



An
Bord
Pleanála

Ordú ón mBord/Board Order ABP-320592-24

Na hAchtanna um Pleanáil agus Forbairt, 2000 go 2022
Planning and Development Acts 2000 to 2022

Údarás Pleanála: Comhairle Contae Mhaigh Eo
Planning Authority: Mayo County Council

Uimhir Thagartha ar an gClár Pleanála: 23/60525
Planning Register Reference Number: 23/60525

Achomharc ó James Mangan, Dumha Thuama, Béal an Átha, Contae Mhaigh Eo, in aghaidh an chinnidh a rinne Comhairle Contae Mhaigh Eo an 31^ú lá de mhí Iúil 2024 cead a dheonú, faoi réir coinníollacha, do Thomas Talbot faoi chúram McIntyre Building Services, an Carn (Fowler), Béal an Mhuirthead, Contae Mhaigh Eo, i gcomhréir le pleananna agus sonraí a taisceadh leis an gComhairle sin.

Appeal by James Mangan of Doohoma, Ballina, County Mayo against the decision made on the 31st day of July, 2024 by Mayo County Council to grant subject to conditions a permission to Thomas Talbot care of McIntyre Building Services of Carnfowler, Belmullet, County Mayo in accordance with plans and particulars lodged with the said Council.

Forbairt Bheartaithe: Athrú úsáide trí dhá cheann d'aonaid tráchtála atá ann cheana – aonad a cúig agus aonad a sé (a bhfuil an dá cheann díobh suite ar leibhéal an duga) – a thiontú ina n-árasáin chónaithe, áit a mbeidh árasán stiúideo aon seomra leapa in aonad a cúig agus a mbeidh árasán dhá sheomra leapa in aonad a sé, lena n-áireofar na seirbhísí coimhdeacha agus na hoibreacha forbartha uile eile ar an láithreán, agus iad go léir suite ag Sráid na Beairice Íochtarach, Na Dugaí, Béal an Mhuirthead, Contae Mhaigh Eo.

Proposed Development: Change of use by conversion of two number existing commercial units, units five and six (both at dock level) into residential apartments, whereby unit five will contain a one-bedroom studio apartment and unit six (6) will contain a two-bedroom apartment, to include all other ancillary site services and development works, all at Lower Barrack Street, The Docks, Belmullet, County Mayo.

Cinneadh

Cead a DHEONÚ don fhorbairt bheartaithe thuas i gcomhréir leis na pleananna agus na sonraí luaite, bunaithe ar na cúiseanna agus na cúinsí faoi bhun agus faoi réir na gcoinníollacha atá leagtha amach thíos.

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.

Cúiseanna agus Cúinsí

Ag féachaint do phatrún agus sainghné na forbartha atá ann cheana sa limistéar, do dhearadh agus scála na forbartha beartaithe, agus do na forálacha de Phlean Forbartha Contae Mhaigh Eo 2022-2028, meastar, faoi réir na coinníollacha atá leagtha amach thíos a chomhlíonadh, go mbeadh an fhorbairt bheartaithe inghlactha i gcomhréir leis an gcuspóir críosaithe don láithreán, nach mbainfeadh sí ó thaitneamhacht amhairc an limistéir, nach ndéanadh sí díobháil mhór do thaitneamhacht amhairc na réadmhaoine mórthimpeall, agus nach gcuirfeadh sí sábháilteacht phoiblí ná áisiúlacht phoiblí i mbail de dheasca giniúint tráchtá ná ar shlí eile. Dá bhrí sin, bheadh an fhorbairt bheartaithe i gcomhréir le pleanáil chuí agus forbairt inchothaithe an limistéir.

Coinníollacha

1. Déanfar an fhorbairt bheartaithe agus críochnófar í i gcomhréir leis na pleananna agus na sonraí a taisceadh in éineacht leis an iarratas, mar a leasaíodh leis na pleananna agus na sonraí breise a fuair an t-údarás pleanála an 16^ú lá de mhí Iúil 2024, agus leis na pleananna agus na sonraí breise a fuair an Bord Pleanála an 12^ú lá de mhí na Bealtaine 2025, seachas de réir mar is gá ar shlí eile chun na coinníollacha seo a leanas a chomhlíonadh. I gcás go gceanglófar leis na coinníollacha sin go gcomhaontófaí mionsonraí leis an údarás pleanála, comhaontóidh an forbróir le mionsonraí den sórt sin i scríbhinn leis an údarás pleanála sula dtosófar an fhorbairt bheartaithe, agus déanfar an fhorbairt agus críochnófar í i gcomhréir leis na sonraí comhaontaithe.

