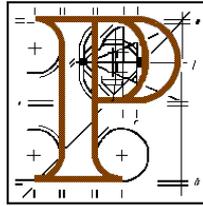


# An Bord Pleanála



## Inspector's Report

PL25M.246402

**DEVELOPMENT:-**

Demolition of extension to rear, partial demolition of boundary wall, construction of extension with disability access and ancillary works at 'Villa Rose', Bishopsgate Street, Mullingar, County Westmeath.

**PLANNING APPLICATION**

**Planning Authority:** Westmeath County Council  
**Planning Authority Reg. No:** 15/6175  
**Applicant:** Eoghan James Doherty  
**Application Type:** Permission  
**Planning Authority Decision:** Grant

**APPEAL**

**Appellant:** Ronan Murray  
**Types of Appeal:** 3<sup>rd</sup> Party -v- Grant  
**Observers:** None  
**Date of Site Inspection:** 3<sup>rd</sup> June, 2016.

**INSPECTOR:** Paul Caprani

## **1.0 INTRODUCTION**

PL25M.246402 relates to a third party appeal against the decision of Westmeath County Council to issue notification to grant planning permission for the demolition of an existing extension to the rear of an existing dwelling and to construct a new extension, catering for disabled access together with other ancillary works. The grounds of appeal argue that the proposed development will have an unacceptable and overbearing impact on the amenity of the adjoining residential unit.

## **2.0 SITE LOCATION AND DESCRIPTION**

The subject site is located centrally in the town of Athlone on Bishopsgate Street which runs parallel to and to the north of Main Street, Mullingar. The subject site forms the eastern side of a pair of semi-detached residential dwellings which front directly onto the street and are located almost directly opposite the Cathedral. The existing house is currently vacant. The adjoining house is occupied. The owner of the adjoining house is not the appellant in this instance. Both dwellings comprise of two-storey structures with single storey extensions to the rear together with a rear backyard. A laneway runs along the eastern boundary of the subject site providing access to sheds to the rear. A laneway also runs along the eastern boundary of the house. It separates the subject dwelling from a pair of semi-detached dwellings. The appellant lives in the dwelling adjacent to the lane along the eastern boundary of the site. Bishopsgate Street incorporates primarily residential and religious institutional uses. Commercial uses are concentrated at the eastern end of the street.

The existing dwellinghouse comprises of a two-storey semi-detached structure possibly dating from the late 19<sup>th</sup> or early 20<sup>th</sup> century. The front of the house at ground floor level comprises of an entrance hall and sitting room which leads to a dining room and living room together with a single storey kitchenette to the rear of the unit. Upstairs comprises of three bedrooms and a bathroom. The rear garden is c.17 metres in length. A single-storey garage is located to the rear of the garden, directly behind the rear boundary of the adjacent dwelling to the east. The garage which forms part of the applicant's property, adjoins a garage located to the rear of the adjoining property.

### 3.0 PROPOSED DEVELOPMENT

Planning permission is sought for the demolition of the rear portion of the dwellinghouse comprising of the living and dining room and kitchen at ground floor level and bedroom no. 3 and rear bathroom at first floor level. In its place it is proposed to provide the following:

- The front part of the building at ground floor level is to incorporate a secure entrance behind the front door together with an entrance hall and bathroom.
- The entrance hall is to lead onto a further hallway which provides access to a kitchen dining area to the rear and a gaming room.
- It is also proposed to incorporate a circular stairs and a lift leading to first floor level.
- At first floor level it is proposed to provide two small bedrooms (Bedrooms 2 and 3) to the front of the house together with an en-suite bathroom. A larger bedroom is to be located to the rear along with a large wet room.
- Beyond the wet room access is provided to a roof as a fire escape. Skylights to the kitchen/dining area below are to be provided on the roof garden. The roof garden is to accommodate 1.8 metre high frosted glass around its perimeter in order to prevent overlooking and to comply with Part K of the Building Regulations.
- The residual area to the rear of the proposed extension is to provide a rear garden. The rear garden has a depth of between 7.5 and 11 metres.
- The two-storey element of the proposed extension rises to 6.7 metres in height which is approximately 400 millimetres below the ridge height to the front of the building. The ground floor element rises to a height of just under 3 metres. It is also proposed to partially demolish the existing wall along the eastern boundary of the site.

