



An
Coimisiún
Pleanála

Inspector's Report PL-500353-MO-25

Development	Construction of 9 houses and all ancillary site works.
Location	Barrack Hill, Newport, Co. Mayo.
Planning Authority	Mayo County Council.
Planning Authority Reg. Ref.	2560179.
Applicant(s)	Brendan Byrne & Son Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with Conditions.
Type of Appeal	First Party against Condition.
Appellant(s)	Brendan Byrne & Son Ltd.
Observer(s)	None.
Date of Site Inspection	5 th February 2026.
Inspector	C. Daly.

1.0 Site Location and Description

1.1. The subject, of area 0.54ha, consists of an overgrown field at the upper end of a hillside which slopes steeply downhill towards the north. There is a cleared area to the west with trees located on the eastern part of the site. The site frontage consists mainly of hedgerow including some trees which adjoins local road L-14071, a single lane carriageway without footpaths. There is a public walkway as part of the site to the east which leads downhill to a housing estate to the north. There is a national school to the north-west which is on the eastern outskirts of the town of Newport.

2.0 Proposed Development

2.1. The proposed development, in summary, consists of the following:

- Demolition of existing shed and construction of a housing development of 7 no. detached dwellings and two no. semi-detached dwellings. All dwellings would be split level pitched roof gable fronted part single and part two storey dwellings.
- Connection to public services and ancillary site works.

2.2. The total floor area of the dwellings is 1,394.1sqm and the area of the shed for demolition is 74.2sqm.

3.0 Planning Authority Decision

3.1. Decision

Initially Mayo County Council decided to request further information in relation to an archaeological assessment, a DMURS compliance statement, access visibility issues, footpath on the public road and access to greenway route during construction. Following this, by way of C.F.I. the applicant was requested to submitted a revised DMURS compliance statement relating to pedestrian connectivity to Newport. Finally the P.A. decided to grant permission subject to 26 no. conditions.

Notable conditions relating to this appeal include:

- Condition no. 1 requires the development to be carried out in accordance with the Site Layout Plan submitted on 5th September 2025 and with DMURS Compliance Statement received 10th October 2025 as well per the drawings submitted on 31st March 2025.
- Condition no. 25 required contributions to be paid of €36,280 per Class 1 of the contribution scheme and €58,800 for a section of footpath to ensure pedestrian connectivity to Newport town centre.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report assessed that the development was acceptable subject to compliance with the Site Layout Plan submitted at F.I. stage and subject to the DMURS Compliance Statement submitted by way of C.F.I. In relation to the development contributions, it set out the basis for calculation as follows:

Subject to indexation:

7 no. detached units at 210sqm X €20 = €4,200 per unit.

7 X €4,200 = €29,400.

2 no. semi-detached residential units at 172sqm X €20 = €3,440 per unit.

2 X €3,440 = €6,880.

Total cost for housing units = €36,280.

Footpath of 280m €210 per m = €58,800.

It did not set out the basis of the calculation of the applicable ground area or area or length of footpath on which the development contribution figures were based.

3.2.2. Other Technical Reports

- Area Engineer: Further information in relation to discharge of surface water to public road and in relation to access visibility.
- Road Design: F.I. in relation to road issues. Following this, C.F.I. required in relation to DMURS statement and connection to town.
- Water Services: No report received.

- Housing Central: No report received.
- Siobhán Sexton: No report received
- Regional Design Office: No objection.
- County Archaeologist: F.I. required and following this satisfied with report received.

3.3. Prescribed Bodies

- TII: No objection.
- An Taisce: No response received.
- Development Applications Unit: Recommended requesting an Archaeological Impact Assessment.
- Uisce Éireann: No response received.
- The Heritage Council: No response received.

3.4. Third Party Observations

None.

4.0 Planning History

Not relevant.

5.0 Policy Context

5.1. Planning and Development Act, 2000 (as amended)

Section 48 of the Planning and Development Act 2000, as amended provides as follows:

48.—(1) A planning authority may, when granting a permission under section 34, include conditions for requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority and that is provided, or that it is intended will be provided, by or on behalf of

a local authority (regardless of other sources of funding for the infrastructure and facilities).

