



An
Coimisiún
Pleanála

Inspector's Report ACP-323385-25

Development

An fhoirgneamh tráchtála atá ann cheana féin a choinneáil mar a tógadh é, lena n-áirítear na hoibreacha suímh gaolmhara ar fad agus gach nasc le seirbhísí.

Location

Páirc Ghnó Bhéal an Mhuirthead ,
Bóthar Bhéal an Átha , Béal an
Mhuirthead Co. Mhaigh Eo

Planning Authority

Mayo County Council

Planning Authority Reg. Ref.

2560327

Applicant(s)

Údarás na Gaeltachta

Type of Application

Permission

Planning Authority Decision

Grant permission

Type of Appeal

First Party (s.48(10))

Appellant(s)

Údarás na Gaeltachta

Inspector

Conor McGrath

1.0 Introduction

- 1.1. This is a first party appeal under s.48(10) of the 2000 Act, as amended, against condition no. 8 of the planning authority decision to grant permission for the proposed development.

2.0 Site Location and Description

- 2.1. The appeal site is located in a long established Údarás na Gaeltachta business park in Belmullet, Co. Mayo. The site, comprising a stated area of 0.27ha, is occupied by a single storey industrial structure, set behind an area of surface parking. The total area of the structure on the site is stated to be 373.18-sq.m. and comprises workshop, office and ancillary uses. The development is served by existing mains services. There are other commercial / industrial uses to the south and southeast of the site. Lands to the east are in residential use while there is a historic Col church and graveyard to the west.

3.0 Proposed Development

- 3.1. The proposed development comprises the retention of the existing commercial building as constructed, including all associated site works and all connections to services.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission for the proposed development subject to 8 no. conditions. Condition no. 8 required the following:

8. The following contributions shall be paid to Mayo County Council. The development contributions may 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.

Class 5 Commercial / Industrial €20 / m2	€20 x 373.18-sq.m.	€7,463.60	x 2 (retention penalty)
Total Contribution =			€14,924.20

Reason: to comply with Mayo County Council's Development Contribution Scheme 2023.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The need for EIA was excluded at preliminary examination. Stage II full AA is not required. The planning authority is satisfied that the commercial development for retention is acceptable in principle having regard to the zoning objective for the site.

Contributions to be applied in accordance with the MCC Development Contribution Scheme 2023 as appropriate. Retention of existing commercial building as constructed with stated GFA 373.18sqm. NB no exemption or waiver to apply for retention permission as per Section 10.6.

Recommended that permission be granted.

4.2.2. Other Technical Reports

- No reports on file.

4.3. Prescribed Bodies

None.

4.4. Third Party Observations

None.

5.0 Planning History

Historic cases referenced in application documentation and planning officer's report include the following.

P73/594: On the subject site, permission granted for the erection of a factory – Brine Sports Ltd. - at Belmullet for Gaeltarra Eireann, subject to 11 no. conditions. This did not include any development contribution conditions.

Available correspondence indicates that the factory building on the site was relocated on the site from that permitted under 73/594. Correspondence was issued by Mayo Co. Co. in 1973 advising that the structure was unauthorised in that "present location".

P77/0497: This relates to a grant of permission for 5 no. factories and 5 no. houses at Belmullet Industrial Estate.

P79/429: This refers to the erection of 2 no. ESB substations and water supply scheme in the industrial estate.

P23/502: Permission granted on the adjacent site to the south for change the use of 398m² from light industrial to office use and for alterations to the elevations, as well as associated site changes. An application is being made for retention permission for two glass doors on the façade. No contributions were charged as credit was allowed for the existing structure on the site.

6.0 Policy Context

6.1. Mayo Development Plan 2022-2028

The appeal site is zoned for Enterprise and Employment Uses.

Adjoining lands to the east are zoned existing residential while the land to the west is zoned for Community Services Facilities.

