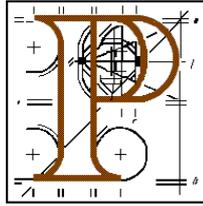


## An Bord Pleanála



## Inspector's Report

Development: Construction of a new basement to accommodate cold room, extension to ground floor area, conversion of first floor to public house use, demolish shed and associated works.

Location: Lower Chapel Street, Castlebar, County Mayo.

### Planning Application

Planning Authority: Mayo County Council  
Planning Authority Reg. Ref.: 15/183  
Applicant: John McHale  
Type of Application: Permission  
Planning Authority Decision: Grant Permission

### Planning Appeal

Appellant: Rathbawn Drive Residents  
Type of Appeals: 3<sup>rd</sup> v Grant  
Date of Site Inspection: 28<sup>th</sup> July 2016  
Inspector: Dolores McCague

# 1 SITE LOCATION AND DESCRIPTION

- 1.1 The site is situated at Rathbawn, Lower Chapel Street (also known as Newline), Castlebar, County Mayo. The area is at northern end of the town centre. Lower Chapel Street, which runs in a north east/south west direction, from Tucker Street/ Rathbawn Road (south west of which it becomes Upper Chapel Street), ends at the subject site, and from the junction of Lower Chapel Street with New Antrim Street, opposite the site, the combined street extends northwards as the R310 to Ballina.
- 1.2 Environmental improvements have been carried out on Lower Chapel Street at the junction: a paved pedestrian area has been created in front of the pub together with seating and planters, a brick ramp at the northern end of Lower Chapel Street, moderates traffic speed. Along the western side of Lower Chapel Street there is a line of well-maintained single storey cottages, some of which remain in residential use and many of which appear to have been converted to commercial use. The eastern side of Lower Chapel Street is more varied in appearance. A modern three storey circular building forms the junction. On the opposite side of the road at New Antrim St. a large entertainment venue/public house/restaurant, The Welcome Inn, is currently closed. To the north west, a residential development, Rathbawn Drive, which is accessed from Rathbawn Road, extends to the rear of the subject site. To the north, there are short cul de sacs extending west from the R310, accessing residential development. Frontage development along the R310 northwards, includes residential development and a large community hospital.
- 1.3 The site is occupied by a two storey building with a shopfront at ground floor and narrow double doors to the public house within, and a side door comprising narrow double doors, with two windows at first floor. To the side there is a sheet metal gateway and a high masonry wall, attached at an angle to the adjoining two storey building to the north-east, to accommodate the change in direction at the end of Lower Chapel Street.
- 1.4 The subject building comprises a small traditional public house, comprising a front bar with a slight division into two rooms, which

extending into a second area towards the rear and continuing into a rear area of timber and glass construction, which is covered in lightweight sheeting allowing light through, the area continues westwards to a canopy covered smoking area and to an uncovered outdoor area surrounded by high stone walls. Toilet areas along the south western side of the building are accessed from within the bar and have windows to the covered smoking area and an adjoining yard to the south west. The building extends from the footpath to the end of the site.

- 1.5 The site area is given as 0.34 ha.
- 1.6 The application is accompanied by a map which shows the site outlined in red and the adjoining properties owned by the applicant outlined in blue. The latter includes the adjoining two storey building to the north, two adjoining cottages to the south and a detached dwelling in Rathbawn Drive to the north west.

## **2 PROPOSED DEVELOPMENT**

- 2.1 The proposed development comprises the construction of a new basement to accommodate a cold room, an extension to ground floor area, the conversion of first floor to public house use and an extension to this floor, the demolition of a shed and associated works.
- 2.2 The proposal involves rationalising the ground floor layout, including the removal of a stairway in the middle of the bar, reshaping the toilet areas and providing an additional toilet, for disabled use within the area currently used as a covered outdoor area. An extension along the north east of the building, is proposed to provide access stairways to front and rear, a small kitchen and staff toilet at ground floor. A cold room and bottle store at basement level is accessed by the rear stairs. The existing first floor area, formerly used as a dwelling, is to be extended to provide a function room with a bar, a small office, toilets and two stairs, to front and rear. In addition to the existing windows to the front, the first floor windows will face in each direction, and a smoking area at first floor is to be accessed from a doorway to the rear of the extended area.

- 2.3 The total floor area of the development is given as 209m<sup>2</sup>, together with an existing floor area of 219m<sup>2</sup>.

### **3 PLANNING AUTHORITY DECISION**

- 3.1 The planning application was lodged on the 1<sup>st</sup> April 2015.

#### **3.2 Technical Reports**

- 3.3 Area Engineer – 14<sup>th</sup> April 2015 – conditions.

- 3.4 Mayo National Roads Design Office – 13<sup>th</sup> April 2015 - no issues.

- 3.5 EHO – 23<sup>rd</sup> April 2015 – conditions.

- 3.6 Environment – 19/5/2015 – further information.

- 3.7 Request for further information issued 25<sup>th</sup> May 2015 on 5 points:

1 Submit a written brief of the nature and extent of the proposed development addressing the following queries: what activities are intended to take place at first floor level e.g. discos, private functions etc, as it is unclear from the submission made. Will food be served on the premises as the plans submitted show a kitchen area located at first floor level.

2 Sections through the proposed development detailing the extent of the proposed basement; levels to be provided. A method statement detailing demolition and construction proposals.

3 The drawings show a kitchen at first floor; submit full details of the air extractor unit and a revised north elevation showing the location of the unit.

4 The drawings show two designated smoking areas, one at ground floor level and one at first floor level. Mayo County Council has serious concerns with the smoking area at first floor level as it is overlooking residential properties. Advised to omit.

5 Mayo County Council also has serious concerns with the proposed design. Applicant advised to submit a revised design reflecting more traditional design incorporating an 'A' pitched roof and extension moved forward to maintain the existing front building line.

- 3.8 Response to request for further information received 27<sup>th</sup> August 2015:

1 The proposal is for the conversion and extension of the first floor space to create an extension to the existing business, which is a licensed public house. The proposed activities are those normally associated with a public house such as private parties, presentations, etc.

2 The kitchen will be used for the preparation of bar snacks such as soups, tea, coffee and sandwiches.

3 A section drawing is provided.

4 The drawings do not refer to a kitchen at first floor. The kitchen will not require associated type extracts.

5 Drawing L28 01 shows the method of constructing the basement – kingpost piles and infill retaining sections of precast slabs; will create no vibration to adjoining structures or the public path.

6 The smoking area at first floor has been omitted. The other smoking area is an existing smoking area, ancillary to the existing premises. This is not illustrated on the drawings nor referred to in the public notices as being part of the new proposals.

7 Revised drawings, showing a more traditional appearance – pitched roof, building line brought forward; are enclosed.

8 Shadow diagrams, indicating that the extension will have a negligible impact on adjoining properties, is provided.

9 Noise pollution has been examined and a study and report by Allegro Acoustics is supplied. The recommendations of the report will be incorporated into the building design at construction stage.

### 3.9 Allegro Acoustics

3.10 Noise monitoring was carried out at night time, after pub closing, at three noise sensitive locations (NSLs): NSL1 west of the pub (No 53 Rathbawn Drive), NSL2 north of the pub (to the rear of the adjoining building), and NSL3 south of the pub. A measurement was taken inside the pub while loud music was playing. Modelling was used to predict noise impact at NSLs due to noise breakout from the extension. Predicted noise levels of 88.9dB LAeq were used for the extension. The sound Reduction Index (Rw) using sound insulation prediction software (by Marshall Day Acoustics) was used, with materials details provided by the

designer. Mechanical and Engineering equipment was monitored. The results of night time monitoring at NSLs is shown in table 2. Predicted noise levels, for the first floor extension, from the model, are shown in table 3; which are significantly below the limit of 45dB L<sub>Aeq</sub> in the guidelines: Guidance Note for Noise: License Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4), EPA 2012.. Sound from the extension will be faintly perceptible at NSL2 and 3 and inaudible at NSL 1 and 4 (No 52 Rathbawn Drive).

