

Planning and Development Acts 2000 to 2020

Planning Authority: Mayo County Council

Planning Register Reference Number: P20/639

Appeal by MGB Land Holdings Limited care The Planning Partnership of McHale Retail park, Castlebar, County Mayo against the decision made on the 24th day of May, 2021 by Mayo County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of existing single storey detached dwelling house and construction of a part single storey part two storey apartment building containing five number two-bedroom unit, vehicular and pedestrian access; associated car parking area, communal and private amenity area, public lighting, boundary treatments, connections to services, and all associated and ancillary works and development above and below ground at Ballinrobe Road, Aghadrinagh, Castlebar, County Mayo. Further public notices were received by the planning authority on the 28th day of April, 2021.

Decision

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to AMEND conditions numbers 2 and 15 so that it shall be as follows for the reasons set out and to ATTACH a further condition so that it shall be as follows for the reasons set out.

2. (a) The proposed southern boundary shall be constructed in accordance with the Site Section 2 - 2 Plan drawing number L(99)07A submitted to the planning authority on the 19th day of March, 2021. Details of the proposed 'green wall' system, including a planting and maintenance schedule, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development.

- (b) The proposed high-level windows in the southern façade of apartment number 4 and apartment number 5 shall be replaced with windows of standard size and height, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development.

Reason: In the interest of residential amenity.

15. The developer shall pay to the planning authority a financial contribution of €3,420 (three thousand, four hundred and twenty euro) 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 Castlebar Town Council Development Contribution Scheme 2011 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. The application of any indexation required by this condition 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 for determination.

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.

New Condition

16. 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 the amount of €20,000 (twenty thousand euro) to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 of any part of the development. The form 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 of the development.

Reasons and Considerations

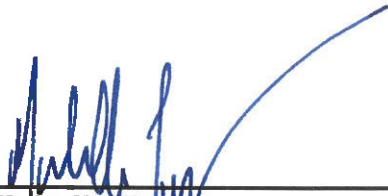
The proposed southern boundary would not be excessive in scale or height and would not detract from the residential amenity of existing properties or the proposed apartments. In addition, it is considered that high-level windows are not required in the southern façade of apartment number 4 and apartment number 5 and that the installation of standard windows would ensure a suitable level of daylight and sunlight within the proposed apartments and would not result in overlooking of the adjoining property to the south. Therefore, the omission of apartment number 4 and apartment number 5 is unwarranted and condition number 2 has been amended accordingly.

The planning authority did not properly apply the terms of the development contribution scheme adopted under section 48 of the Planning and Development Act 2000, as amended, being the Castlebar Town Council Development Contribution Scheme 2011, and it is necessary therefore to amend the contribution figure applied under condition number 15.

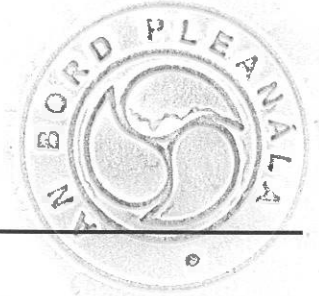
Furthermore, the requirement for a security bond does not fall within the scope of a scheme adopted under section 48 of the Planning and Development Act 2000, as amended, and the inclusion of same under condition number 15 is unwarranted and should properly be attached as a standalone condition.

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.



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



Dated this *2nd* day of *November* 2021.