(2) (a) Subject to paragraph (c), the basis for the determination of a contribution under subsection (1) shall be set out in a development contribution scheme made under this section, and a planning authority may make one or more schemes in respect of different parts of its functional area.

(b) A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.

(c) A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

(3) (a) A scheme shall state the basis for determining the contributions to be paid in respect of public infrastructure and facilities, in accordance with the terms of the scheme.

(b) In stating the basis for determining the contributions in accordance with paragraph (a), the scheme shall indicate the contribution to be paid in respect of the different classes of public infrastructure and facilities which are provided or to be provided by any local authority and the planning authority shall have regard to the actual estimated cost of providing the classes of public infrastructure and facilities, except that any benefit which accrues in respect of existing development may not be included in any such determination.

(c) A scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provisions of the scheme.

Section 48(10) provides,

(10) (a) Subject to paragraph (b), no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.

(b) An appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.

(c) Notwithstanding section 34(11), where an appeal is brought in accordance with paragraph (b), and no other appeal of the decision of a planning authority is brought by any other person under section 37, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal. provided that the person who takes the appeal in accordance with paragraph (b) furnishes to the planning authority security for payment of the full amount of the contribution as specified in the condition.

5.2. Development Contributions – Guidelines for Planning Authorities 2013

These guidelines state that the primary function of such schemes is to contribute towards the funding of essential public infrastructure required for development. The guidelines provide guidance on how to address the economic changes since 2007 when drafting development contribution schemes.

5.3. Mayo County Development Plan 2022-2028 (the CDP)

Volume 1

Chapter 4 – Economic Development

Objective EDO 28 *To review the Development Contribution Scheme.*

Volume 2 – Development Management Standards

Section 1.4 Development Contributions

The Council, taking into consideration the capital expenditure necessary for the provision of public infrastructure and facilities, will require the payment of general financial contributions in accordance with the Mayo County Council Development Contribution Scheme to offset a portion of their costs. Developers may also be required to carry out works at their own expense to facilitate their development and these will be specified as a condition of the respective planning permission.

5.4. Mayo County Council Development Contribution Scheme 2023 (the contribution scheme)

The applicable scheme is the Mayo County Council Development Contribution Scheme 2023 (under Section 48 of the Planning and Development Act, 2000 as amended).

The Development Contribution Scheme was formally adopted by the Elected Members of Mayo County Council on the 30th of June 2023 and took immediate effect for a minimum period of 6 years.

The applicable rates in the scheme are:

Per Table 1 – Level of Contribution for Residential Development

Class 1	Residential Unit	€3,000 or €20/sqm whichever is the greater
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Section 10.0 notes that the floor space of a development is calculated as the gross floor area meaning as determined by the internal dimensions of the proposed buildings.

Section 10.7.1 provides for reductions none of which are applicable to this case.

Section 10.7.2 provides for exemptions for social housing units per a Part V agreement.

Section 12.0 allows for the Council Chief Executive to apply indexation each year.

Appendix 1 defines classes of public infrastructure and facilities. This includes the provision of pedestrian facilities and any matters ancillary to these.

Appendix 2 outlines the apportionment of contributions with 40% for roads, public infrastructure (footpaths, public lighting and active travel measures).

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal against Condition no. 25 of the Council's decision to grant permission has been submitted on behalf of the applicant per Sections 48(10) and 139(1)(b) of the 2000 Act as amended. The appeal includes a copy of the Mayo County Council Development Contribution Scheme 2023.