### 4.0 PLANNING AUTHORITY'S ASSESSMENT

The planning application was lodged on the 9<sup>th</sup> September, 2015.

A report from the **Department of Arts, Heritage and the Gaeltacht** recommended that archaeological monitoring be incorporated as a condition in the event that planning permission is granted.

A report from the **Area Engineer** raised no objection and recommend that planning permission be granted for the proposed development.

#### **4.1 Additional Information Request**

The initial Planner's Report dated 28<sup>th</sup> October, 2015 stated that the applicant shall submit a revised proposals eliminating the potential for overlooking of the adjacent residential gardens, particularly from the proposed roof terrace and first floor window on the eastern elevation.

#### **4.2 Additional Information Submission**

A response was submitted by the applicant on 27<sup>th</sup> January, 2016. It states that the owner of the property is a paraplegic and is wheelchair bound. He currently lives with his parents, and once the renovations and extension is completed, he intends to live independently. To make the dwelling safe the applicant has incorporated a means of escape for him onto the roof terrace in the event of a fire and it is necessary for the applicant to have access onto the roof terrace. In relation to the issue of overlooking from the proposed roof terrace, a frosted glass screen will be erected to prevent overlooking of neighbouring properties. Furthermore it will not result in shadow casting. Frosted glass has not been placed on the south of the roof's terrace as this faces onto the owner's own garden. Furthermore the first floor window on the east elevation has been changed to frosted glass in order to prevent any overlooking issues. A letter accompanies the response from the Senior Assistant Chief Fire Officer which considers it necessary to have a fire escape at first floor level.

A letter of objection from the current appellant is contained on file the contents of which have been read and noted.

#### **4.3 Further Planning Report**

A further planner's report states that the Planning Authority is satisfied with the response and any concerns raised in relation to overlooking have been adequately addressed by the use of alternative glazing which is deemed to be acceptable. In conclusion the Planner's report noted that the site is not located in a recognised Architectural Conservation Area nor is it listed on the Record of Protected Structures. Notwithstanding this it does form an integral part of the current streetscape and the Planning Authority welcomes the redevelopment of the vacant property within the town and the proposal would contribute towards the changing urban fabric of the town rather than detract from the area. It is therefore recommended that planning permission be granted for the proposed development.

On 9<sup>th</sup> March, 2016 Westmeath County Council issued notification to grant planning permission for the proposed development.

## **5.0 PLANNING HISTORY**

There appears to be no planning history associated with the appeal site.

## **6.0 GROUNDS OF APPEAL**

The decision was appealed by Ronan Murray on the grounds that the proposal will adversely impact on residential amenity leading to the devaluation of property in the vicinity and as such materially contravenes Objective P-CA4 of the Mullingar Local Area Plan. Furthermore the proposal will have an adverse impact on the Architectural Conservation Area and on protected structures in the area.

The size of the first floor balcony which is enclosed by a 1.8 metre high frosted glazing would suggest that it is more than an emergency means of escape. While it is acknowledged that a means of escape is required, it is also considered that the overall design would lend itself to a 'seating out area'. It is not clear as to why a glazed area is required to be used in the event of an emergency. The parapet surrounding the extension should be sufficient to negate any safety concerns in the case of an emergency. It is suggested that there should be a condition applied that the roof is only to be used as a means of escape and only in the event of a fire.

The new party wall on the eastern boundary of the site will be increased in height from approximately 1.8 metres to 2.95 metres in order to cater for the proposed extension. That is an increase of 1.4 metres over the existing party wall. Two windows along the eastern elevation will overlook and therefore impact on the amenity of the adjacent garden. The 1.8 metre high balustrade at roof level will be a dominant structural presence and will impact on neighbouring gardens adjacent to the development. The void in the balustrade removes any semblance of privacy. This will result in the devaluation of properties in the vicinity.

It is suggested that the location of the window on the house gable should be dropped by approximately 225 millimetres to ensure no overlooking occurs of the adjoining garden. It is also suggested that a

condition that no structure beyond the rear wall of the neighbouring house will be raised up beyond first floor level in height.

Concern is expressed in relation to light quality and it is suggested that sunlight which currently penetrates the ground floor rooms to the rear of the dwellings in the vicinity will be reduced, particularly in winter months. The problem will be exacerbated by the proposed glass and this will have consequential impacts on energy bills. It is suggested that the proposed development extension shall not exceed beyond the back wall of the neighbouring house particularly at first floor level and the removal of the 1.8 metre high glass balustrade.

