



Planning and Development Acts 2000 to 2020

Planning Authority: Galway City Council

Planning Register Reference Number: 19/368

Appeal by Olive Alcock and Others of 80 Portacarron, Ballymoneen Road, Galway against the decision made on the 15th day of October 2020 by Galway City Council to grant subject to conditions a permission to K King Construction Claregalway Limited care of MKO of Tuam Road, Galway in accordance with plans and particulars lodged with the said Council:

Proposed Development: Permission for amendments to previously granted planning permission register reference numbers 17/30, 19/68 and 19/208. The development will consist of: (1) demolition of existing agricultural sheds; (2) the closure of existing farmyard access onto the Ballymoneen Road; (3) two number blocks as follows: (i) Block 1 to be a three-storey block over undercroft parking to contain a two-storey restaurant with bar and four number apartments at penthouse level comprising of three number two bed apartments and one number one bed apartment and; (ii) Block 2 to be a three-storey split level building containing: a medical centre, pharmacy, convenience store and coffee shop with 11 number duplex units over the first and second floor with dedicated surface parking to be accessed from a new vehicular entrance along Ballymoneen Road. (4) The proposed development will consist of 12 number car parking spaces at semi-basement level under

restaurant, 68 number surface car parking spaces to facilitate the commercial unit and 18 number grouped surface spaces provided along the western side of the commercial block, consisting of 98 number car parking spaces in total as well as associated bicycle parking spaces; and (5) all other associated site development and servicing works, all at Gleann na Móna on lands west of Ballymoneen Road at the junction with the Western Distributor Road, Knocknacarra, Galway. Further public notices were received by the planning authority on the 31st day of July 2020.

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 Galway City Development Plan 2017-2023, including the zoning objective for the site, to the planning history of the site and immediately adjoining lands and to the character of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or the property in the vicinity, would be acceptable in terms of pedestrian traffic and safety and would comprise an appropriate form of development at this zoned and serviced location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 further plans and particulars submitted on the 10th day of July 2020 and by the further plans and particulars received on the 24th day of September 2020, 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. Save for the development specifically granted under this permission and the associated conditions, the developer shall comply with all relevant conditions under parent permission An Bord Pleanála appeal reference number ABP-300032-17 (planning register reference number 17/30) and under subsequent permissions granted under planning register reference numbers 19/68, 19/208, 19/366 and 19/367.

Reason: In the interest of clarity.

3. The four number car parking spaces located adjacent to the coffee shop rear entrance, as shown on the 'Site Plan' Drawing Number 3202 Rev. A received by the planning authority on 24th day of September 2020 shall be omitted, and the area shall be designed and laid out as public realm, facilitating outdoor seating for the coffee shop unit, as previously shown on the original documentation lodged with the planning application.

Reason: In the interest of visual and urban amenity.

4.
 - (a) The opening hours of the restaurant and coffee shop shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
 - (b) The restaurant and coffee shop shall not operate as take-away units, unless authorised by a separate grant of planning permission.

- (c) The restaurant shall not operate as a public house, unless authorised by a separate grant of planning permission.

Reason: In the interest of orderly development and the residential amenities of property in the vicinity.

5. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

6. No signage (other than those shown on the application drawings), advertising structures/advertisements, external security shutters shall be erected on any of the commercial premises, unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works and shall comply with all relevant aspects of DMURS.

Reason: In the interest of pedestrian and traffic safety.

8. (a) One number car parking space shall be permanently allocated to each residential unit and shall be numbered as such. No car parking spaces shall be sold, rented or otherwise sub-let or leased.
- (b) A minimum of 10% of all car parking spaces shall be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals to be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. 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, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

12. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for both the commercial

and residential elements of the development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

13. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

14. Proposals for a development name, commercial unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

15. No amalgamation of units or subdivision of any unit shall take place without a prior grant of planning permission.

Reason: In the interest of orderly development and to control the layout and scale of the development in the interest of protecting the vitality and viability of the area.

16. The landscaping scheme shown on 'Landscape Master Plan' Drawing Number 19233-2-101 received by the planning authority on the 10th day of July 2020 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

17. Details of the proposed public lighting system to serve the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed lighting system shall be fully implemented and operational before any of the residential or commercial units are made available for occupation.

Reason: In the interest of public safety and visual amenity.

18. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and

agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

Reason: To provide for the future maintenance of this development in the interest of residential amenity and orderly development.

19. The developer shall control odour emissions from the restaurant and café premises in accordance with measures, including extract duct details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

20. Water supply and drainage arrangements, including the attenuation and 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.

21. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or

part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

23. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

24. 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 the proper application of the terms of the Scheme.

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.

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

Dated this day of 2021