeal states that Condition No. 2 was calculated based on the figures set out in the RFI Schedule dated 31<sup>st</sup> August, 2018. In relation to the retail element the financial contribution was based on a gross floor area of 1,213 square metres in respect of the floor area of the café/bar/restaurant and retail units. In fact, the total floor area of the café/bar/restaurant and retail units amounts to **1,123 square metres** and not **1,213 square meters**. It is suggested that the calculation is based on a typographical error. It is stated that the correct development contribution for the retail element is 1,123 square metres x €41 which amounts to €46,043 and not €49,733. The Board are therefore respectfully requested to amend the development contribution scheme.

## 7.0 Appeal Responses

Galway City Council have not submitted a response to the grounds of appeal.

## 8.0 Development Contribution Scheme

The current Development Contribution Scheme 2008 – 2012 (as extended) in April, 2014 is the operative financial contribution scheme. The relevant parts of the scheme relating to the current appeal are set out below:

## **Residential Units:**

- Unit sizes (under 73 square metres) €8,639 per residential unit.
- Unit sizes (73 square metres and under 125 square metres) €9,739 per residential unit.
- Unit sizes (over 125 square metres) €10,831 per residential unit.

In relation to commercial development:

- Shops, restaurants, nightclubs and public houses - €41 per square metre.

## **9.0 Planning Assessment**

9.1. The appellants have questioned the basis of the calculation of Condition No. 2, but only in relation to the commercial element. The basis of the calculation for the residential component of the proposed development is accepted. It is argued in the appeal that the financial contribution calculation was calculated on the basis of an incorrect floor area. The contribution was calculated on a retail floor area amounting to 1,213 square metres. Where in fact it is argued that the actual floor area of the retail element proposed is only 1,123 square metres. Galway City Council have not submitted a response to the grounds of appeal and as such have not repudiated the arguments set out in the grounds of appeal.

9.2. I refer the Board to the Schedule of Accommodation set out on the A3 page titled "*Summary Site Statistics and Areas*" submitted by the applicant as additional information on the 31<sup>st</sup> August, 2018. It clearly indicates that the café/bar/restaurant/function room (which would be classed as a commercial development as per the adopted financial contribution scheme), amounts to 1,013 sq. m. Furthermore, the proposed retail element amounts to 110 square metres (this would be classed as commercial development under the provisions of the financial contribution scheme). Thus, the total gross floor area which can be classed as commercial development that would attract a levy of €41 per square metre would be 1,123 square metres and not 1,213 square metres as calculated in the Planning Authority's condition. As such, the commercial element of the financial contribution condition should be amended accordingly as argued in the grounds of appeal and

the amount to be levied for the commercial element associated with the development should be **€46,043 and not €49,733.**

9.3. Thus, Condition No. 2 of the Planning Authority's decision should be amended to read as follows:

2. Prior to the commencement of development, the developer shall pay to Galway County Council a contribution of €169,350.

**Reason:** So that the developer should contribute an equitable portion of the cost of the services which facilitate the development. The use or return of this contribution shall be carried out as provided for in section 48 of the Planning and Development Act 2000, as amended.

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Paul Caprani,  
Senior Planning Inspector.

26th August, 2019.