The grounds of appeal go on to suggest that the proposed development will adversely impact on the standard of living of the adjoining properties in terms of access to daylight and the size and scale and overbearing nature of the extension. Again it is argued that the removal of the balustrade and the restriction in height and length of the proposed extension would address these problems.

It is also noted that the subject site abuts an Architectural Conservation Area. The cottage proposed to be developed is of architectural and historic merit. The elements of the existing cottage are all significant contributors to the character of the streetscape. It is suggested that the gable end of the cottage dominates Bishopsgate Street. It is suggested that much of the originality of this unique structure should be maintained. The proposal to incorporate fascia and soffit eaves on the gable wall end is totally out of context with the origin of the building. The adjoining historic semi-detached cottage was deemed to be important enough to be protected by way of an Architectural Conservation Area. It is suggested that a condition be attached requiring the restoration of the original slate verge overhang on the gable end of the development. All original features of the dwellinghouse should be preserved and new materials should reflect the original materials where possible. Furthermore the glass balustrade should be removed in order to maintain the historical integrity of the buildings.

It is suggested that there are inaccuracies in the submitted plans and reference is made to Drawing No. DWG001 which does not accurately depict the first floor extension to the rear when viewed from the adjoining private laneway. The drawings submitted also ignore the original slate verge overhang in detail at the gable end of the dwelling. It is also considered that other drafting errors have been incorporated into

the drawings. It is therefore suggested that accurate professional plans with no dimensional conflicts are submitted.

It is also suggested that the proposed flat roof deck/garden over the proposed extension provides a 26 square metre first floor area and this should have been included in the description of the development. It is contended that the frosted glass balustrade will be an extensive and discordant feature and therefore should be referred to in the public notices.

A number of conditions are attached to address these perceived deficiencies including the requirement for new public notices.

The proposed development could impact on the local natural habitat including bat habitats in the area. It is suggested that the bats may live over the Cathedral grounds in the vicinity. The historical flight path circuit would bring the bats across the back of the appellant's house within metres of the rear windows. Extending the adjoining property would compromise the flight path of the bats and could impact on their historic hunting grounds. Again the removal of the glass balustrade could adequately address this issue.

In conclusion the grounds of appeal set out a suite of conditions which should be attached to any grant of planning permission as set out in the conclusion of the grounds of appeal.

## **7.0 APPEAL RESPONSES**

### **7.1 Applicants Response**

A response was received from John Madden and Associates on behalf of the applicant. It is briefly summarised below:

The aim of the current application is to convert a partly derelict house in the centre of town to cater for the needs of a paraplegic so he can live his own independent life in the community and be near local services. The proposal meets the approval of the development plan in that a person with disabilities is able to live in a residential community and also assist in the upgrading of an existing semi-derelict property in the town centre. The proposal would not affect the residential amenity or lead to any depreciation of property in the vicinity. Furthermore the proposal will have no adverse impact on the Architectural Conservation Area.

In relation to the the first floor flat roof, this roof is 27 square metres and is under the threshold for the Exempted Development Regulations. Reference is made to Condition No. 11 of the grant of planning permission which states that the first floor roof can only be used as an emergency access and not as a patio area. The applicant has no problem redesigning the proposal to incorporate a steel pathway of wheelchair accessible mechanism on top of the flat roof to the external garden. Furthermore the applicant can design the remainder of the roof so that nobody can walk on the roof in question. It is not the applicant's intention to use the roof for social gatherings and the applicant has no problem with the glass balustrade being removed. The only reason why this was incorporated into the plans was for compliance with Building Regulation Part K. Condition No. 3 of the grant of planning permission states that this screen is to be installed and shall not rise above 1.6 metres for the visual and residential amenity. With regard to property devaluation, the applicant has no issue with all the windows being frosted and this was included in the original drawings to ensure that no overlooking occurs. Again the windows have been designed to the requirements of the Building Regulations.

With regard to light penetration, it is stated that the existing extension amounts to 14.17 square metres and the proposed extension is 15.65 square metres at first floor level. The increase is deemed to be marginal. The proposed development will have no effect whatsoever in terms of shadow casting particularly on the appellant's property to the east. In respect of the obscure/frosted glass, it is stated that approximately 85 to 90% of light penetrates through this glass and therefore the incorporation of such glass would not affect the neighbour's property.

