



An
Coimisiún
Pleanála

Ordú ón gCoimisiún
Commission Order
ABP-320964-24

An tAcht um Pleanáil agus Forbairt, 2000, arna leasú
Planning and Development Act 2000, as amended

Údarás Pleanála: Comhairle Contae na Gaillimhe
Planning Authority: Galway County Council

Uimhir Thagartha ar an gClár Pleanála: 2460943
Planning Register Reference Number: 2460943

Achomharc ó Shane Kennedy faoi chúram OPC Design and Planning, An tSráid Mhór, Baile Locha Riach, Contae na Gaillimhe, in aghaidh an chinnidh a rinne Comhairle Contae na Gaillimhe an 19^ú lá de mhí Mheán Fómhair 2024 cead a dhiúltú don fhorbairt bheartaithe.

Forbairt Bheartaithe: Foirgneamh úsáide measctha dhá stór a thógáil ina mbeidh dhá cheann d'aonaid oifige ar an mbunurlár agus dhá cheann d'árasáin ar an gcéad urlár, sonnach láithreach a bhaint agus ballaí teorann tosaigh nua a thógáil ina mbeidh bealach isteach d'fheithiclí, spásanna páirceála carranna, foscadán rothar agus limistéar stórála araidí a sholáthar, umar seipteach agus nasc leis an bpríomhshéarach a dhíchoimisiúnú, agus na hoibreacha láithreáin gaolmhara uile ag an gCéibh, Bearna, Contae na Gaillimhe.

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.

Cúiseanna agus Cúinsí

Ag féachaint do chineál agus scála na forbartha beartaithe, do phatrún na forbartha sa limistéar, do chriosú an láithreáin mar Lár Baile, do chuspóirí PLCB1 (Pobail Chónaithe Inbhuanaithe) agus PLCB2 (Lár Baile Inbhuanaithe) i bPlean Forbartha Contae na Gaillimhe 2022-2028, a bhfuil Plean Ceannchathartha Bhearna 2022-2028 san áireamh ann, do shuíomh agus dearadh na forbartha beartaithe, don Mheasúnacht Riosca Tuilte atá Sonrach don Láithreán, agus do chonclúid an chleachtaidh scagtha Measúnachta Cuí a rinne an Coimisiún, meastar go mbeadh an fhorbairt bheartaithe ina forbairt inghlactha úsáide measctha ar láithreán seirbhísithe inlíonta, nach ndéanfadh sí díobháil mhór do shainghné an limistéir ná do thaitneamhachtaí na maoine sa chomharsanacht, go mbeadh sí i mbaol íseal tuilte agus nach gcruthódh sí aon bhaol tuilte do thailte tadhlacha, nach mbeadh aon drochthionchar suntasach aici ar an gcomhshaol ná ar aon láithreán Eorpach, agus go mbeadh sí inghlactha ó thaobh tráchta de agus ó thaobh sábháilteacht coisithe de. Dá bhrí sin, bheadh an fhorbairt bheartaithe i gcomhréir le pleanáil chuí agus forbairt inchothaithe an limistéir.

Scagadh Measúnachta Cuí

Chuir an Coimisiún cleachtadh scagtha Measúnachta Cuí i gcrích i ndáil leis na héifeachtaí a d'fhéadfadh a bheith ag an bhforbairt bheartaithe ar Láithreáin Eorpacha ainmnithe, agus aird á tabhairt ar chineál, scála agus suíomh na forbartha beartaithe i limistéar uirbeach seirbhísithe, ar an Tuarascáil maidir le Scagadh Measúnachta Cuí agus doiciméid eile a cuireadh faoi bhráid Chomhairle Contae na Gaillimhe in éineacht leis an iarratas, ar an Tuarascáil ón gCigire, agus ar na haighneachtaí a bhí ar comhad a fuarthas ag céim an iarratais agus ag céim an achomhairc. Agus an cleachtadh scagtha á chur i gcrích aige, ghlac an Coimisiún an tuarascáil ón gCigire, agus tháinig sé ar an gconclúid nár dhócha go mbeadh éifeacht shuntasach ag an bhforbairt bheartaithe, aisti féin nó i gcomhcheangal le forbairt eile sa chomharsanacht, ar aon Láithreán Eorpach i bhfianaise chuspóirí caomhantais na láithreán sin.