Belmullet is identified as a Tier II Self Sustaining Growth Centre. These towns have a moderate level of jobs and services and their own labour catchment areas. They have good transport links and have the capacity for continued sustainable growth.

These towns play an important role in supporting the social, economic and cultural life within rural communities.

Section 12.6.3 notes that the town is a designated Gaeltacht Service Town and the largest settlement within the Mayo Gaeltacht. Opportunity exists to increase the population of the town and enhance jobs and services, by consolidating growth within the existing urban footprint. The Plan supports measures to provide local employment opportunities and an increase in services.

The plan notes that the town is well served by Údaras na Gaeltachta, which has a business park accommodating many indigenous firms. Údaras also has a state-of-the-art innovation and digital hub.

6.2. Mayo County Development Contribution Scheme 2023 (Adopted June 2023)

2.0 Duration of Scheme - This scheme shall apply from the date of its adoption by the members and will apply for a minimum period of six years.

9.0 Level of Contributions

Table 2 – Level of Contribution for other categories of development (including).

Class	Description	Rate
5	Commercial / Industrial	€20/ m ²

10.0 Floor Space, Footprint Area & Site Area

The floor space area of proposed development shall be calculated as the gross floor space area.

10.5 Amendments to Previously Permitted Developments

In the case of planning permissions for amendments to developments permitted prior to the adoption of this scheme, development contributions will be levied on the current charges set out in Appendix 1 where the development has not been commenced.

In all other cases, the development contribution charges previously applied to the previous permission will still be payable subject to indexation set out in Section 13 below.

Where additional floor space / footprint has been created in the amended proposal, or where there is a demand for new, upgraded or additional infrastructure or services, additional development contributions will be levied in respect of the gross additional development in addition to that levied upon the original development in accordance with the charges set out in Appendix 1.

Applications for permission for modification / revision to a permitted development including a change of building design or amendment to a site layout will be treated as an independent permission for development for the purposes of calculating development contributions and will be assessed on the floor area, foot print or site area of the full proposal on the date of issue of the decision to grant permission with a deduction / substitution for any contributions paid on any previously permitted development.

10.6 Retention Permissions

Retention permissions shall be charged at double the applicable rate of the development contribution. No exemptions or waivers are applicable for retention permission. Retention of minor changes to previous permitted developments shall be assessed on a case by case basis.

10.7 sets out Reductions and Exemptions to be applied under s.48(3)

6.3. **Natural Heritage Designations**

The site is located within the town of Belmullet, which is bounded to the east and west by Broadhaven Bay SAC (pNHA) and Blacksod Bay/Broad Haven SPA, 3-400m from the site. The Mullet Peninsula SPA lies c.2km west of the town.

7.0 **EIA Screening**

This case relates to a first party appeal against a financial contribution condition attaching to the planning authority decision to grant permission. Having regard to the nature of the appeal and the provisions of s.48(10)(c), I conclude that the proposed development does not come within the definition of a 'project' for the purposes of

EIA, that is, it does not comprise construction works, demolition or intervention in the natural surroundings. Refer to Form 1 in Appendix 1 of this report.

8.0 The Appeal

8.1. Grounds of Appeal

The first party, Údaras na Gaeltachta, make the following points in their appeal under s.48(10) against condition no. 8 of the planning authority decision to grant permission:

- This building was constructed in 1973 under ref. 73/594. The location of the building was amended during construction from that shown on the approved drawings.
- This change was discussed and agreed with the planning authority in July and September 1973, and revised plans were submitted.
- A letter of alleged unauthorised development issued in November 1973, however, following correspondence from Údaras na Gaeltachta, no action was pursued.
- The as-built development has been consistently indicated in subsequent planning applications, with no enforcement action taken.
- The intent of section 10.6 of the Development Contribution Scheme is to address unauthorised development, i.e. Development without planning permission and without agreement of the planning authority which is not the case here.
- The application is an administrative regularisation of the building position rather than authorisation of unlawful works.
- The retention penalty in this instance is disproportionate because the works were carried out with prior notification and agreement.
- There has been no change in the impact, use or scale of the building since completion.
- The development has been connected to public services since 1973 and this application does not generate new floor area, usage or demand.
- Any development contribution should be based on net additional impact.