With regard to the potential impact on the Architectural Conservation Area it is stated that the existing roof is not to be touched unless repairs are required. Windows, door verge and eaves will not be changed thus reflecting the existing elements of the building. The Architectural Protection Guidelines (DoEHLG) suggest that attempts should not be made to disguise new additions or extensions.

It is stated that there are no inaccuracies in the submitted plan with the exception of a drawing showing the balustrade at 1.6 metres in height. This was an error in the text.

With regard to the site description, it is stated that the roof area for the fire escape should not be included in the technical description of the development as it constitutes a roof. There is no need to make specific reference to the balustrade in the public notices.

Finally in relation to bats it is stated that after numerous site visits the applicant has not encountered any bats on site.

## **7.2 Further Submission by Appellant**

A further submission by the appellant reiterates that same concerns regarding the balustrade and the impact on amenity generally and particularly in respect on the privacy enjoyed in the appellants rear garden. In relation to reducing the balustrade to 1.1m in height, this would be welcomed and may offer an appropriate solution. To restriction to the roof area for emergency access only may present difficulties from an enforcement point of view. It is further suggested that stairway leading to first floor level may not comply with Part M of the Building Regulations.

## **8.0 PLANNING AUTHORITY'S RESPONSE TO GROUNDS OF APPEAL**

The Planning Authority have not submitted a response to the grounds of appeal.

## **9.0 DEVELOPMENT PLAN PROVISION**

The subject site is located in Bishopsgate Street. Frontage along this section of the street is designated as an important townscape. The site is located outside, but in close proximity to a designated Architectural Conservation Area (ACA). The ACA is centred on Main Street but also incorporates the buildings contiguous to Mary Street to the immediate west of the subject site. The contiguous dwelling to the immediate east of the subject site is a protected structure. The subject site however is not a protected structure. The subject site is zoned for mixed use development. The overall objective of this zoning provision is to *'provide for, protect and strengthen the vitality and viability of the town centre through consolidating development and encouraging a mix of uses and maximising the use of land to ensure the efficient use of infrastructure and services'*. A dwellinghouse is permitted in principle under this land use zoning objective.

Section 9.4 of the Development Plan relates to 'Access for All'. It states that the Council recognises the need for equality of access for everybody to all aspects of the built and external environment as a fundamental pre-requisite of equal opportunities and the development of an inclusive society. Standards established in Part M of the Building Regulations seek to ensure that buildings are accessible and usable by everybody including the aged, people with disabilities and people with children. The Technical Guidance Document in relation to Part M provides guidance on access requirements for public buildings and for residential dwellings. The Council will have regard to the National Disabilities Authority's 'Building for Everyone' Guidance and will seek to encourage the implementation of best practice standards with regard to access in relation to indoor and outdoor environments. An important element in achieving sustainability in the design of residential units is the ability to design to accommodate reduced mobility, as residents may acquire some level of mobility impairment through accident or as an inevitable consequence of old age. In assessing planning applications in relation to protected structures, regard shall be had to the protected status of the structure and the need to protect its special character.

## **10.0 PLANNING ASSESSMENT**

I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal. I consider the critical issues in determining the application before the Board are as follows:

- Principle of Development
- Removal of the Proposed Balustrade
- Overlooking
- Overshadowing and Access to Daylight
- Impact on the Architectural Conservation Area
- Inaccuracies of Drawings Submitted
- Description of Nature and Extent of Development
- Impact on Local Bat Migration Paths

### **10.1 Principle of Development**

The Board will note that the grounds of appeal do not suggest that planning permission should be refused for the proposed development but rather suggest a suite of conditions which could be attached to the

grant of planning permission which would overcome the appellant's concerns in relation to the proposed development. It appears therefore that the appellant in this instance is not requesting that the Board refuse planning permission for the proposed development but rather alter the proposal primarily by way of condition.

Furthermore the Board will note that the proposed development constitutes a vacant structure where it is proposed to incorporate a residential use specifically to cater for the needs of a paraplegic who will have immediate access to commercial and other necessary facilities in the vicinity of the subject site. It is clear from the provisions of Section 9.4 of the Mullingar Local Area Plan that it is the Council's policy to accommodate development which includes such access for all.