- 3.11 Recommendations are made regarding materials and plant, including upgrade to roof at ground floor area leading into the smoking area towards the rear of the pub.
- 3.12 **Further Technical Reports**
- 3.13 Executive Architect - 16/9/2015 – as discussed, the character of the existing public house owes much to its traditional structure that fronts onto Lower Chapel Street. By reason of its book-end position on the street, its traditional proportions, and detailing such as plaster shopfront, fenestration, and its market town gable with chimney. The Executive Architect has concerns that much of its external visual character will be negated and lost by the extension to rear and side. In particular the full depth side/gable extension will conceal the traditional gable and will present a mock roof with mansard. This roof solution and plan depth is inappropriate. The Executive Architect has supplied a sketch, (not forwarded to the Board), as to how this might be alleviated. By limiting the first floor accommodation, the necessity for a second stairwell (i.e. a second means of escape – Part B) could be eliminated. This will cut the side extension back beyond the middle line of the gable. Also, the floor to ceiling height of the Bar should be reduced in order to avoid a mansard arrangement with the rear roof slope.
- 3.14 Request for clarification of further information issued 22<sup>nd</sup> September 2015 on 2 points:
- 1 Still concerned with the proposed design. The building is an end of terrace property and owes much to its traditional proportions and detailing such as plaster shopfront, fenestration and its market town gable with chimney. Concerned that much of its external visual character will be lost due to the full depth gable extension. Consider reducing the first floor accommodation, thereby reducing the necessity for a second stairwell and

consequently pulling the side extension back beyond the middle line of the gable.

2 Submit a noise monitoring report and interpretation, for a representative busy night-time period to clarify the levels of existing noise from the current operation on the selected noise sensitive locations during a typical busy Saturday night/ Sunday morning so that an operational baseline is available and so that the possible impact of the proposed development may be further assessed.

3.15 Request for an extension of the period for responding to the request, to 24<sup>th</sup> February or 4<sup>th</sup> March 2016.

3.16 Response to request for clarification of further information received 23<sup>rd</sup> February 2016.

1 – The scale and bulk of the proposed design has been re-evaluated in the context of the request and based on discussions with the Executive Architect and planning officer. The extension has been reduced in scale, the ground floor and first floor areas have been reduced by 15% and the new building has been pushed back to the line of the original rear wall of the existing building. This will preserve the traditional proportions and detailing such as plaster shopfront. The basement is necessary to accommodate a new chill room, storage and staff facilities. It has not been possible to eliminate the second stairs as suggested. Technical Guidance Document B Fire 2006, was consulted with regard to the provision of escape stairs in premises containing two floor above ground and a basement; para 1.3.7.1 states ‘if an escape stairway forms part of the only escape route from an upper storey of a building (or part of building) it should not be continued down to serve any basement storey. It is obviously essential from an operational point of view, as well as safety, that staff have safe access routes between all floors. Revised drawings are provided.

2 – Night time noise monitoring was carried out at the three nearest residential receptors on Saturday the 21<sup>st</sup> November 2015. Live music was being performed. The pub was busy with patrons in the smoking area throughout the survey. Potential impact was predicted using SoundPLAN noise modelling software.

The potential impact due to music breakout from the pub is detailed in report DC1413-01 as previously submitted and summarised here for ease of reference.

The potential impact due to the smoking area towards the rear of the pub was also predicted using SoundPLAN noise modelling software and the results are presented in report DC1413-03 as previously submitted and summarised here.

Due to improved noise insulation in the building envelope and the replacement of the existing Perspex roof to the rear single storey portion of the premises, the proposed development will result in a reduction of existing noise levels.

Interpretation of noise assessment – the cumulative effect of two separate noise sources, each generating say 25dB is not 50dB but rather 28dB i.e. a doubling of noise results in 3dB increase. The proposed development will replace/supersede rather than add to the existing noise level and activity. Unlike other typical venue extension scenarios whereby the predicted noise from the proposed development must be added to the existing noise from the existing facility, the pub will be fundamentally modified from a noise perspective. The accepted night time noise criterion limit is 45dB  $L_{Aeq}$ , and sound levels of below 40dB  $L_{Aeq}$  are highly unlikely to result in noise annoyance.

Noise monitoring carried out highlights that the existing premises, with music playing, generates noise in excess of the accepted thresholds, and explains third party concerns regarding noise, however this report also demonstrates that the proposed development will substantially reduce noise levels in Rathbawn Drive, for instance, to well within accepted limits, in large part due to mitigation measures e.g. improved noise insulation in the building envelope e.g. replacement of the existing Perspex roof to the rear single storey portion of the premises, etc.

In addition mitigation measures to the existing smoking area, i.e. a noise screen around the top of the existing boundary walls, will deliver a marked improvement in noise levels.

A detailed report from Allegro Acoustics is attached to the response.

- 3.17 Allegro Acoustics – night time monitoring was carried 15/11/2015 at three NSLs. The noise monitoring highlights that the existing premises, with music playing, generates noise in excess of accepted thresholds, and explains third party concerns regarding noise, however this report also demonstrates that the proposed development will substantially reduce noise levels in Rathbawn Drive, for instance, to well within accepted limits.

- 3.18 The results of the noise monitoring are presented in table 2 showing levels in dB  $L_{Aeq}$  at NSL 1 of 63.13, at NSL2 of 57.85 and at NSL3 of 54.96.
- 3.19 Predicted decreases due to proposed changes, are given in table 3. A reduction of 27 dB, from 63 to 36 at NSL 1 is predicted. Similarly a reduction of 24 dB is predicted at NSL2 from 58 to 34. Reductions of 10dB at NSL3 and to 45dB, and of 27dB at NSL4 from a level of 62dB (estimated by proxy) to 35 dB, are predicted.
- 3.20 The report makes additional recommendations:
- Ensure that there is no active speaker for playing music in the smoking area at night time (after 11 pm) which could be automated / timed for convenience. This will only serve to increase the chatter level in the smoking area in addition to the noise level contribution due to the speaker itself.
- Install a second double doorset at the point of access to the smoking area to form a door lobby. This will ensure that when patrons access the smoking area, noise levels will be less likely to momentarily increase due to music and chatter breakout from the pub.
- 3.21 The report contains an addendum report on the smoking area. The impact of the smoking area was modelled based on assumptions regarding the level of use, number of occupants, number speaking, and an increase in the height of the wall to 4m. The additional wall must be constructed from a solid material such as a double layer of standard 19mm marine plywood with no gaps between the material and top of the existing wall. It must provide a density of at least 26kg/m<sup>2</sup> or a sound reduction index rating of 26dB  $R_w$ . Existing noise levels at NSLs 1-4 (including at ground floor and at first floor) from the smoking area for: 10, 15 and 20 people talking loudly, are given in table 1; and the levels following mitigation are given in table 2. Differences between pre and post mitigation are given in tables 3 and 4. The impact of the mitigated smoking area and pub are given in table 5.
- 3.22 Receipt of further information was advertised – 22/3/2016.
- 3.23 **Further Technical Reports**
- 3.24 Environment – 14/4/2016 – noise impact assessment - there was no audible contribution from the applicant's premises to the measurements at the three locations, as the pub had ceased operations. An additional measurement was taken inside the pub while loud music was playing to provide a reference

measurement to provide input data for the noise model. The resulting noise due to the proposed first floor extension was predicted at the nearest residential receptors using software, shown to be significantly below the night time noise limit of 45dB  $L_{Aeq}$  as outlined in the Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Schedule Activities (NG4), EPA (2012). The noise impact assessment also recommends specific materials to be used in the building envelop including the walls, windows, doors, roof and ceiling. A sound absorbing ceiling is recommended in the first floor extension to improve the sound quality of the space, for events. It is proposed that the existing roof structure be upgraded to ensure that the structure maintains similar sound insulation properties as provided by the building envelop. In addition recommendations were made with regard to ventilation and plant. The further clarification was requested in order to clarify the levels of existing noise on the noise sensitive locations (NSLs) during a busy night so that an operational baseline was available and so that the possible impact of the proposed development could be further assessed. The additional noise monitoring shows that the existing public house with music playing can generate elevated noise levels, in excess of the 45dB  $L_{Aeq}$  limit. Mitigation measures to the flat roof and existing smoking area should result in a significant reduction in noise levels.