Cúis: Ar mhaithe le soiléire.

2. (a) Ar feadh tréimhse 15 bliana, déanfar 50% ar a laghad de na haonaid chónaithe a cheadaítear leis seo a theorannú dá n-úsáid acu sin ar féidir leo a léiriú go bhfuil cumas acu teanga agus cultúr na Gaeltachta a chaomhnú agus a chosaint.
- (b) Sula n-áiteofar an fhorbairt, déanfaidh an forbróir comhaontú alt 47 leis an údarás pleanála chun díol aonaid na coda comhaontaithe de na gnéithe cónaithe den fhorbairt a cheadaítear leis seo a theorannú dá n-úsáid ag áititheoirí a bhfuil inniúlacht/líofacht chuí acu i nGaeilge, ach amháin i gcás, tar éis tréimhse nach lú ná dhá bhliain ó dháta críochnaithe gach aonaid cónaithe shonraithe, go léireofar é chun sástacht scríofa an údaráis pleanála nach rabhthas in ann gach aonad cónaithe sonraithe a dhíol lena úsáid ag áititheoirí a bhfuil an inniúlacht/an líofacht is gá acu i nGaeilge.
- (c) Beidh an cinneadh ón údarás pleanála a cheanglaítear i mír (b) faoi réir fianaise dhoiciméadach shásúil a bheith faighte ag an údarás pleanála ón bhforbróir maidir le díol agus margú na n-aonad cónaithe sonraithe. Sa chás sin, deimhneoidh an t-údarás pleanála i scríbhinn don fhorbróir nó d'aon duine a bhfuil leas aige nó aici sa talamh gur foirceannadh an comhaontú a rinneadh faoi alt 47 agus gur comhlíonadh ceanglas an choinníll pleanála sin i leith gach aonaid cónaithe shonraithe.

Beidh an inniúlacht/an líofacht chuí i nGaeilge a cheanglófar chun comhlíonadh an chlásail áitíochta sin a léiriú cosúil leis sin a cheanglaítear chun B2 ar a laghad a bhaint amach ag Meánleibhéal 2 de scrúduithe Theastas Eorpach na Gaeilge, agus soláthróidh áititheoir amach anseo gach aonaid cónaithe is ábhar don chlásal áitíochta sin cruthúnas chuige sin don fhorbróir agus don údarás pleanála, trí aighneacht comhlíonta, á léiriú go bhfuair aosach ainmnithe a chónóidh san aonad faoi seach pas sa scrúdú sin nó i scrúdú Gaeilge ag leibhéal den chineál céanna, laistigh de chreat ama réasúnach ón aonad cónaithe faoi seach a cheannach/a áitiú. Leis an gcoinníoll sin, ní dhéanfar aon difear do dhíol na teaghaise ag morgáistí a bhfuil an teaghais ina sheilbh nó ina seilbh aige nó aici ná d'áitiú na teaghaise ag aon duine a dhíorthóidh teideal ó dhíol den sórt sin.

Cúis: Chun a chinntiú go n-úsáidfear na haonaid árasáin bheartaithe chun freastal ar Bheartas SCP 31 de Phlean Forbartha Contae Mhaigh Eo 2022-2028 agus go mbeidh forbairt sa limistéar seo teoranta go cuí chun teanga agus cultúr na Gaeltachta a chaomhnú agus a chosaint ar mhaithe le pleanáil chuí agus forbairt inchothaithe an limistéir.

3. Cuirfear mionsonraí faoi ábhair, dathanna agus uigeacht na mbailchríoch seachtrach uile ar an bhforbairt bheartaithe faoi bhráid an údaráis pleanála, agus comhaontófar iad i scríbhinn leis, sula dtosófar an fhorbairt.

Cúis: Ar mhaithe le taitneamhacht amhairc agus chun ardchaighdeán cuí forbartha a chinntiú.

4. Maidir le socruithe draenála, lena n-áireofar uisce dromchla a mhaolú agus a dhiúscairt, comhlíonfaidh siad ceanglais an údaráis pleanála le haghaidh oibreacha agus seirbhísí den sórt sin.

Cúis: Ar mhaithe leis an tsláinte phoiblí agus le bainistíocht uisce dromchla.