Finally the Board will note that the proposed residential use is fully in accordance with the zoning provisions associated with the development plan and is also in accordance with the zoning policy with the more general objective of reusing and rehabilitating derelict structures to incorporate uses that will assist in revitalising the vibrancy and vitality of town centres.

I therefore consider that the proposed development is acceptable in principle and the Board can generally restrict its deliberation to the issues raised in the grounds of appeal.

## **10.2 Removal of the 1.8 metre Balustrade**

A recurrent theme brought up in the grounds of appeal relates to the removal of the proposed obscure glass balustrade at roof level at the ground floor rear extension. The grounds of appeal argue that this balustrade should be removed for a variety of reasons including the overbearing nature of the balustrade, the impact on daylight and sunlight penetration to adjoining buildings and the visual impact of the proposal in the context of the historic streetscape. Roof access is a requirement in order to comply with fire safety requirements. This is apparent from the letter received from the applicant from the Senior Assistant Chief Fire Officer dated 21<sup>st</sup> January, 2016. Thus in order to obtain a fire certificate, the applicant is required to provide roof access for the occupant in the event of a fire. It is clearly stated in the applicant's response to the grounds of appeal that access to the roof will not be used for social gatherings or amenity purposes but will be purely restricted to emergency access. This is reflected in Condition No. 11 of the Planning Authority's notification to grant planning permission.

The applicant in his response to the grounds of appeal states that he has no objection to the removal of the balustrade in question provided that any alternative complies with the requirements of Part K of the Buildings Regulations. To this end the applicant has suggested a number of alternatives. It appears from the applicant response to the grounds of appeal and the drawings attached thereto that barrier requirements around the roof level are required and the minimum requirement set out in terms of height is 1,100 millimetre barrier. As the roof access shall be used purely as an emergency access and not as an outdoor amenity area I do not consider that any overlooking issues will arise in respect of access to the roof level. Therefore it is not necessary in my opinion to incorporate a 1.8 metre high balustrade. The reduction in the height of the balustrade to 1.1 metres would represent an acceptable compromise in my opinion on the grounds that it would reduce the potential for adverse impact in terms of having an overbearing nature on the neighbouring garden, particularly the garden to the west. I do not accept that the balustrade as originally proposed would have a significant impact in terms of being overbearing or creating excessive shadow casting on the appellant's dwelling to the east having regard to the provision of boundary walls and the private laneway between the dwellings in question.

I therefore consider that the reduction in height of the balustrade railing from 1.8 metres to 1.1 metres in height is acceptable and represents a reasonable compromise in terms of comply with Part K of the Building Regulations and reducing any potential impact on adjoining amenities.

### **10.3 Overlooking Concerns**

In respect of overlooking, there are no proposed windows on the western elevation at first floor level directly overlooking the contiguous building. With regard to the private laneway and the appellant's house which is located on the eastern side of the private laneway, three windows overlook this laneway at ground floor level and I consider this to be a positive development as it provides for passive surveillance over the laneway in question. One window is located at first floor level and this window serves the wet room area adjacent to the master bedroom. This window is located 1.3 metres above floor level and that the applicant in this instance is wheelchair-bound, I do not consider that the proposed development in any way gives rise to any significant potential overlooking of the appellant's property. The Board could consider incorporating a condition either incorporating obscure glass or raising

the height of the window by 20-30 mm in order primarily to benefit the applicant as the window in the question serves the bathroom.

#### **10.4 Overshadowing**

In respect of overshadowing, I consider that the main residence most likely to be potentially affected in terms of access to daylight and sunlight relates to the immediate neighbour to the west as opposed to the applicant's dwelling further east. The proposed works in question primarily relate to a large ground floor extension to the rear which increases the depth of the ground floor from just under 15 metres to just less than 24 metres. However the ground floor extension in itself is unlikely to give rise to significant levels of overshadowing on either of the dwellings adjacent. The Board will note that in the case of the adjoining dwelling to the west, the small neighbourhood garden is enclosed by existing boundary walls, the rear of the dwellinghouse and a neighbourhood shed to the rear of the site. The proposed extension at ground floor is unlikely to exacerbate overshadowing within the garden to any appreciable extent.