The proposed development, with the mitigation, should result in significant decrease in noise at NSLs and in the general area.

Recommending permission subject to conditions:

- Mitigation as submitted.
- The smoking area shall be closely supervised so that there is no loud talking and a 'keep quiet sign' will be erected.
- A noise control switch is advised to ensure that all plant and equipment used in connection with the proposal is so situated, operated and maintained as to prevent the transmission of noise to nearby properties.

3.25 Planning Report - the premises is a two storey building containing a public house at ground floor and residential accommodation at first floor level. The building is an end of terrace property on a prominent street consisting primarily of residential properties. The property extends to the rear and there is a pedestrian access to the side, accommodating deliveries. There is a report on file from the Executive Architect recommending a grant of permission subject to conditions which are concerned with maintaining the

external character of the property. Both noise assessments submitted by the applicant and the acoustic review submitted by the Rathbawn Drive Residents Association were assessed by the Senior Scientist, Environment Section. Having regard to both assessments and the review submitted it was concluded that the proposed development will not affect the residential amenity of the properties in the vicinity in terms of noise pollution, as the second noise assessment incorporates improved noise insulation in the building envelop and the replacement of the existing Perspex roof to the single storey portion of the premises, resulting in a reduction of existing noise levels. Amendments made during the process are listed.

3.26 The planning authority decided, 15<sup>th</sup> April 2016, to grant permission subject to 10 conditions, including:

Condition no 7: The north (side) elevation shall be redesigned. Revised plans, elevations and finishes shall be agreed in writing with Mayo County Council prior to the commencement of any development on the site.

Condition no 8: The proposed development which involves repairs to the existing building and the incorporation of new design features must be in keeping with traditional methods, materials and finishes. Full details of the following shall be agreed in writing with Mayo County Council, prior to the commencement of any development on the site.

Type and style of any and all new joinery

Render repairs

Type and style of all new rainware and fascia etc.

Colour scheme

Condition no 9: The developer shall agree a noise monitoring programme, for a period of six months post the development coming into operation, with the Environment Section of Mayo County Council. Should independent noise monitoring be required by Mayo County Council, the cost of such monitoring shall be borne by the developer.

- 3.27 The decision was in accordance with the planning recommendation.
- 3.28 Observations on the file have been read and noted.

## **4 PLANNING HISTORY**

Subject site:

Pre planning consultations held with the town planner.

Adjacent premises:

P07/913552 – demolition of existing house, construction of new consultants clinic, 2 no apartments with mezzanine, cellar for storage – withdrawn.

## **5 GROUNDS OF APPEAL**

- 5.1 Doyle Kent Planning Partnership Ltd, have submitted an appeal, on behalf of Rathbaun Drive Residents Association, against the decision to grant permission.
- 5.2 The grounds can be summarised as follows:
- 5.3 An examination of the maps and drawings submitted with the planning application shows that part of the curtilage of the adjoining two storey residential property, on the northern side at Davitts Terrace has been included within the red line of the site. On the southern side the boundaries between the site and the residential property, No. 24 Newline, are also indicated as being altered, although there is no mention of the alterations to these residential site boundaries in the public notices.
- 5.4 The applicant owns a number of residential properties immediately surrounding the bar, which are identified on a map supplied. Part of the outbuildings and yard to the residential

property adjoining to the north at Davitt's Terrace, would appear to be subsumed into the proposed development. This includes an area of private open space which is now referred to as both yard and bin and keg store on some drawings.

- 5.5 The grounds of appeal are set out under the headings:
- Intensification of development
  - Excessive scale of development
  - Erosion of residential amenity
  - Overbearing impact on adjacent properties
  - Noise pollution and disturbance
  - Extractor noise
  - Parking and traffic safety
  - Zoning
  - Misleading public notices
  - Devaluation of property.

#### **Intensification of development**

- 5.6 Historically this was a small pub at ground floor. In more recent years there has been an incremental increase in noise and general disturbance. This proposal represents unacceptable intensification and encroachment by stealth into adjoining residential properties.

#### **Excessive scale of development**

- 5.7 More than doubling of commercial activity and continuation of unauthorised use of the rear area as a smoking area and for outdoor consumption of drinks.
- 5.8 Intended use of upper floors for private parties etc, is a serious concern given the nature of such activities including the use of amplified music and late night hours.

#### **Erosion of residential amenity**

- 5.9 This is generally a quiet residential area.

- 5.10 Currently the use of the unauthorised smoking/ drinking area interferes with adjoining residential amenity. Further intensification will seriously interfere with residential amenity.
- 5.11 All of the properties surrounding the public house are residential properties, irrespective of their ownership.
- 5.12 The applicant has bought up a number of these properties and has shown changes to the site boundaries of two of these houses as part of the proposed development but there was no mention of these changes to the boundaries in the public notices. The residential amenity of those properties will be seriously eroded.
- 5.13 Drawings received by the planning authority 01/04/2015 indicate boundary alterations and show the entire rear curtilage of the residential property to the north at Davitts Tce set out as a yard.
- 5.14 The ground floor plan (23/2/2016) shows a bottle and bin store immediately to the rear of this house.
- 5.15 Third parties have concerns that the intention is to convert this property to commercial use.
- 5.16 The Board is requested to examine the boundaries as outlined in red.

#### **Overbearing impact**

- 5.17 The outlook from the gardens and some of the main rooms to adjacent properties would be adversely affected.

#### **Noise pollution and disturbance**

- 5.18 The residents of Rathbawn have very significant concerns relating to ongoing noise pollution emanating from the subject premises. The noise pollution has increased in volume and frequency since the smoking ban came into force, when patrons of the premises commenced using various areas at the rear and

side of the building and music and bands commenced playing in an enclosed area at the rear of the building. It is not uncommon for loud amplified music to be played at the premises on consecutive nights, from Friday through to Sunday. Loud banter and noise will often continue well after the music has ceased, making it extremely difficult for adjoining residents to sleep. Third parties are seriously concerned that the almost doubling in floor area will lead to an increase in noise and general disturbance to adjoining residential properties.