8.2. Planning Authority Response

In response to the first party appeal, the planning authority make the following points:

- The application sought to retain the building (373.18-sq.m.) as constructed.
- The financial contribution was assessed under the Development Contribution Scheme as Class 5 (Commercial) and Section 10.6 Retention.
- Class 5 commercial rates are €20/sq.m.
- Section 10.6 states that retention permissions shall be charged at double the applicable rate. No exemptions or waivers are applicable. Retention of minor changes to previous permitted developments shall be assessed on a case by case basis.

The basis for calculation is as follows

Class 5 Commercial / Industrial €20 / m2	€20 x 373.18- sq.m.	€7,463.60	x 2 (retention penalty)
Total Contribution =			€14,924.20

9.0 Assessment

- 9.1. This is a first party appeal under S.48(10) against a development contribution condition (no. 8) attaching to the planning authority decision to grant permission. There has been no other third-party appeal against the decision. In this regard and in accordance with s.48(10)(c) I propose to confine consideration as to whether the terms of the scheme were properly applied by the planning authority and will not consider the merits or otherwise of the scheme itself.

Background

- 9.2. The proposed development is described in the application as the retention of an existing commercial / industrial structure as constructed on the site. The appeal submission states that the structure was previously authorised however, it was not constructed in accordance with the approved plans. It is further stated that there has been no increase in floor area or use of the building.

- 9.3. I note that the planning application documentation did not set out the planning history of the site or describe the nature of the alterations from the originally permitted development on the site.
- 9.4. The relevant planning history case reference is 73/594 and details of this case were requested and received from the planning authority. The documentation available indicates that planning permission was granted for the existing structure on the site and that the current retention allocation relates to the position of the building on the site. This is not disputed in PA correspondence.
- 9.5. The consideration of the Commission is restricted to whether the terms of the Scheme have been properly applied and there is no discretion to the Commission to selectively apply those terms. Having regard to the nature of the application, it is to be determined what is the rate of development contributions applicable to this development, if any, and whether the higher retention rate under section 10.6 of the scheme is payable in respect thereof.

Applicable Rate

- 9.6. The development comprises an existing commercial / industrial building. The planning authority have correctly identified a rate of €20 /sq.m. for such uses, under Class 5 of Table 2 of the development contribution scheme. The description of development set out in the application was for retention of the building as constructed and I note that the relevant planning history case is ref. 73/594. The appeal submission describes the nature of the development in more detail, I consider that section 10.5 of the Scheme is relevant to this case (10.5 *Amendments to Previously Permitted Developments*).
- 9.7. In considering 10.5, I note that
- The subject development was completed.
 - There is no additional floorspace or demand on services or infrastructure.
 - The development comprises an amended site layout / repositioning of the structure on the site.

Section 10.5 states *that applications for permission for modification/revision to a permitted development including a change of building design or **amendment to a site layout** will be treated as an independent permission for development for the purposes of calculating development contributions and will be assessed on the floor area, foot print or site area of the full proposal on the date of issue of the decision to grant permission with a deduction/substitution for any contributions paid on any previously permitted development.*

On this basis, the applicable rate of contribution will be that calculated under Table 2 – Class 5, with a reduction for any contributions previously paid under 73/594. There are no reductions or exemptions under 10.7 of the Scheme applicable to this development. I note also that the scheme does not provide for any indexation for contributions previously paid.

Class 5 Commercial / Industrial	€20 x 373.18-sq.m.	€7,463.60
€20 / m2		

- 9.8. Having regard to the absence of any development contributions charged or payable under 73/594, there are no deductions or substitutions to be applied in this instance.

