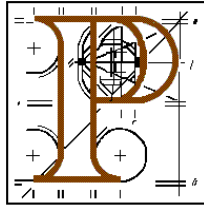


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Galway County

Planning Register Reference Number: 15/1555

An Bord Pleanála Reference Number: PL 07.247236

APPEAL by Liam Madden of Vitruvius Hibernicus, Convent Road, Longford against the decision made on the 15th day of August, 2016 by Galway County Council to grant subject to conditions a permission to J. Coyle care of Oliver Higgins, Consulting Engineers, Unit 4B Oranmore Business Park, Oranmore, County Galway.

PROPOSED DEVELOPMENT: Construction of a mixed use commercial development comprising;

1. Construction of a new entrance junction from the N17 to serve the proposed development.
2. Demolition of an existing two-storey public house, restaurant and taxi office and construction of a two-storey building (referred to as "Block Number 4") that will provide for the replacement public house and restaurant, a bookmakers office, a taxi office and a commercial/retail unit at ground floor level. The first floor will consist of four number commercial office units, deck amenity area and enclosures for plant associated with the block. This block is adjacent to a Protected Structure, register reference number:109.
3. Demolition of a kiosk associated with the existing filling station and the demolition of an existing two-storey structure containing a bookmakers and garage at ground floor level and residential accommodation at first floor level; and construction of a revised filling station, forecourt and a mixed use three-storey building (referred to as "Block Number1")

consisting of a commercial shop and deli, with seating, at ground floor level; two number commercial office units at first floor level; 2 number commercial office units at second floor level and for all ancillary site works; landscaping, parking areas, civil works; forecourt civil works and services.

4. Construction of a two-storey building (referred to as “Block Number 3”) consisting of a commercial retail/office at ground floor level and an apartment at first floor level.
5. Construction of a single-storey car-wash and valet building (referred to as “Block Number 2”). The car-wash utilises rainwater harvesting.
6. All associated open spaces, landscaping, parking areas, bin stores and all ancillary site works and services,

at Cahergowan or Summerfield T.D., Claregalway, County Galway.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the current Development Plan and Local Area Plan for the town of Claregalway, to the location of the subject site within the town centre of the settlement, and to the existing pattern of development in the vicinity of the site, and having regard to the planning and enforcement history of the existing development on the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of properties in the vicinity, would not detract from the character of the adjoining Protected Structure, would not be detrimental to the character and amenity of the area, would not result in a risk of flooding to the site and adjoining properties, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board was of opinion that, subject to the modifications to the development set out in the conditions of the Board Order, and in particular condition number 2, the proposed development would be acceptable within the streetscape, would not represent an inappropriate design having regard to the pattern of development in the vicinity of the site, and would represent an opportunity to improve the visual appearance of this site, with particular reference to the elimination of inappropriate and excessive signage and of the existing un-coordinated site layout.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the revised details submitted to the planning authority on the 5th day of May 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:-
- (a) The first floor of Block number three shall be omitted. This building shall be single-storey only, and shall be used either for retail purposes, or as an office to which Classes 2 and/or 3, of Part 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended, relate.
 - (b) The proposed hard landscape feature/retail park sign, indicated on drawing number 15, as submitted to the planning authority with the application, shall be omitted, and shall be replaced by the continuation of the proposed 0.6 metre high stone wall along the same alignment/footprint. No signage of any kind shall be erected on this wall.
 - (c) The proposed totem sign at the front of the site shall be omitted.
 - (d) The roofs of Blocks one, three and four shall be finished in blue-black slates or flat profile tiles, with ridge tiles of the same colour. The proposed alternative zinc cladding shall not be used.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of proper development, as the proposed apartment on the first floor of block number 3 is considered to be substandard, and the proposed signage located at the front of the site is considered to be visually obtrusive and unacceptable within the streetscape, and to ensure that the roof design is visually appropriate to the location of the site within the town centre.

3. The use of the commercial units identified on the submitted drawings for the first and second floors of Block number one, and the use of the commercial units identified on submitted drawings for the first floor of Block number four, shall be limited to use as offices to which Class 3 of Part 4 of Schedule 2 to the Planning and Development Regulations 2001, as amended, relates. Any other use of these units, including any Class 2 office use, shall not take place without a separate and specific planning permission for change of use having first been granted.

Reason: In the interests of clarity, having regard to the content of the public notices submitted with the planning application, and to delimit the type and extent of office use permitted by this application, in the interests of orderly development.

4. The first and second floors of Block Number 1 shall be used solely as commercial offices, as regulated by condition number 3 of this permission, and shall not be used for the alternative proposal as residential units.

Reason: In the interests of clarity, having regard to the content of the public notices submitted with the planning application (where no reference was made to any such alternative use), it is considered that the use of this building for residential purposes, having regard to the lack of private and communal open space, and to the poor living environment for future occupants of such residential units surrounded by car parking and vehicular uses, would be substandard and therefore unacceptable.

5.
 - (a) Signage on all buildings shall be restricted to individual lettering applied to timber shopfronts or the building facades, as applicable. Such lettering shall not be larger than that illustrated on the submitted drawings, and may consist of either solid lettering or backlit lettering. No internally illuminated signage shall be erected on any of the buildings. Details of all signage for the buildings, in compliance with the terms of this condition, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
 - (b) Signage on the petrol filling station canopy, which may be internally illuminated, shall be in accordance with details which are to be submitted to, and agreed in writing with, the planning authority.
 - (c) All signage to be agreed with the planning authority shall have regard to the policies of the planning authority to respect the cultural and linguistic heritage of the Gaeltacht.

Reason: In the interests of visual amenity and to restrict the extent and impact of signage on the streetscape, while having regard to the location of the subject site within a Gaeltacht area.

6. Other than the signage and advertisement signs specifically authorised by this permission, as modified by condition numbers 2 and 5 of this order, and notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs or signage, (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the proposed buildings and structures or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to allow the planning authority to assess any such development through the statutory planning process.

7. Site development and building works shall be carried out only between 08.00 hours and 18.00 hours Mondays to Fridays excluding bank holidays and between 08.00 hours and 13.00 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of protecting the residential amenities of adjoining properties.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of clarity, orderly development and amenity.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All overhead cables bounding or crossing the site shall be undergrounded as part of the site development works, at the developer's expense.

Reason: In the interest of visual and residential amenity.

10. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

11. (a) Amplified music or other specific entertainment noise emissions from the proposed block number 4 shall not exceed the background noise level by more than 3 dB(A) during the period 08.00 hours to 22.00 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L_{90} and the specific noise shall be measured at $L_{Aeq,T}$.
- (b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedence criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at $L_{Aeq,T}$.
- (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either
- i. during a temporary shutdown of the specific noise source, or
 - ii. during a period immediately before or after the specific noise source operates.
- (d) When measuring the specific noise, the time (T) shall be any 5 minute period during which the sound emission from the premises is at its maximum level.
- (e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.

12. The developer shall pay to the planning authority a financial contribution 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. Details of the application of the terms of the Scheme 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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2017.