- 5.19 ICAN Consultants assessed the information submitted in relation to noise by the applicant, found serious deficiencies in the information submitted and drew the planning authority's attention to the incorrect use of EPA guidance intended for licensed activities. Existing noise levels were measured in the absence of any band music and non-scientific statements were used in part, as the basis for the noise assessment. Predictions did not use measured data from an actual band playing live music, instead levels were based on the pubs background music systems, and based on advice from the applicant that it was 'higher than the loudest music events'. Noise predictions based on low frequency noise were completely overlooked; yet many frequencies in entertainment venues exist below 100Hz. The submission in effect accepts that existing noise is unacceptable. Noise impact should have been assessed against noise climate in the absence of noise from the existing premises but was instead assessed against the existing unacceptable noise climate. The statement that air conditioning units would be used as an alternative to opening windows does not take into consideration building ventilation requirements or consequential noise impact.
- 5.20 Sensitive residential properties must be considered irrespective of ownership. Noise contour maps are flawed.
- 5.21 The acoustic report is attached to the grounds.

#### **Extractor noise**

- 5.22 There is complete lack of information in relation to extractor fans. There are bedroom windows facing the rear of the building. Any extractor fans associated with the toilets would have an adverse impact on these properties from noise and odours. Any

proposals to ventilate by opening windows will increase noise levels at the side and rear of the property late into the night.

### **Parking and traffic safety**

- 5.23 The site is edge of centre. It is not appropriate to ignore parking standards. Lack of parking would give rise to traffic congestion and endanger public safety. Adjoining residential streets are currently used by patrons overnight. Further intensification would lead to unacceptable levels of car parking on adjoining streets, and endanger safety, particularly children's.

### **Zoning**

- 5.24 The site is zoned open space. The original bar is compatible with residential but not the proposed, by reason of excessive scale and nature of extension. This is a long established residential area and could not be described as town centre.

### **Devaluation of property**

- 5.25 The almost doubling of commercial activity on the site will devalue the adjoining residential property.
- 5.26 The development is excessive in scale and would result in an over-intensification of commercial activity which would seriously injure visual and residential amenities of adjoining residential properties, including Rathbawn Drive.

### **Misleading public notices**

- 5.27 There is no reference in the public notices to altering site boundaries and no assessment of this issue has been carried out.
- 5.28 The focus of commercial activity would shift westwards towards third parties properties, there would also be an intensification of activity to the north and south of the building.
- 5.29 They request an inspection from the third party's property.

- 5.30 The report from **ICAN Acoustics Noise and Vibration Consultants** includes:
- 5.31 They have reviewed all three noise impact reports from Allegro Acoustics and conclude that there are a number of errors and omissions in the reports which present an inaccurate description of the likely impact of noise from the premises due to noise of entertainment, noise from patrons in the external smoking area and noise from mechanical plant associated with refrigeration, ventilation and heating in the building.
- 5.32 The first report is based on a limited number of baseline measurements at applicant's residential properties, computer modelled sound insulation values of the proposed new structure and modelled noise propagation from the premises to noise sensitive properties (NSLs). The conclusion was that the impact at noise sensitive properties would be negligible and below the limiting value of 45dB(A). Modelling was based on a single measurement inside the bar when a music track was played through the in-house background music system at a level which the applicant considered to be typical of that when entertainment is being provided.
- 5.33 Following a further information request, further measurements at noise sensitive properties showed that when entertainment was being carried on in the existing ground floor bar, the levels of noise at the residential properties increased very considerably relative to the baseline levels without entertainment. The report suggested that the proposed extension would result in a reduction in existing noise levels and inferred that the existing noise from entertainment is currently unacceptable.
- 5.34 Allegro Acoustics were asked to address in detail the impact from the smoking area. As a result of computer modelling, it was concluded that the level of noise from patrons in the smoking area would be less than 45dB(A). ICAN Acoustics have identified flaws in relation to data used and method of assessment: noise assessment normally relates to pre-existing baseline level. Measurements were made during an entertainment event however the consultant has not made any attempt to determine the level of noise specifically from the entertainment noise. Prediction of sound transmission/insulation through the proposed

extension structure is based on the 'overall' Rw values of sound insulation across the range of audible sound frequencies. In fact in assessing noise from entertainment it is important to consider in particular low frequency noise from bass and drums, which building structures are relatively poor at insulating. For example, the predicted Rw (sound insulation) value for a flat roof is given as 59dB, although the sound insulation value at 63Hz, a low frequency typical of bass or drums, is only 15dB. In using a value of 59dB for insulation, the impact of the bass music would be seriously underestimated. Noise propagation from the proposed extension to sensitive properties has reportedly been modelled, however no results of the modelling have been given in any report and it is therefore impossible for ICAN to give any judgement as to whether or not the prediction is valid.

- 5.35 The use of EPA guidance in relation to Scheduled Activities, licensed by the EPA is in their view not appropriate, since it relates to noise from industrial processes. The assumption that noise will be barely audible, is based on the false premise that the level of base noise will be reduced by 60dB or more by the building structure. ICAN have demonstrated that the level of bass music noise is likely to be considerably higher. In relation to mechanical plant, Allegro Acoustics, have assumed that the mechanical plant which is currently audible at NSLs will be moved to the basement and that no additional plant equipment will be located at the premises as a result of the first floor extension. In the initial report it was stated that an air conditioning system will be installed in the bar to eliminate the necessity to open windows; and two air conditioning compressors are shown on a drawing mounted at the rear of the building. It will be necessary to provide fans to ventilate the bar area, toilets and kitchen and no consideration has been given to noise from such plant. The moving of the refrigeration plant to the basement will require ventilation, in excess of the 1m<sup>2</sup> opening proposed.
- 5.36 No adequate assessment of mechanical plant noise is provided.
- 5.37 Ownership of residential properties – the planning authority is required to consider the likely impact on NSLs regardless of ownership. There are also NSLs in which the applicant has no interest. Planning approval should not be given without a full and competent assessment which can demonstrate that the noise impact on residents in the locality will be negligible.

- 5.38 The methodology of the noise measurements is unacceptable because the consultants did not measure the likely noise levels of amplified music inside the premises at a time when a music event was taking place inside the pub. The predictions rely on a noise level based on the applicant's subjective opinion of the likely noise level when a band is playing, described by the applicant 'to be at or higher than the loudest music events in the Pub'. The noise was measured at 88.9dB(A), in ICANs experience typical levels of entertainment noise can range to over 100dB(A) with a high content of low frequency (bass) noise. The noise consultant relied on the in-house sound system, in fact bands bring their own equipment which would have different spectra and more low frequency noise energy. The music would be compressed and limited and would differ from live music.
- 5.39 From Facebook, it is clearly evident that bands set up in an area to the rear of the premises. In their view measurements during an actual band event would have yielded more reliable data. The data grossly underestimates low frequency content: 100Hz or lower, which they demonstrate by comparison with measurements from a live music event they recorded. The desktop application that was used to determine likely performance of building elements has a number of limitations including that its prediction range is limited to 100Hz. ICAN points out that low frequency noise will preferentially break-in to residential properties, which has been overlooked by the Allegro study.
- 5.40 It is inappropriate to use raw  $R_w$  values to determine the likely impact of breakout noise from entertainment as the  $R_w$  value is an overall sound insulation value across frequencies. The insulation at low frequencies is likely to be noticeably lower than the overall  $R_w$ . For example the predicted overall insulation of the flat roof structure would be 59dB +/-3dB, however the sound insulation value of that structure at 63Hz (a typical bass frequency) is as low as 15dB. It would be inappropriate to use  $R_w$  values in relation to assessment of transmission of entertainment noise. The consultants could have determined the likely level of transmitted noise at the various frequency bands and then determined the level of noise at NSLs in those frequency bands.