Retention

- 9.9. The Contribution Scheme is clear that retention permissions shall be charged at double the applicable rate and that no exemptions or waivers are applicable, however, it qualifies this by stating that the retention of minor changes to previous permitted developments shall be assessed on a case by case basis. Based on the wording of the scheme, this case-by-case assessment relates to the (double) rate of contribution applicable, rather than the application of contributions in the first instance.
- 9.10. The planning authority have applied a strict interpretation of the Scheme to the subject development as described in the application. In my view the planning authority were not incorrect in the identification and calculation of the applicable rate of contributions payable based on the permission sought, however, there was no consideration or assessment of the development as a minor change to a previously

permitted development. On the basis of the minor nature of the changes to the permitted development, the absence of any increased floor area or demand on services, I consider that this development is a relevant case for a case-by-case assessment under section 10.6 of the Scheme.

9.11. Section 10.6 of the scheme states that such minor development shall be assessed *on a case by case basis*. In the absence of such assessment, I consider that the terms of the scheme have not been properly applied. I consider that it is therefore within scope for the Commission to undertake such an assessment. In this regard, on the basis of the nature of the changes from the permitted development, and the absence of any increase in demand for services, I do not consider that the application of development contribution at double the applicable rate is appropriate or required in this instance and no justification has otherwise been provided by the Planning Authority therefor.

9.12. **Conclusion:**

9.13. Having regard to the foregoing, I conclude that the development contribution rate applicable to the subject development is €20 / sq.m. (€7,463.60), less any development contribution previously paid in respect of 73/594 (zero).

9.14. Furthermore, having regard to the nature of the revisions from the permitted development and the history relating to the site, that the application of the double rate of contributions for retention permission is not appropriate in this instance.

10.0 AA Screening

10.1. The appeal has been made under the provisions of section 48(10)(b) of the Planning and Development Act, 2000, as amended. The Commission shall therefore determine only the matters relating solely to a condition dealing with a development contribution. As such, the requirements S177U of the Planning and Development Act 2000, as amended, do not apply.

11.0 Water Framework Directive

- 11.1. The appeal has been made under the provisions of section 48(10)(b) of the Planning and Development Act, 2000, as amended. The Commission shall therefore determine only the matters relating solely to a condition dealing with a development contribution. As such, the requirements under the Water Framework Directive do not apply in this instance.

12.0 Recommendation

- 12.1. I conclude that, in accordance with section 48(10) of the Planning and Development Act, 2000, as amended, based on the reasons and considerations set out below, that the terms of the Development Contribution Scheme for the area have not been properly applied in respect of condition number 8 and recommend that the Council be directed to amend said condition and the contribution payable thereunder for the reasons stated.

Condition

8. The developer shall pay to the planning authority a financial contribution of **€7,463.60** (Seven thousand, four hundred and sixty three euros, and sixty cent) 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 within six months of the date of this decision 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.

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.

13.0 Reasons and Considerations

Section 10.5 of the Mayo County Development Contribution Scheme 2023 states that applications for permission for modification / revision to a permitted development including a change or amendment to a site layout will be treated as an independent permission for development for the purposes of calculating development contributions with a deduction/substitution for any contributions paid on any previously permitted development.

The subject development was previously the subject of a grant of planning permission under planning reference 73/594 and the development to be retained comprises amendments to the layout of the permitted development on the site. As no contributions were payable in respect of the previously granted permission on the site, there is no deduction to be allowed against the contributions payable.

Furthermore, Section 10.6 of the Mayo County Development Contribution Scheme 2023 states that while retention permissions shall be charged at double the applicable rate of the development contribution, retention of minor changes to previous permitted developments shall be assessed on a case by case basis. Having regard to the facts of the case, and the minor nature of the changes to the previously permitted development, with no increase in floor area or demand on infrastructure or services in the area, it is concluded that is open to the Commission to undertake a “case by case” assessment of the development. Furthermore, having completed such assessment and having regard to the facts above, it is concluded that the application of double the applicable rate of contribution is not warranted in this instance and should therefore be omitted.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has

influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

28/10/25