



An
Bord
Pleanála

Board Order
ABP-317199-23

Planning and Development Acts 2000 to 2022

Planning Authority: Mayo County Council

Planning Register Reference Number: P22/597

Appeal by P.J. Hennigan care of James McConville of ACT, Market Lane, Tone Street, Ballina, County Mayo against the decision made on the 4th day of May, 2023 by Mayo County Council to refuse permission for the proposed development.

Proposed Development: The development consists of the subdivision of first and second floor residence to Scotch House and construction of additional third floor roof level extensions to provide for a one bedroom apartment (number one) at first floor level and a three bedroom duplex apartment (number two) at second and third floor level with private external amenity spaces, including greenhouse to rear; construction of a centrally positioned single storey extension at first floor level to provide for a two bedroom apartment (number three); construction of a two-storey rear extension partially over auction house onto Maguire's Yard at first and second floor level to provide for two duplex two bedroom apartments (numbers four and five and); construction of two centrally positioned single storey extensions at second floor level to provide for a residents' common room and a greenhouse; change of use of former auction house (83 square metres) to the rear to a retail unit

(retail A) with lane access and a second retail unit (retail B) with provision for new entrance off Maguire's Yard; partial change of use of rear service area to existing ground floor retail unit (38 square metres) to provide for a communal space and lobby area serving the proposed upper floor residences and existing office and a revised internal layout for the rear service area corridor (four square metres) serving the existing ground floor café; provision for ramped, stepped and gated public access laneway between Pearse Street and Maguire's Yard; provision of residents' external amenity space at first, second and third floor levels, all associated signage and lighting and connections to local engineering services at Scotch House, Pearse Street, Ballina, County Mayo as revised by the further public notices received by the planning authority on the 11th day of April, 2023.

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.

Reasons and Considerations

Having regard to Objective SSO 13 of the Mayo County Development Plan 2022-2028, the subject site, which is located on lands zoned C1 - Commercial Town Centre under the Ballina and Environs Development Plan 2009-2015, seeks to provide for shopping and retail stores, office development and apartments, to preserve town centre character and heritage building sites, to retain retail/shop use on ground floor of principal shopping streets and promote "Living over the Shop" and to protect the amenity of the residential community, it is considered that the proposed development, subject to compliance with the conditions set out below, would maintain and enhance the vitality, viability and environment of the town centre and provide for appropriate town centre uses, would not seriously injure the residential or visual amenities of the area, and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted the Inspector's recommendation regarding amendments to the south-western elevation, the Board reviewed drawing reference Sheet-204 Revision 01 received by the planning authority on the 1st day of March, 2023, and the relevant floor plans. The Board noted the windows referenced by the Inspector are on the north-eastern elevations and decided that due to the urban location of the site and the layout of the adjoining lands as shown on drawing reference Sheet-104, the windows, set back off the boundary, primarily overlook the roof of the adjoining buildings and do not detract from the amenity of the adjoining property. The Board, therefore, did not concur with the Inspector regarding this amendment to the design. The Board shared the concern of the Inspector regarding the amenity space associated with the residential communal room and therefore decided that this should be omitted.

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of identification of the European Sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans and projects, on these European Sites in view of the site's conservation objectives and that a Stage 2 Appropriate Assessment is not, therefore, required.

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 1st day of March 2023, 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 so that the access staircase and roof amenity space associated with the residential communal room shall be omitted.

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 interest of residential amenity.

3. The developer shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.

Reason: In the interests of clarity and public health.

4. Details of the materials, colours and textures of all the external finishes to the proposed extensions shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the planning authority a detailed surface water design proposal that incorporates an element of Sustainable Urban Drainage System measures if feasible, such a report and/or drawings shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

6. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

7. The construction of the development shall be managed in accordance with a Construction and Traffic 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:
- (a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;
 - (b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the construction management plan shall have regard to guidance on the protection of fisheries during construction works prepared by Inland Fisheries Ireland.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of amenities, public health and safety.

8. 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.

9. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (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 buildings 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.

10. Proposals for a street, building and public space naming scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs and dwelling numbers, shall be provided in accordance with the agreed scheme. No advertisements / marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

Reason: In the interest of urban legibility.

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

12. (a) 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 for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

13. 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.

14. 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.



Mary Henchy

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

Dated this 31st day of May 2024