- 5.41 In relation to the Allegro Acoustics statement that an air conditioning system will be used and that therefore windows will not be opened for ventilation, ICAN points out that air conditioning is a heating / cooling system and is not a fresh air ventilation system. ICAN considers that there has been insufficient consideration to likely impacts of:
- Toilet extract fans for ground floor toilets and noise through windows.
  - Toilet extract fans for first floor toilets and noise through windows.
  - Ventilation of first floor bar area (air supply).
  - Heating and cooling of the first floor area.
  - Kitchen extract fans.
  - Ventilation of ground floor bar area.
- 5.42 The technical feasibility of locating all external plant indoors in the narrow and confined basement is questioned.
- 5.43 ICAN critiques in detail the background sound measurements, carried out in response to the further information request. The suggestion that potential noise impact would be from two sources: breakout noise from the first floor extension and chatter from the smoking area, grossly underestimates and underconsiders the potential break-out and plant noise from other sources, which they list.
- 5.44 Allegro Acoustics should have assessed the predicted noise impact for the proposed development using proper measurement data against the baseline noise measurements gathered on 11/6/2015 and not assessed their proposed noise climate against data which represents the current climate, which is clearly unacceptable, i.e. in the absence of noise from the premises.
- 5.45 The critique of the addendum report (16/2/2016) includes:
- The assumptions:

- The use of library files
- The assumption that there will be no more than 25 people in the smoking area at any one time and that only 10 will be speaking;
- The worst case scenario that there will be no more than 35 people in the smoking area at any one time and that only 15 will be speaking;
- That the wall between 2.9m and 3.2m height will be increased to 4m;
- That a thick layer of plants and foliage will be placed along the rear perimeter wall that faces NSL3.

5.46 ICAN strongly disagree that plants and foliage along the perimeter walls will provide sound diffusion or that diffusion can effectively reduce the chatter noise level within the smoking area. They disagree that canopies would result in any appreciable noise reduction. It could in fact encourage the use of the smoking area.

5.47 The failure to include the 11 noise contour maps in Appendix A in the submission to the planning authority, is unacceptable and prevents ICAN from reviewing the noise contours model.

## **6 RESPONSES**

### **6.1 Planning Authority**

6.2 The Planning Authority has not responded to the grounds of appeal.

### **6.3 First Party**

6.4 The Planning Partnership, on behalf of the First Party, have responded to the grounds of appeal.

- 6.5 The response includes:
- 6.6 The project is intended to provide more comfortable facilities for the existing level of trade whilst allowing for a reasonable level of growth over time. This will involve investment by the applicant, generate employment and allow for an enhanced customer experience. The use will be similar to the existing public house.
- 6.7 There was an historical shop and pub in the premises. The shop ceased in the 1960's, the residential use ceased c2000. The public house has been the primary use for a number of decades. The use of the attendant grounds to the rear and sides have been an active element of the public house for many years. The building north of the public house, within the blue line, acts as an outbuilding for the public house and is not, nor has it been for many years, fit for habitation. The yard has historically been used as a storage area.
- 6.8 At no stage over the many years of his family's management has the applicant been approached with any complaints from neighbours.
- 6.9 Letters of support are enclosed.
- 6.10 The development is within acceptable range of density for town centre below 80% site coverage, 2:1 plot ratio. A considerable element of the floorspace relates to ancillary type areas.
- 6.11 In terms of live music, the applicant does not propose any material intensification of the existing pattern of occasional / weekend live music. The first floor will not be used as a dedicated live music venue. Noise escape during live music will be less noticeable to surrounding residents.
- 6.12 Considerable mitigation is proposed for the smoking area.
- 6.13 The proposed development is not in a quiet residential area but within the designated town centre where a range of uses occur,

including commercial and residential. The adjacent Welcome Inn Hotel, currently closed, is a substantial premises with a night club, late bar, restaurant and large function room. The site adjoins a residential area. The pub use commenced before the development of same. In relation to the proposed structure, no impacts would arise e.g. visual, overshadowing, overlooking etc.

- 6.14 Allegro (noise consultants) response - with the implementation of the development, amplified music will take place in the first floor bar area, which is acoustically designed to cater for amplified music performance. Any banter which is currently audible after music events will be substantially mitigated in the future (mitigation regarding roof over rear of pub). The smoking area presents the biggest challenge in terms of efficient noise control measures. The appropriate night time limit is 45dB<sub>L<sub>Aeq</sub></sub>, which is referenced in documents including WHO Guidelines for Community Noise (1999). Noise is predicted to reduce by between 3dB and 8dB with mitigation in place.
- 6.15 Detailed response to itemised issues:
- 6.16 Zoning – the planning authority confirm that the area is zoned town centre.
- 6.17 Red line boundary - the red line boundary was intended to delineate the extent of the originally proposed development. Additional lands within the applicants control / ownership were outlined in blue. The proposed development does not involve an encroachment / extension outside the curtilage of the existing public house. The existing premises has, to a limited degree, expanded to include a portion of the rear of No. 24 Newline/Lower Chapel St – the existing smoking area. This expansion has been in place for a number of years, hence was not included in the application. This was provided to accommodate patrons due to the introduction of the indoor smoking ban in 2004. The structure to the north at Davitts Tce, within the blue line, is not residential and is unsuitable for residential use and for many years has been part of the public house curtilage as an associated outbuilding. It provides a visual streetscape function, will not be altered, and was not included in the red line area.

- 6.18 The notices and red line boundary are not misleading.
- 6.19 Car parking – this grounds is tenuous. The vast majority of patrons do not now drive. There is a substantial area of off-street and on-street parking available in the vicinity. There is no evidence of any substantial pattern of overnight parking in the vicinity of the premises. The issue is not relevant.
- 6.20 The proposed development will provide an important addition to the existing business without changing its existing character. There would be tangible economic benefits. The night time economy is estimated in the UK to contribute some 27% of all commercial activity in towns and cities, employing 4.5% of the workforce. Initiatives such as purple flag accreditation are referred to. Closure of licenced premises in the town and leakage of trade to the nearby town of Westport are referred to.
- 6.21 A letter from the Senior Planner Mayo County Council is enclosed re. zoning.
- 6.22 Letter supporting the project are enclosed.
- 6.23 A report from Allegro Acoustics is enclosed, it includes:
- 6.24 There is a rebuttal of each of the items raised in the critique of their report by ICAN, the consultants for the third party.
- 6.25 They refer to their recommendation that the lightweight Perspex material, over the rear part of the pub be upgraded to a double glazed system which is fully sealed. Since their report in August 2015, this has changed to include a more conventional roof system instead of a glazed roof. At present the following roof structure is to be employed at this location:
- Roof structure to achieve a minimum of 58dB Rw and an R value of at least 20dB at 63Hz. Roof structure must be well sealed at edges to existing wall and attention must be

paid to ensure there is no acoustic weakness at the edge where the roof structure meets the wall.

- Recommended roof system to be employed (or equal approved): Kingspan KS1000 LP/45 + 1+ 2 x SB as shown in Figure 5 of their submission – acoustically high performing roof system.
- In terms of sound insulation, this roof system performs substantially better than the existing Perspex roof and otherwise performs similarly to the flat roof over the new build at first floor level which has been shown to be sufficient in terms of sound insulation for the worst case scenario (full amplified band in first floor bar area).

6.26 Noise containment will be substantially improved. They state that the use of a night time limit (per EPA guidance) is an internationally recognised standard, appearing in World Health Organisation (WHO) guidelines. The primary objective in relation to the smoking area is to reduce noise emanation from this area and to achieve the night time limit of 45dB  $L_{Aeq}$ . As presented in Tables 3 and 4 of their report DC1413-03 (addendum report submitted 16<sup>th</sup> February 2016) it can be seen that the noise level is predicted to reduce by between 3dB and 8dB from the current scenario, with the mitigation measures in place around the smoking area. Otherwise the worst case scenario remains below the night time limit of 45dB  $L_{Aeq}$ ; the measures include the implementation of a 4m screen around the smoking area. Other measures are difficult to quantify: implementation of plants, foliage and canopies in the smoking area, which are likely to further reduce noise levels below the 33dB to 45dB  $L_{Aeq}$  range, as predicted in the worst case scenario (15 out of 35 people speaking with raised voices). They state that opened windows typically achieve a 15dB reduction if noise level from outside levels and 45dB  $L_{Aeq}$  outside noise level is equivalent to 30dB  $L_{Aeq}$  level indoors, which is the WHO recommendation for a bedroom.