Likewise the ground floor extension will have a negligible effect on the appellant's amenity in terms of overshadowing having regard to the existence of boundary walls and an intervening laneway between both dwellings. In terms of the first floor extension the Board will have regard to the fact that the existing two-storey element to the rear which is 5 metres in depth is proposed to be demolished. The ridge height of the two-storey extension to be demolished matches the ridge height of the front of the building which is to be retained. The proposed two-storey nature of the extension extends to a maximum depth of 10 metres beyond the two-storey element of the existing building. The proposed wet room beyond the master bedroom incorporates a slightly reduced ridge height. The appellant's garden is located to the south-east of the subject site and therefore will not be adversely affected by the proposed extension as the extension is not located between the path of the sun and the rear garden of the appellant's dwelling for the purposes of obstructing sunlight penetration. The appellant's dwelling will receive the same amount of access to sunlight and daylight throughout the day as currently experienced.

Concerns are expressed by the appellant that impact in terms of overshadowing will be particularly noticeable during the winter months when the sun is lower in the sky. The Board will also be aware that during the winter months the sun sets earlier and therefore the suns

'arc' will not extend to the north-west of the appellant's site to the extent where it would materially impact on the appellants garden in terms of overshadowing. The Board will also be aware that the site is located in an urban area where more pronounced shadow casting from all buildings in the vicinity occur during the winter months. The proposal is therefore acceptable in terms of overshadowing.

Finally in respect of shadow casting I note that the applicant refers in his response to the grounds of appeal that shadow casting diagrams were submitted to the Planning Authority by way of additional information. It is assumed that these shadow casting diagrams relate to the three 3D images contained on Drawing DL-EJD-FI001. While these drawings do indicate the level of shadow casting which may occur, details are not provided as to what time of the day and what time of the year these shadow castings depict.

### **10.5 Impact on the Architectural Conservation Area**

The grounds of appeal argue that the subject site abuts an ACA and that the proposed contemporary type design is not suitable in terms of respecting the ACA. In response to this issue the Board will note that the site does not in fact adjoin an ACA. While the subject site is in close proximity to an ACA it is not contiguous to the boundary of such a designation.

The proposed development in this instance seeks to retain the front portion of the building as it fronts onto Bishopsgate Street. As already noted, Bishopsgate Street forms part of a designated 'Important Townscape' in the development plan. The fact that the front elevation is to be retained in its entirety fully supports this designation in my view. The proposed development to the rear in my view is appropriate in terms of size and scale. Terms of ridge height the proposal is ancillary to and commensurate with the roof profile of the portion of the building to be retained on site. The design incorporates more contemporary elements such as the fenestration and the proposed glazed glass balustrade at roof level. However the Board will note that revised proposals seeks to reduce the height of the balustrade from 1.8 metres to 1.1 metres and this will ensure that the balustrade when viewed from vantage points along the laneway will not represent such a significant visual element in terms of the overall design. Thus the height, scale and proportion of the proposed extension to the rear is appropriate to the existing building and will not in my view detract from the visual amenities of the area or the visual amenities of the adjoining ACA. The potential

impact of the proposed extension on the character of the architectural conservation area therefore does not represent reasonable grounds for refusal.

## **10.6 Inaccuracies in the Drawings Submitted**

The grounds of appeal suggest that the inaccuracies in the drawings submitted are significant and warrant revised plans to be submitted. In this regard the grounds of appeal make significant reference to the incorporation of fascia and soffit eaves on the gable end of the building as depicted in the drawings where no such features exist and the fact that one of the drawings show an inaccuracy in terms of the height of the glass wall balustrade at roof level. These are minor issues in my view and cannot be considered fatal to the overall application before the Board nor would they warrant revised plans and public notices. The minor nature of any discrepancies in the drawings shown do to in my view prejudice any third party rights to a material extent.

If the Board disagree with this view it is obviously within its remit to request such revised drawings prior to determining the application.

## **10.7 Description of the Nature and Extent of the Development**

A similar conclusion can be arrived at in my opinion in respect of the nature and extent of the development. While the project description did not specifically refer to the provision of a roof deck/garden over the first floor extension it has already been determined that the area above the roof is required for emergency access only and does not form part of any amenity space for the purposes of recreation. Therefore there was no requirement to explicitly refer to this in the public notices in my opinion.