Coinníollacha

1. Déanfar an fhorbairt a sheoladh agus a chríochnú i gcomhréir leis na pleananna agus na sonraí a taisceadh i dteannta an iarratais, 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 mionsonraí den sórt sin i scríbhinn leis an údarás pleanála sula dtosófar an fhorbairt, agus déanfar an fhorbairt agus críochnófar í i gcomhréir leis na sonraí comhaontaithe.

Cúis: Ar mhaithe le soiléire.

2. Soláthrófar limistéar spáis oscailte chomhchoitinn chun freastal ar chónaitheoirí na n-árasán, cibé acu trí thrí spás páirceála a fhágáil ar lár nó trí iad a athshuí chuig áit os comhair an láithreáin. Cuirfear líníochtaí athbhreithnithe lena léirítear comhlíonadh an cheanglais sin faoi bhráid an údarais pleanála sula dtosófar an fhorbairt.

Cúis: Ar mhaithe le taitneamhacht cónaithe.

3. Cuirfear mionsonraí faoi ábhair, dathanna agus uigeacht na mbailchríoch seachtrach uile ar an bhforbairt bheartaithe, faoi thírdhreachú crua agus bog, agus faoi chóireálacha teorann, faoi bhráid an údarais 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. Sula dtosófar an fhorbairt, déanfaidh an forbróir Comhaontú um Nasc le hUisce Éireann chun socrú a dhéanamh do nasc seirbhíse leis an soláthar uisce poiblí agus/nó leis an líonra bailiúcháin fuíolluisce.

Cúis: Ar mhaithe leis an tsláinte phoiblí agus chun saoráidí leordhóthanacha uisce/fuíolluisce a chinntiú.

5. Comhlíonfaidh maolú agus diúscairt uisce dromchla ceanglais an údarais pleanála le haghaidh oibreacha agus seirbhísí den sórt sin. Sula dtosófar an fhorbairt, cuirfidh an forbróir mionsonraí faoi conas a dhiúscrófar uisce dromchla ón láithreán isteach lena gcomhaontú i scríbhinn ag an údarás pleanála.

Cúis: Ar mhaithe leis an tsláinte phoiblí.

6. Cuirfidh an forbróir Plean Bainistíochta Carrchlóis agus mionsonraí faoi dhearadh, leagan amach agus bainistíocht na spásanna páirceála carranna faoi bhráid an údaráis pleanála lena gcomhaontú i scríbhinn aige sula dtosófar an fhorbairt.

Cúis: Ar mhaithe le hiompar inbhuanaithe agus sábháilteacht.

7. Is í cuideachta bainistíochta atá bunaithe go dleathach a bheidh freagrach as an bhforbairt bheartaithe a bhainistiú agus a chothabháil tar éis í a chríochnú. Cuirfear tograí mionsonraithe faoi sin faoi bhráid an údaráis pleanála, agus comhaontófar iad i scríbhinn leis, sula dtosófar an fhorbairt.

Cúis: Chun a chinntiú go ndéanfar an fhorbairt seo a chríochnú agus a chothabháil go sásúil.

8. 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.

9. Sula dtosófar na hoibreacha, cuirfidh an forbróir Plean Bainistíochta Tógála faoi bhráid an údaráis pleanála, agus comhaontóidh sé é i scríbhinn leis, agus cloífear leis an bPlean sin le linn na tógála. Soláthrófar sa phlean sin mionsonraí faoin gcleachtas beartaithe tógála don fhorbairt, lena n-áireofar bearta bainistíochta torainn, deannaigh agus siolta agus aisghabháil agus/nó diúscairt dramhaíola tógála agus scartála lasmuigh den láithreán.