6.27 Background levels were measured to be between 21dB and 28dB during night time. Predicted noise levels due to sound breakout from the first floor bar area with loud amplified music are between

9dB and 21dB: lower than the measured background levels and substantially lower than the night time limit of 45dB  $L_{Aeq}$ .

- 6.28 Allegro Acoustics respond to criticism of the use of the pubs sound system, and also with regard to the third party's alternative estimation of noise levels from live music performance (at another venue). The type of music typically played in the live setting in the pub involves a range of traditional Irish music, sole performers (acoustic guitar and singer) and live band. The loudest is a full live band which has all sound amplified and played through the public address system. This does not occur regularly and the consultants chose to replicate the scenario by playing loud music through the PA system. The measured sound level was 88.9dB and they would have no concerns should noise measurement be independently made at the pub during live performance of a fully amplified band (i.e. they are satisfied that higher levels would not be recorded). They also point out that the EPA document cites examples of noise sources to illustrate noise levels: examples such as 'very busy pub' corresponding to noise levels of 85dB  $L_{Aeq}$ , and 'disco or rock concert' corresponding to noise levels of 100dB  $L_{Aeq}$ .
- 6.29 They also rebut the criticisms of the use of library sound. Use of a discotheque sound is likely to be marginally higher than a pub as discotheque is primarily for dancing and music enjoyment, whereas there is an element of conversation in a pub.
- 6.30 Regarding the impact of low frequency sound, they state that ranges from 50Hz (the lowest range to which there is product testing in laboratories) to 5000Hz are included and that sound intensity calculations were carried out upon this data to convert it to the sound power values per  $m^2$  as inputted to the software.
- 6.31 Regarding the argument that low frequency sound could preferentially break into residential properties, they refer to Figure 7 of their report, DC1413-01 from which it can be seen that sound energy below approximately 100Hz at the façade of properties is below the threshold of hearing in this frequency range: at a noise level of approx. 10 dB. The threshold of hearing at this frequency band is 35dB.

- 6.32 Responding to the issues regarding ventilation. They understand that the pub will be ventilated by a single air handling unit to be located towards the rear of the pub. As these are relatively quiet pieces of plant, noise breakout can be considered to be negligible. There are no windows in the proposed first floor bar. Windows in the toilets are to remain closed. Toilets are to be mechanically ventilated using minor domestic grade fans which generate negligible levels of noise. There will be negligible noise from plant.
- 6.33 They refer to the proposed upgrade to the Perspex roof. Any live music currently played towards the rear of the pub breaks out through this structure with relative ease. With the first floor in place live amplified band will primarily take place in the extended first floor area and hence live music will be frequently occur towards the ground floor rear of the pub. The implementation of a more conventional roof structure in this area is referred to in terms of the sound reduction which it must achieve.
- 6.34 Responding to the issues regarding omission of noise contour maps. The consultants use contour maps where there is a large complicated noise source a relative distance from the receiver; or a large number of receivers. The use of contour maps is not a requirement and was not considered necessary in this case.
- 6.35 The most important endeavour in carrying out an assessment of this type, from the perspective of the noise consultant, is to predict any future noise environment with the changes made as proposed and provide noise attenuation design measures, to ensure that the local environment and residents are protected as far as is practicable from the noise impact due to the proposed development. The major noise source was identified throughout the process as the smoking area towards the rear, with music breakout being a secondary source of noise and significantly easier to attenuate by building design. Noise mitigation and good practice measures were recommended by Allegro Acoustics, to the applicant, which will reduce the noise impact due to these sources to below allowable limits. These measures will noticeably reduce the noise impact from the current scenario.
- 6.36 In relation to the use of plants and foliage in the smoking area, they state that this was outlined as a good practice measure as,

in their experience, the diffusing nature, or ability to break up sound, of plants and foliage means patrons are less likely to speak in a raised voice. The reference by ICAN is to a completely different characteristic of foliage.

- 6.37 In relation to the use of canopies in the smoking area, this was outlined as a good practice measure as canopy material will minimise noise breakout vertically and minimise noise breakout over the 4m screen.
- 6.38 Reducing the impact due to canopies or foliage/plants was not included in predicted noise levels.

## **7 OBSERVATION**

- 7.1 An observation has been received from Des and Una Corcoran, Carragh House B&B, Davitts Terrace, Castlebar.
- 7.2 As residents and local business owners they support the proposed development. The public house is a local asset and amenity and the proposed extension will enhance this use.
- 7.3 Castlebar is in need of improvements: pub closures, trade diversion to Westport are referred to. The pub is well run. They have not had any problems with noise or other disturbance over the long number of years that the pub has been in operation.
- 7.4 They enclose letter of support from other local people.

## **8 POLICY CONTEXT**

- 8.1 **The Mayo County Development Plan 2014 – 2020** covers the county of Mayo. Relevant provisions include:
- 8.2 RT-07 It is objective of the Council to support any proposed action initiatives, to further enhance the vitality and vibrancy of

town centres, particularly at evening/night. Such action initiatives may include mobility management plans to improve access to retail areas for all, particularly pedestrians and cyclists. Such initiatives may also include improvements to the public realm, such as street furniture, planting and street cleaning.

8.3 **Castlebar & Environs Development Plan 2009-2014** remains in force, following the Local Government Reform Act 2014, until 2020.

8.4 Relevant provisions include:

8.5 Zoning – zoned town centre. The reference in the grounds of appeal to the zoning of the area as open space appears to refer to a document which was displayed for a Variation to the plan and which appears, erroneously, to show frontage to Lower Chapel Street as open space. A letter from the Senior Planner, attached to the first party response to the grounds of appeal, clarifies this matter.

8.6 Zoning objective: It is an objective to enhance the special physical and social character of the existing town centre and to provide for new and improved ancillary services.

8.7 Chapter 12 town centre includes:

Strategic objective – to promote Castlebar town centre as the focal point of the town's archaeological, cultural and historic heritage, the shopping, commercial and administrative core, and location for key community and residential uses.

The town centre acts as the focus for community life and economic activity of the town and its hinterland and is a major component of the town's identity. The concentration of shops, places of employment, leisure venues and meeting places characterizes town centres. The accommodation of these uses and functions and the management of the pressures they create is the key to a successful and vibrant town centre.

Entertainment and leisure uses include hotels, pubs, nightclubs, restaurants, cafes, theatres, cinemas and tourist attractions. These uses attract people into the town centre in large numbers sustaining activity after normal business hours in the evening and maintaining its position as the focal point for community life in the town. Most of these uses in Castlebar are concentrated in the town centre.

In order to ensure that the town centre maintains its profile as the primary venue for such activities it will be important that planning policy encourages and facilitates the expansion of these essential town centre activities.

Policies:

(TCP 2) It is a policy of the council to facilitate, where appropriate, the development of entertainment uses at locations within the town centre. The town centre shall be promoted as the most appropriate location for such uses.

(TCP 3) It is the policy of the Council to encourage the retention of traditional shop fronts of high quality. The replacement or repair of shop fronts will be completed with standards set out in Chapter 14, Development Management.