The grounds of appeal can be summarised as follows:

- There is no evidential basis for Condition no. 25 which is arbitrary and capricious.
- The applicant accepts the Class 1 €36,280 contribution as it clearly falls within the contribution scheme.
- The second contribution of €58,800 should be omitted in its entirety due to the lack of evidential basis, lack of transparency, defined allocation within the scheme and precedent.
- There is no mention of a special contribution or supplementary scheme.
- The calculation given of “footpath 280m @ 210/m = €58,800” is arbitrary and the width of 2m wide footpath was not specified and nor was 1m access path for connectivity.
- The footpaths are not considered as an exceptional cost.
- In their experience, this cost for laying footpaths is extortionate.
- Condition no. 25 reason refers to “To comply with the Mayo County Council Development Contribution Scheme 2023” when there is no mention of footpaths being charged at a rate of €210/m. There is also no mention of a charge of €210 for anything in the contribution scheme.
- The breakdown in relation to how monies collected under the Development Contribution Scheme shows that 60% goes towards recreation, amenities and communities while 40% goes towards roads and public infrastructure which includes footpaths, lighting and active travel measures.

- Any footpaths and public infrastructure is covered within the €36,280 contribution.
- The appeal lists 6 no. permissions in the last two years where the development contribution scheme was applied with none including unsubstantiated contributions. Therefore, the contribution of €58,800 was a mistake in this instance.
- The development provides a link to the established greenway to the community centre and the existing footpaths in Rosmore and which route is safer with current footpaths along the R317.
- The applicant has proposed to install a 2m wide footpath south of the proposed dwellings with a double yellow line for public safety.
- There was no upgrading of roads or footpaths for the Black Oak Rise development to the east.
- There is no reference to a special contribution or exceptional costs per Section 48(2)(c) of the 2000 Act.
- Per Section 48(3)(a) of the Act a scheme is required to state the basis for determining the contributions in respect of public infrastructure and facilities and the P.A. did not state the basis and this amounts to double charging.
- The developer is not sure if the development is viable with these additional costs noting construction inflation.
- Extortionate fees will only make the housing crisis worse.

6.2. Planning Authority Response

No response received.

7.0 Assessment

- 7.1. This is a first party appeal against a financial contribution condition that was included as part of the decision of the Planning Authority to grant permission for the proposed development. As this is an appeal in respect of conditions requiring a financial contribution, the provisions of section 48 of the Planning and Development Act 2000

as amended apply and the Commission is restricted to considering this matter alone and cannot consider the matter de novo. I have therefore confined my assessment to the conditions in question. The appeal seeks the removal of part of condition no. 25, i.e. the part charging €58,800 for the provision of a section of footpath to ensure pedestrian connectivity with Newport town centre. The P.A. have not responded to the appeal. The Class 1 €36,280 contribution has not been appealed and the appellant states that it is consistent with the contribution scheme. The calculation of this amount is shown in section 3.2.1 above.

7.2. I note that Condition no. 25 of the P.A. grant of permission requires the following contributions to be paid to Mayo County Council which may increase in line with the Wholesale Price Index for building and construction.

- €36,280 as per the provisions of Class 1 of the Mayo Development Contribution Scheme 2023.
- €58,800 for the provision of a section of footpath to ensure pedestrian connectivity with Newport town centre.

7.3. The stated reason for these contributions is *“to comply with Mayo County Council’s Development Contribution Scheme 2023”*. The reason does not also include a statement that a special contribution is required for exceptional costs not covered by the scheme. Therefore, I note no special development contributions or exceptional costs reasons have been asserted by the P.A. as a basis for the €58,800 amount under Section 48(2)(c) of the 2000 Act. I also note that the P.A., as shown below, has not explained the exceptional costs calculation to any significant degree. In this regard, I note the appellant has asserted the costs to be completely out of line with what they would expect for a 210m length footpath.

7.4. The €58,800 amount due under this condition is subject to the appeal. I note that this amount was determined based on the following calculation, footpath of 280m at €210 per m = €58,800. I note that this for a footpath linking the west end of the site frontage with Newport to the west. I note that this would provide a footpath along the northern side of the public road from the permitted housing estate up to a point just east of the terrace of dwellings which directly front the road at the eastern edge of the town.

7.5. The calculation is based on footpath length which I assume is based on a fixed width and depth of structure. I note the contribution scheme charge is based on a permitted residential development of 9 no. dwellings. I note no part of the scheme whereby contributions due for a residential scheme are due based on the length of a footpath required by the P.A.. Therefore, I do not consider there to be a basis for charging the €58,800 amount and I recommend this be omitted.