Cúis: Ar mhaithe le sábháilteacht an phobail agus taitneamhacht.

10. Beidh gach cábla seirbhíse a bhaineann leis an bhforbairt bheartaithe, amhail cáblaí leictreacha, cáblaí teileachumarsáide agus cáblaí comhchoiteanna teilifíse, lonnaithe faoi thalamh. Soláthróidh an forbróir duchtú ionas gur féidir bonneagar leathanbhanda a sholáthar laistigh den fhorbairt bheartaithe.

Cúis: Ar mhaithe le taitneamhacht amhairc agus cónaithe.

11. Ní dhéanfar aon fhógra ná aon struchtúr fógraíochta a chur suas ná a thaispeáint ar an bhfoirgneamh ná laistigh de chúirtealáiste an láithreáin ar mhodh a fhágfaidh go mbeidh sé le feiceáil ón taobh amuigh den fhoirgneamh, ach amháin i gcás go n-údarófar é sin le deonú eile cead pleanála.

Cúis: Ar mhaithe le taitneamhacht amhairc.

12. Cuirfear tograí le haghaidh scéim uimhriúcháin árasán agus le haghaidh comharthaí gaolmhara faoi bhráid an údaráis pleanála, agus comhaontófar iad i scríbhinn leis, sula dtosófar an fhorbairt. Ina dhiaidh sin, soláthrófar gach uimhir árasáin i gcomhréir leis an scéim chomhaontaithe. Ní dhéanfar aon fhógraí ná aon chomharthaí margaíochta a bhaineann le hainm na forbartha a chur suas go dtí go mbeidh comhaontú i scríbhinn faighte ag an bhforbróir ón údarás pleanála i leith an ainm bheartaithe.

Cúis: Ar mhaithe le hinléiteacht uirbeach.

13. (a) Ar feadh tréimhse 15 bliana, déanfar ceann amháin de na hárasáin a cheadaítear leis seo leis an gcead a theorannú dá úsáid mar aonad teaghaise acu sin ar féidir leo a léiriú go bhfuil cumas acu teanga agus cultúr na Gaeltachta a chaomhnú agus a chosaint, ach amháin i gcás go gcomhaontófar a mhalairt i scríbhinn leis an údarás pleanála.
- (b) Sula dtosófar an fhorbairt, déanfaidh an forbróir comhaontú dlíthiúil leis an údarás pleanála (faoi na forálacha d'alt 47 den Acht um Pleanáil agus Forbairt, 2000, arna leasú), arb é an cuspóir a bheidh leis cuid de na gnéithe cónaithe den fhorbairt a theorannú nó a rialáil dá n-úsáid ag áititheoirí a bhfuil inniúlacht/líofacht chuí acu i nGaeilge. Cuirfear mionsonraí faoin gcaighdeán Gaeilge a bheidh le baint amach agus faoin modh a úsáidfear chun é sin a mheas faoi bhráid an údaráis pleanála, agus comhaontófar iad i scríbhinn leis, sula dtabharfar i gcrích an comhaontú a leagtar síos mar choinníoll leis seo. (Beidh duine cáilithe go huathoibríoch má cháilíonn sé/sí don Scéim Deontais Tithe). Ní áiteofar aon teach go dtí go ndéanfar comhaontú leis an údarás pleanála de bhun alt 47 den Acht um Pleanáil agus Forbairt, 2000, arna leasú.

Cúis: Chun a chinntiú go mbeidh forbairt sa limistéar ina bhfuil an láithreán suite teoranta go cuí chun teanga agus cultúr na Gaeltachta a chaomhnú agus a chosaint.

14. Íocfaidh an forbróir leis an údarás pleanála ranníocaíocht airgeadais i leith bonneagar agus saoraidí 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 gCoimisiún 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.