Objectives:

(TCO 2) It is the objective of the Council to protect the existing streetscape and enhance poorly defined edges on approach roads. New or redeveloped buildings shall respect the height of the existing streetscape, except in instances where the Council consider there are valid urban design reasons for increased height, for example, where a building would add definition to an urban space or key junction/corner site.

## **9 ASSESSMENT**

- 9.1 The main issues which arise in relation to this development are: development plan policies, residential amenity, noise, planning unit / red line boundary, traffic safety, and appropriate

assessment and other issues and the following assessment is addressed under these headings.

## 9.2 **Compliance with Development Plan**

9.3 The Castlebar & Environs Development Plan 2009-2014 which contains the most specific provisions in relation to the area, remains in force, following the Local Government Reform Act 2014, until 2020.

9.4 In the grounds of appeal reference is made to the zoning of the site as open space. There appears to have been a mapping error in published maps for one or more variations to the Plan. These variations were made in respect of issues and areas unrelated to the subject site, but in which the area along this street was coloured to indicate its zoning as open space. The mapping for the original development plan clearly indicates that the area is zoned town centre and a letter from the Senior Planner, attached to the first party response to the grounds of appeal, further clarifies this matter.

9.5 This area is zoned town centre and town centre policies apply. Chapter 12 of the Castlebar & Environs Development Plan refers to the town centre, with the prime objective of promoting the town centre as the focal point of the community, including its entertainment and leisure functions, to include facilities such as pubs; since it is acknowledged that a successful and vibrant town centre is important for community life. The plan notes that the accommodation of these uses and functions and the management of the pressures they create is the key to a successful and vibrant town centre.

9.6 The proposed development accords with the development plan.

## 9.7 **Residential Amenity**

9.8 The proposed development is located in the vicinity of residential uses. The appeal, which has been made on behalf of Rathbaun Drive Residents Association, refers in the grounds to issues

related to residential amenity. Rathbawn Drive is a settled residential area to the north west of the site which is accessed some distance away, from Rathbawn Road. Although parts of Rathbawn Drive are remote from the site, the estate extends to the rear of properties on Lower Chapel Street, including the subject site.

- 9.9 The visual impact of the proposed development is referred to in the grounds: that the outlook from the gardens and some of the main rooms of adjacent properties would be adversely affected.
- 9.10 The rear of the subject site adjoins No. 53 Rathbaun Drive which is in the ownership of the first party. The nearest third party property is No. 52 Rathbaun Drive, which abuts the rear of No.s 20, 21, 22 and part of No. 23 Lower Chapel Street. The proposed development is a two storey building of some 4.5m height to eaves level. The proposed development is not directly to the rear, but rather to one side of the rear boundary, where boundary walls and trees will moderate the impact.
- 9.11 Revised proposals submitted in response to the further information request include the removal of an outdoor balcony at first floor level. No overlooking arises from the first floor windows, which are all toilet windows.
- 9.12 Nuisance from odour from the toilets is referred to in the grounds of appeal. It is unlikely that there should be any such adverse impact due to the intervening distance.
- 9.13 Visual impact of the proposed development on other areas in Rathbaun Drive are unlikely since the proposed development is screened from the remainder of the estate by the dwelling and landscaping at No. 53.
- 9.14 The grounds also refers to encroachment into residential areas by the existing public house use. The proposed development will extend the premises to the south west, which extends marginally into what was formerly an adjoining cottage plot. The proposed development includes an extension to the north east into an area currently used as a yard for the public house. The response to the grounds of appeal states that the building along the street is not in residential use and is unsuitable for residential use, and has for many years been part of the public house curtilage as an associated outbuilding.
- 9.15 The area is zoned town centre. In my opinion encroachment into areas formerly in residential use, should not be a reason to refuse permission.

9.16 **Noise**

- 9.17 Noise has been referred to in some detail in the application and appeal. A noise impact assessment, carried out by an acoustics consultant, was submitted in response to a request for further information, and further details were submitted as clarification of further information. These submissions have been critiqued in detail by an acoustics consultant on behalf of the third party.
- 9.18 Arising from the further information request modifications were made to the proposed development, including the removal of an outdoor balcony at first floor. The potential for noise impact from this source no longer arises.
- 9.19 The clarification of further information included noise monitoring which was carried out during a live performance. The consultants on behalf of the applicant accepted that the noise monitoring highlights that the existing premises, with music playing, generates noise in excess of accepted thresholds which, they state, explains third party concerns regarding noise. They further state that their report demonstrates that the proposed development will substantially reduce noise levels in Rathbawn Drive to well within accepted limits, in large part due to mitigation measures, e.g.:
- improved noise insulation in the building envelop: replacement of the existing Perspex roof of the rear single storey portion of the premises, which proposal has been further modified in the submission in response to the grounds of appeal, wherein a more conventional type roof is now proposed for this area; and an additional door from this area to the outdoors to create a lobby, etc. In relation to the existing smoking area, it is proposed to erect a noise screen around the top of the existing boundary walls, (see further reference to this under the heading red line boundary below).
- 9.20 The third party consultants, ICAN, have raised many concerns regarding the methodology used in assessing noise impact; all of which have been rebutted by the first party's consultants, Allegro Acoustics. Of particular note is the reference to the nature of music sound, which features low frequency base sound, of below

100Hz. ICAN consider that the nature of the sound emitted by music is not addressed by the Allegro Acoustics assessment. ICAN point out that low frequency noise has not been properly accounted for in the submissions, that the attenuation from the building materials, as stated in the first party acoustic submissions, does not reflect performance with regard to low frequency noise, below 100Hz. ICAN state that it is inappropriate to use raw (Reduction Index)  $R_w$  values to determine the likely impact of breakout noise from entertainment, as the  $R_w$  value is an overall sound insulation value across frequencies. At low frequencies insulation is likely to be noticeably lower than the overall  $R_w$ . They give as an example that the predicted overall insulation of the flat roof structure would be 59dB +/-3dB, however the sound insulation value of that structure at 63Hz (a typical bass frequency) is as low as 15dB. They state that the consultants could have determined the likely level of transmitted noise at the various frequency bands and then determined the level of noise at NSLs in those frequency bands. They point out that the building will not attenuate such sound and that it will break-in to adjoining residential properties.

- 9.21 The response from Allegro Acoustics is that ranges from 50Hz (the lowest range to which there is product testing in laboratories) to 5000Hz are included in their report and that sound intensity calculations were carried out upon this data to convert it to the sound power values per  $m^2$  as inputted to the software. Regarding the argument that low frequency sound could preferentially break into residential properties, they refer to Figure 7 of their report, DC1413-01 from which it can be seen that sound energy below approximately 100Hz at the façade of properties is below the threshold of hearing in this frequency range: a noise level of approx. 10 dB. The threshold of hearing at this frequency band being 35dB.
- 9.22 As further mitigation, the consultants for the first party propose that there should be no active speaker for playing music in the smoking area at night time (after 11 pm) which could be automated / timed for convenience. I consider that it would be reasonable to require that there should be no loud speaker whatsoever in the smoking area.
- 9.23 Currently live music is performed in the part of the building at the rear of the site. Notwithstanding proposals to improve the noise

attenuation of this part of the building by additional roofing materials and the creation of a lobby, the Board may consider, in the context of permitting the first floor extension, which it is intended should be suitable for live performance, that a condition which requires that no live music be performed in the ground floor room at the rear of the building, would be reasonable. Since no challenge has been made to the existing use of this area, and since it seems likely that the ground floor area will be in use at times when the first floor area is not in use, and also having regard to the mitigation proposed, I am inclined to the view that such a condition is unnecessary and would be unduly onerous.