5. Sula dtosófar an fhorbairt, déanfaidh an forbróir comhaontuithe um nasc uisce agus um nasc fuíolluisce le hUisce Éireann.

Cúis: Ar mhaithe le soiléire agus leis an tsláinte phoiblí.

6. Maidir le hoibreacha forbartha agus tógála láithreáin, ní dhéanfar iad ach amháin idir 0700 agus 1900 ón Luan go dtí an Aoine, agus an dá lá sin san áireamh, agus idir 0800 agus 1400 ar an Satharn, agus ní dhéanfar aon oibreacha ar bith ar an Domhnach ná ar laethanta saoire poiblí. Ní cheadófar aon imeacht ó na hamanna sin ach amháin in imthosca eisceachtúla ina bhfuarthas réamhcheadú i scríbhinn ón údarás pleanála.

Cúis: Chun taitneamhachtaí cónaithe na réadmhaoine sa chomharsanacht a choimirciú.

7. Íocfaidh an forbróir leis an údarás pleanála ranníocaíocht airgeadais i leith bonneagar agus saoráidí poiblí a rachaidh chun tairbhe d'fhorbairt i limistéir an údaráis pleanála, ar nithe iad a sholáthróidh an t-údarás nó a sholáthrófar thar a cheann, nó a bhfuil sé beartaithe ag an údarás iad a sholáthar nó a bhfuil sé beartaithe iad a sholáthar thar a cheann, i gcomhréir le téarmaí na Scéime Ranníocaí Forbartha arna déanamh faoi alt 48 den Acht um Pleanáil agus Forbairt, 2000, arna leasú. Déanfar an ranníocaíocht sula dtosófar an fhorbairt nó trí cibé íocaíochtaí céimnithe a éascóidh an t-údarás pleanála, agus beidh sí faoi réir aon fhorálacha innéacsaithe is infheidhme den Scéim tráth na híocaíochta. Comhaontófar mionsonraí chur i bhfeidhm na Scéime idir an t-údarás pleanála agus an forbróir nó, cheal comhaontú, tarchuirfear an ní chuig an mBord Pleanála chun cur i bhfeidhm cuí théarmaí na Scéime a chinneadh.

Cúis: Ceanglaítear leis an Acht um Pleanáil agus Forbairt, 2000, arna leasú, go ndéanfaí coinníoll lena gceanglaítear ranníocaíocht i gcomhréir leis an Scéim Ranníocaí Forbartha arna déanamh faoi alt 48 den Acht a chur i bhfeidhm i leith an cheada.

Reasons and Considerations

Having regard to the pattern and character of existing development in the area, the design and scale of the proposed development, and the provisions of the Mayo County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety or convenience by reason of traffic generation or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 16th day of July, 2024 and the further plans and particulars received by An Bord Pleanála on the 12th day of May, 2025, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) A minimum of 50% of the residential units hereby permitted shall be restricted to use by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht for a period of 15 years.
- (b) Prior to occupation of the development, the developer shall enter into a Section 47 agreement with the planning authority to restrict the sale of units of the agreed portion of the residential elements of the development hereby permitted for the use of occupants who have an appropriate competence/fluency in Irish, except where after not less than two years from the date of completion of each specified residential unit, it is demonstrated to the written satisfaction of the planning authority that it has not been possible to transact each specified residential unit for use by occupants with the required competence/fluency in Irish.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning authority of satisfactory documentary evidence from the developer regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified residential unit.

The appropriate competence/fluency in Irish required to demonstrate compliance with this occupancy clause shall be akin to that required to at a minimum pass level B2 Meánleibhéal 2 in the Teastas Eorpach na Gaeilge examinations and a future occupier of each residential unit, the subject of this occupancy clause, shall provide proof to the developer and planning authority, by way of a compliance submission, that a nominated adult residing in the respective household has completed such an examination, or similar level of examination in the Irish language within a reasonable timeframe of purchasing /occupying the respective residential unit. This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed apartment unit(s) are used to meet Policy SCP 31 of the Mayo County Development Plan 2022-2028 and that development in this area is appropriately restricted to preserve and protect the language and culture of the Gaeltacht in the interest of the proper planning and sustainable development of the area.

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

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

4. 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 and surface water management.

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

Reason: In the interest of clarity and public health.

6. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

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.



Declan Moore

**Comhalta den Bhord Pleanála
atá údaraithe go cuí chun
séala an Bhoird a fhiordheimhniú.**

Arna dhátú an 12 lá seo de Meithean 2025.