Appeal by Shane Kennedy care of OPC Design and Planning of Main Street, Loughrea, County Galway against the decision made on the 19th day of September 2024, by Galway County Council to refuse permission for the proposed development.

Proposed Development: Construction of a two-storey mixed use building consisting of two number ground floor office units and 2 number first floor apartments, removal of existing palisade fencing & construction of new front boundary walls with vehicular entrance, provision of car parking, bike shelter and bin storage area, decommission of septic tank and connection to main sewer and all associated site works at An Chéibh, Freeport, Bearna, County Galway.

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 the nature and scale of the proposed development, to the pattern of development in the area, to the zoning of the site as Town Centre, objectives BMSP 1 (Sustainable Residential Communities) and BMSP 2 (Sustainable Town Centre) in the Galway County Development Plan 2022-2028 incorporating the Bearna Metropolitan Plan 2022 - 2028, the siting and design of the proposed development, the Site Specific Flood Risk Assessment, and the conclusion of the Appropriate Assessment screening exercise which was undertaken by the Commission, it is considered that the proposed development would provide an acceptable mixed use development on a serviced, infill site, would not seriously injure the character of the area or the amenities of property in the vicinity, would be at low risk of flooding and

would not present a flood risk to adjoining lands, would not have a significant adverse impact on the environment or on any European site, and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Commission completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development in a serviced urban area, the Appropriate Assessment Screening Report and other documentation submitted with the application to Galway County Council, the Inspector's report, and submissions on file received at application and appeal stage. In completing the screening exercise, the Commission adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. An area of communal open space to serve the residents of the apartments shall be provided either by the omission, or the relocation to the front of the site, of three car parking spaces. Revised drawings showing compliance with this requirement shall be submitted to the planning authority prior to the commencement of development.

Reason: In the interest of residential amenity.

3. Details of the materials, colours, and textures of all the external finishes to the proposed development, hard and soft landscaping, and boundary treatments 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. Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann to provide for a service connection to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

5. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

6. The developer shall submit a Car Park Management Plan and details of car parking design, layout, and management to the planning authority for agreement in writing prior to the commencement of development.

Reason: In the interest of sustainable transport and safety.

7. The management and maintenance of the proposed development, following its completion, shall be the responsibility of a legally constituted management company. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday 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. Prior to commencement of works, the developer shall submit to, and agree in writing with, the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including noise, dust and silt management measures and offsite recovery and/or disposal of construction & demolition waste.

Reason: In the interest of public safety and amenity.

10. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

11. No advertisement or advertisement structure shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

12. Proposals for an apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility.

13. (a) One of the apartments hereby permitted by the permission shall be restricted to use as a dwelling unit by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht, unless otherwise agreed in writing with the planning authority, for a period of 15 years.
- (b) Prior to commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act, 2000, as amended), the purposes of which shall be to restrict or regulate a portion of the residential elements of the development for the use of occupants who have an appropriate competence/fluency in Irish. Details of the standard of Irish to be achieved and method of evaluating this shall be submitted to, and agreed in writing with, the planning authority prior to the finalisation of the agreement hereby conditioned. (Qualification for the Sceim Deontais Tithe will automatically qualify). No house shall be occupied until an agreement has been entered into with the planning authority pursuant to section 47 of the Planning and Development Act, 2000, as amended.

Reason: To ensure that development in the area in which the site is located is appropriately restricted to preserve and protect the language and culture of the Gaeltacht.

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 Coimisiún 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 Gurrie

Mary Gurrie

**Coimisinéir Pleanála den
Coimisiún Pleanála atá
údaráithe go cuí chun séala
an Coimisiún a
fhíordheimhniú**

**Planning Commissioner
of An Coimisiún
Pleanála duly authorised
to authenticate the seal
of the Commission.**

Dátaithe ar an 08 **lá seo de** Nolluig **2025**