- 9.24 Third parties have raised concerns regarding extractor noise and also that there are inconsistencies regarding the placement of extractors.
- 9.25 The first party response is that the pub will be ventilated by a single air handling unit to be located towards the rear of the pub; as these are relatively quiet pieces of plant, noise breakout can be considered to be negligible. There are no windows in the proposed first floor bar. Windows in the toilets are to remain closed and toilets are to be mechanically ventilated using minor domestic grade fans which generate negligible levels of noise. They state that there will be negligible noise from plant.
- 9.26 In my opinion the noise impact experienced from the existing development will be substantially improved by implementation of the proposed development, and the proposed development will not itself generate noise at a level which could reasonably be a cause of concern.
- 9.27 **Planning Unit/ Red Line Boundary**
- 9.28 The application documents submitted to the planning authority 27<sup>th</sup> August 2015 include site map scale 1:1,000 showing an area outlined in red. In relation to the south western end of the site, this area includes the area covered and to be covered by buildings and some of the uncovered area at the rear, but does not include the entire outdoor area associated at present with the public house. The area outlined in red on the a site layout plan scale 1:100, also submitted with the application, and the drawing

'proposed plans', scale 1: 100 submitted on the same date, also corresponds with this area. To the north east the site boundary includes the extended building area and a distance of c1.3m beyond.

- 9.29 Neither the north-eastern or south western boundaries reflect the boundaries of historic plots.
- 9.30 A more extensive area of the outdoor yard is shown outlined in a dotted line which is identified as 'boundary area of smoking wall to be increased in height', on the drawing 'proposed plans and elevations'.
- 9.31 The area outlined in red on the drawing titled 'existing plans' also submitted on 27<sup>th</sup> August 2015 is significantly different, in relation to the south western boundary, to that in the other drawings: it extends further south at the street end and less far south at the rear end.
- 9.32 Revised drawings submitted on the 23<sup>rd</sup> February 2016, with the clarification of further information response, show an area outlined in red, corresponding to the site map scale 1:1,000, previously submitted.
- 9.33 I am satisfied that the relevant site boundary is that shown on the 1:1,000 map.
- 9.34 In this regard I note the statement in the further information response: that the smoking area is an existing smoking area, ancillary to the existing premises, not illustrated on the drawings nor referred to in the public notices as being part of the new proposals.
- 9.35 In this regard I also note also the statement in the response to the grounds of appeal, in relation to the red line boundary: that the red line boundary was intended to delineate the extent of the originally proposed development, and that the proposed development does not involve an encroachment / extension outside the curtilage of the existing public house; that the existing

premises has to a limited degree expanded to include a portion of the rear of No 24 Newline/Lower Chapel St, the existing smoking area, which expansion has been in place for a number of years, and hence was not included in the application.

- 9.36 A difficulty which arises in relation to the site boundary is that the uncovered smoking area to the rear, which is referred to in the grounds of appeal and by the first party, in relation to noise mitigation, is largely outside the subject site. Since that area is not the subject of this application/appeal extending the height of wall, which is not exempted development, can not be carried out as a proposal by the first party; and similarly the proposals to curtail the use of speakers in the area. However under Section 34 (4) of the Planning and Development Act, conditions may be imposed to regulate development of land under the control of the applicant or for the carrying out of works. I consider that such conditions should be imposed; see conditions no.s 8 and 9 below.
- 9.37 Notwithstanding that some of the outdoor area associated with the current use is outside the boundaries of the subject site, the area subject to proposed development (other than the development referred to in the previous paragraph) is within the site and in my opinion the Board can determine the current appeal on the basis of the documents before it.
- 9.38 **Traffic Safety**
- 9.39 The grounds of appeal states that this site is edge of centre and that it is not appropriate to ignore parking standards. It further states that lack of parking would give rise to traffic congestion and endanger public safety and that adjoining residential streets are currently used by patrons overnight; and further intensification would lead to unacceptable levels of car parking on adjoining streets.
- 9.40 In response the first party states that this grounds is tenuousm, that the vast majority of patrons do not now drive, that there is a substantial area of off-street and on-street parking available in the vicinity, and further that there is no evidence of any substantial pattern of overnight parking in the vicinity of the premises.

9.41 This area is part of the town centre, in respect of which detailed policies are contained in the Development Plan in chapter 12. The thrust of the plan provisions, in relation to the town centre, is to promote it and to ensure that it acts as the focus for community life and economic activity. Entertainment and leisure uses including hotels, pubs, nightclubs, restaurants, cafes, theatres, cinemas and tourist attractions are mentioned as uses which attract people into the town centre in large numbers, sustaining activity after normal business hours in the evening. I am satisfied that any increase in parking demand associated with the proposed development can be accommodated on-street or in off-street car parks and that the lack of on-site car parking provision should not be a reason to refuse permission.

#### 9.42 **Appropriate Assessment**

9.43 Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

#### 9.44 **Other issues**

9.45 The grounds of appeal raises as a concern what they consider to be misleading public notices, in which there is no reference to the altering of site boundaries and that the proposed development represents encroachment by stealth into residential areas. In my opinion the notices alert interested parties to the application wherein greater detail is available with regard to all aspects of the application. I am satisfied as to the adequacy of notices. I am also satisfied that the zoning objectives and plan policies provide for the proposed extension notwithstanding the existing residential use of part of the site.

## 10 **RECOMMENDATION**

In accordance with the foregoing assessment, I recommend that planning permission be granted for the following reasons and considerations and subject to the following conditions.

## REASONS AND CONSIDERATIONS

Subject to the following conditions it is considered that the proposed development, which involves the extension of a public house in the town centre, where it is the policy of the planning authority as set out in the Castlebar & Environs Development Plan 2014 – 2020 to encourage such development, would not detract from the residential amenities of property in the vicinity, and would 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 23<sup>rd</sup> day of February 2016 and by the further plans and particulars received by An Bord Pleanála on the 8<sup>th</sup> day of June 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 Full details of any external lighting and signage proposed shall be subject to the prior written agreement of the Planning Authority

**Reason:** In the interest of orderly development and visual amenity.

- 3 The development shall be revised by redesigning the north / side elevation. Development shall not commence until revised plans, elevations and finishes have been agreed in

writing with the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.

**Reason:** In the interest of orderly development and visual amenity.

- 4 The proposed development which involves repairs to the existing building and the incorporation of new design features, must be in keeping with traditional methods, materials and finishes. Full details of the following shall be agreed in writing with the Planning Authority prior to the commencement of any development on the site.

Type and style of any and all new joinery

Render repairs

Type and style of all new rainware and fascia etc.

Colour scheme

**Reason:** In the interest of orderly development and visual amenity.

- 5 The developer shall agree a noise monitoring programme, for a period of six months post the development coming into operation, with the Environment Section of Mayo County Council. Should independent noise monitoring be required by Mayo County Council, the cost of such monitoring shall be borne by the developer.

**Reason:** In the interest of preserving the amenities of the area.

- 6 Site development and building works shall be carried only out between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

- 7 Water supply and 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.

- 8 No loudspeaker shall be placed in the outdoor smoking area and any speakers currently in the area shall be removed prior to the commencement of development works.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

- 9 The walls surrounding the outdoor smoking area shall be increased in height in accordance with the details submitted.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

- 10 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

\_\_\_\_\_  
Dolores McCague  
Inspectorate

\_\_\_\_\_  
Date

Appendix 1 Map and Photographs

Appendix 2 Extracts from the Castlebar & Environs  
Development Plan 2014 – 2020

Appendix 3 Extracts from Variation No 2 to the Castlebar &  
Environs Development Plan 2014 – 2020