

An  
Bord  
Pleanála

Board Order  
ABP-313394-22

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Mayo County Council**

**Planning Register Reference Number: P21/746**

**Appeal** by Seamus Murphy care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, Cork against the decision made on the 25<sup>th</sup> day of March, 2022 by Mayo County Council to refuse permission for the proposed development.

**Proposed Development:** Change of use of the existing commercial unit to an amusement and entertainment centre plus carry out all ancillary and associated works on site at Teeling Street, Ballina, County Mayo.

## **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.**

ESK

## Reasons and Considerations

Having regard to the Mayo County Development Plan 2022-2028, the location of the site within the town centre of Ballina on a site zoned C1 – Commercial Town Centre in the Ballina Town and Environs Plan 2009-2015, as extended, it is considered that, the proposed use as an amusement and entertainment centre, subject to compliance with the conditions set out below, would not result in an excessive concentration of such uses in the area, would not impact negatively on the vitality and viability of the town centre, would not have an adverse impact on the residential or other amenities of the area, would not materially contravene the development plan, and 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 received by the planning authority on the 14<sup>th</sup> day of January, 2022 and the 28<sup>th</sup> day of February, 2022 including in particular the amended elevations drawings incorporating revised signage and shop front details, 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 No advertisement or advertisement structure shall be erected or displayed on the building or within the curtilage of the site without the prior written approval of the planning authority whether or not such development would constitute exempted development under the Planning and Development Regulations, 2001.

**Reason:** In the interest of visual amenity.

3. Prior to commencement of development, full details of the signage, which shall be externally illuminated and of a high quality design, and the details of all lighting proposed shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of visual amenity.

4. The developer shall comply with the following requirements:
  - (a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 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 L90 and the specific noise shall be measured at LAeq.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 exceedance criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.

- (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 five 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. An acoustical analysis shall be included with this submission to the planning authority.

**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.

- 5. The opening hours of the amusement and entertainment centre shall be confined to between the hours of 0900 to 2300 hours Mondays to Sundays inclusive.

**Reason:** In the interest of orderly development.

6. Prior to commencement of development, the developer shall submit and obtain the written agreement of the planning authority to 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, and for the ongoing operation of these facilities.

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

7. 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.

8. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of the provision of parking facilities. The amount of the contribution for three parking spaces shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

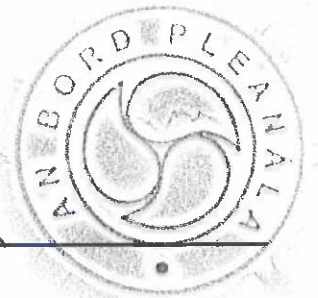
**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

*Eamonn James Kelly*

**Eamonn James Kelly**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**



Dated this *25<sup>th</sup>* day of *August* 2023.