7.6. I note that the contribution scheme per Class 1 includes provision for a contribution charge for residential development of €3,000 per unit or €20/sqm whichever is the greater and this was calculated in the first part of the contribution condition to be €36,280 per Class 1. However, I have reviewed this calculation based on the floor areas submitted on the drawings and I note the following:

7 no. detached units at 170.7sqm X €20 = €3,414 per unit.

7 X €3,414 = €23,898.

2 no. semi-detached residential units: 1 three bed of 108.8sqm and 1 two bed of 90.4sqm at €3,000 per unit = €3,000 per unit.

2 X €3,000 = €6,000.

Total = €23,898 + €6,000 = €29,898.

7.7. Therefore, I consider that the amount due under Class 1 of the contribution scheme for the 9 no. residential units is €29,898 and not €36,280. I note this while noting there is a requirement for Part V (social and affordable) units provision under Section 96 of the Act and that the contribution scheme allows for reductions for such units. While the applicant proposed that two units be used for this purpose, I note that Condition no. 2 provides a number of different ways in which Section 96 requirements can be met such that it is possible to meet the requirements of Section 96 in other ways other than on-site provision of these two units. Therefore I proposed no reductions in this amount for Part V purposes.

7.8. I note that per Class 1, under the contribution scheme 60% of this is due to contribute towards recreation, amenities and communities while the other 40% is due as a contribution towards roads and public infrastructure which includes footpaths, lighting and active travel measures. Based on this, as outlined in the contribution scheme, it is clear that 40% of the €29,898 development contribution due for this is,

at least partially, as a contribution towards footpaths in the county. I note that 40% of the above amount would be €11,959.20.

- 7.9. Having reviewed the contribution scheme I note that there is no other basis on which to charge a development contribution for the permitted development. I note that the €11,959.20 amount portion of the amount due can be put towards the provision of the 210m footpath sought by the P.A.. In this context, I do not consider that the omission of the €58,800 amount would prevent the funding of the 210m length of footpath to connect with the town.
- 7.10. Therefore, I am satisfied that the €58,800 amount charged for the provision of a section of footpath to ensure pedestrian connectivity with Newport town centre has no planning or legal basis under the development contribution scheme. I therefore am of the opinion that the correct development contribution calculation basis, consistent with the development contribution scheme, is €29,898 with indexation as per the provisions of Class 1 of the contribution scheme and that there is no basis for an additional contribution charge, whether for footpaths or otherwise.

8.0 Recommendation

- 8.1. I recommend that the Planning Authority be directed to amend the sum due in Condition no. 25 of the grant of permission from €36,280 and €58,800 (total €95,080) to €29,898. It is considered that Condition no. 25 should be amended to read as follows:

- 8.2. The following contributions shall be paid to Mayo County Council prior to commencement of the development. 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 the grant of permission up to the date that payment is made to Mayo County Council:

€29,898 as per the provisions of Class 1 of the Mayo Development Contribution Scheme 2023.

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

9.0 Reasons and Considerations

The applicable scheme is the Mayo County Council Development Contribution Scheme 2023 (under Section 48 of the Planning and Development Act, 2000 as amended). The adopted scheme includes, in Table 3, that new residential units will be charged at the applicable rates. Section 10 provides various exemptions where contributions will not be charged including in relation to Part V units. The financial contribution required under Condition no. 25 is calculated based on the rates contained in the Contribution Scheme. In these circumstances, the Commission considers that Condition no. 25 in relation to the €36,280 amount should have been calculated to result in an amount due of €29,898 which falls within the terms of the Scheme and that the €58,800 amount does not fall within the terms of the scheme in relation to the calculation of the amount due which should be amended to reflect the terms of the scheme in relation to the proposed development where only €29,898 is applicable based on the number of dwellings and the floor areas of same and the 210 metre length of footpath required by the Council outside the site is not applicable for a financial contribution.

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.

Ciarán Daly

Planning Inspector

6th March 2026