With regard to the balustrade glass proposed at roof level, this in my view is an ancillary aspect of the proposed development and does not require specific mention in the public notices. The main development before the Board has been adequately described in my view and this has been accepted by the Planning Authority. It is not a requirement under the Planning and Development Act to slavishly list every aspect of the development to be listed under the public notices. The main requirement of the public notice is to give third parties notice of the general nature of the proposed development intended and not to detail all aspects of the proposed development. The nature and extent of the

development has been adequately described in the public notices in my view.

### **10.8 Impact on Local Bat Migration Paths**

The grounds of appeal argue that the proposed development could adversely impact on bat migration paths in terms of hunting and feeding. It is suggested that these bats roost are in the grounds of the Cathedral to the immediate north-west of the site. There is nothing in the grounds of appeal to suggest that the site in question accommodate bat roosts. The Board will be aware that bats are a protected species under the Wildlife Act and therefore any suggestion that the works undertaken could affect the habitat of bats would require in my view further investigation. However as there is no suggestion in the grounds of appeal that the subject site hosts bat roosts no such further investigations are necessitated in my view. Furthermore the applicant in his response to the grounds of appeal states that he has investigated this matter and found no evidence of bats in the vicinity of the subject site. The Board will be aware that bat use a system of biological sonar as well as night vision to negotiate around obstacles. Any proposed extension to the house in question therefore should not pose any significant problems to any bat migration paths in an urban area.

### **11.0 Appropriate Assessment**

The nearest Natura 2000 sites are the Lough Owel SAC and SPA which is located approximately 4 kilometres to the north-west of the site and the Lough Ennel SPA and SAC which is located approximately 3.6 kilometres to the south-west of the site. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **11.0 CONCLUSION AND RECOMMENDATION**

Arising from my assessment above I consider that the Board should uphold the decision of the Planning Authority and grant planning permission for the proposed development. I further recommend that the only significant alteration in any grant of planning permission should be

to reduce the height of the glass balustrade rail around the ground floor roof area to the rear of the extension from a height of 1.8 metres to a height of 1.1 metres.

## **12.0 DECISION**

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

### **REASONS AND CONSIDERATIONS**

Having regard to the zoning objective of the site which seeks to accommodate mixed use development in the city centre and the fact that residential development is permitted in principle under this zoning objective, it is considered that subject to conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity by virtue of overlooking and overshadowing, would be acceptable in terms of overall design and would not impact on the character of the adjacent Architectural Conservation Area as designated in the Mullingar Local Area Plan, would not be prejudicial to public health 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.

### **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 submitted on the 27<sup>th</sup> day of January 2016 and by the further plans and particulars received by An Bord Pleanála on the 3<sup>rd</sup> day of May 2016, 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 external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture. Sample of the proposed materials shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

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

3. The window on the eastern elevation at first floor level overlooking the private laneway shall be glazed with obscure glass.

**Reason:** To protect the amenity of future occupants.

4. The proposed frosted glass screen/balustrade proposed for the roof of the ground floor extension shall be reduced to 1.1 metres in height.

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

5. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed save as part of the dwelling.

**Reason:** To restrict the use of the extension in the interest of residential amenity.

6. No part of the proposed extension shall encroach, oversail or otherwise physically impinge upon any adjoining property without the prior written agreement of the owners thereof.

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

7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) Contoured drawings to scale of not less than 1:500 showing –
  - (i) a survey of all existing trees and hedging plants on the site, their variety, size, age and condition, together with proposals for their conservation or removal

- (ii) any hard landscaping works, including car parking layout, enclosed areas, lighting and outdoor seating, specifying surfacing materials.

- (b) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established

Deciduous trees shall be planted at not less than 2 m in height and evergreen species at not more than 750mm in height. Species to be used shall not include either *cupressocyparis x leylandii* or *grisellinia*. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

- 8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

- 9. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:-

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report containing the results of the assessment shall be submitted to the planning authority with any application for permission consequent on this grant of outline permission. Details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to the commencement of construction work, shall be determined at permission consequent stage.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

10. The roof level above the ground floor extension to the rear of the dwellinghouse shall be used solely as an emergency access and not as an outdoor social amenity area.

**Reason:** In the interest of orderly development and to protect residential amenity.

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**Paul Caprani,**  
**Senior Planning Inspector.**  
**13th June, 2016.**

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