



An
Bord
Pleanála

Inspector's Report PL09.247476.

Development

Demolish outbuildings and sheds.
Construct a mixed use development comprising student accommodation of 117 bedroom units, 2 no. restaurant/café units, 150 bicycle spaces and 7 no. parking spaces.

Location

Buckley House, Parson Street,
Maynooth, Co. Kildare.

Planning Authority

Kildare County Council.

Planning Authority Reg. Ref.

16/328.

Applicant(s)

Forward Thinking, Future Planning Ltd

Type of Application

Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

First Party vs. Refusal

Appellant(s)

Forward Thinking Future Planning Ltd

Observer(s)

Ciara Houlihan and Robert Landy

Date of Site Inspection

20th January 2017

Inspector

Ciara Kellett.

1.0 Site Location and Description

- 1.1. The site is located at the west end of Maynooth town, at the junction of Leinster Street and Parson Street. It is located near the south campus of Maynooth University (St. Patrick's College) and across the road from Maynooth Castle. It is located within the Maynooth Town Architectural Conservation Area and is adjacent to a number of Protected Structures, including Buckley House which is located within the subject site.
- 1.2. The site itself is bounded by Parson Street to the north and west, the Garda station and other dwellings facing Leinster Street to the east, a tributary of the River Lyreen and Castle View house (Observer's residence) to the west and a privately run car park to the south. A laneway runs to the south of the site separating it from the car park. The site is located within the Town Centre zoning and has a stated area of 0.303Ha.
- 1.3. The site includes the Protected Structure Buckley House, which is currently unoccupied, to the north of the site. The remainder of the site is currently in an unkempt and overgrown state with shrubs and trees scattered throughout the site. The site is enclosed by a low wall where it fronts onto the two streets. Buckley House is surrounded by iron railings with decorative ball finial features on the pillars and at the entrance gates.
- 1.4. Appendix A includes maps and photographs.

2.0 Proposed Development

- 2.1. The proposed development consists of the demolition of derelict outbuildings and the construction of a mixed use development incorporating:
 - Student accommodation facility comprising 117 no. bedroom units over ground, first, second and third floors, associated communal kitchens, TV and common rooms. The bedroom units comprise a mix of single study units with ensuite (70 no.), single study units with ensuite and kitchenette (45 no.), 1 no. single disabled accessible unit and 1 no. 1-bedroom warden apartment;
 - Two no. restaurant/cafes, one with outdoor terrace and one to incorporate the restoration and change of use of Buckley House;

- A single storey glazed link extension, outdoor dining terrace and landscaped public open space, 2 storey atrium, gym, and
- 7 no. off-street car parking spaces, 150 bicycle parking spaces, enclosed refuse store and plantroom in a three storey courtyard building with a glazed setback at third floor penthouse level, associated landscaping, ancillary development works including flood relief works.

As well as drawings, a Conservation Report, Planning Report, Traffic Report, Mechanical and Electrical Services Report, Bat Assessment Report, Design and Access Statement, Letter of support from Maynooth College and an Archaeological Impact Assessment accompany the Planning Application.

Further Information was requested on May 26th 2016 for 45 items in relation to a number of Departments' concerns: landscaping; access; natural light; passive surveillance; plant at roof level; management of waste; windows in south elevation; concern over massing on the south east corner onto Leinster Street; extending over more than one historic plot and how variations to facades should be considered; solar study appears to indicate that the student concourse area is in shadow most of the time; ownership of laneway to the south – letter of consent required; visual impact assessment including 3D images when viewed from Castle View House and Harbour View cottage, other adjacent residences, St. Mary's Church and approach from the Harbour/Train Station; show line of sight from each window on every floor to adjacent properties; provide additional streetscape elevations; address CFO concerns; address Warden's apartment; address archaeological issues raised by the Department of Arts, Heritage and the Gaeltacht; revise lighting plan; address Protected Structure, impact on ACA; refuse storage and environmental grease traps etc.; provide AA Screening Report; surface water items; flood risk; foul water; and, provide a Construction Management Plan.

Following the response to the Request for Further Information on 19th August 2016, the applicant was advised to re-advertise that significant Further Information had been received. The applicant submitted an Engineering Services Report; Traffic Report; Letter from KCC re status of laneway; Archaeology Report; Ecology Screening Report; Historic Landscape Report; Letter of support from Maynooth

University; Flood Risk Assessment Report; Preliminary Construction Management Plan; and, Visual Impact Assessment.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for three reasons.

1. Notwithstanding the zoning of the lands as 'town centre' and the policy of the Maynooth Local Area Plan 2013 – 2019, to intensify development in underutilised town centre sites, it is considered that the proposed development by reason of its design, scale, massing, materials and siting in an Architectural Conservation Area and proximity to adjoining Protected Structures and vernacular buildings would represent an over-development of the site and would be seriously injurious to the visual and residential amenities of the area and of property in the vicinity. In addition, the proposed development would be contrary to a number of policies in the Local Area Plan including HP2 which seeks to ensure the density and design of developments respects the character of the existing and historic town, in terms of structure, pattern, scale, design and materials (section 7.1.1) and EA11 which seeks to ensure that new development proposals protect the existing heritage and the amenities of adjoining development (section 7.4.11.1). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the lack of car parking on the site and the likelihood of traffic congestion arising, it has not been shown to the satisfaction of the planning authority that the proposed development would not endanger public safety by reason of traffic hazard or obstruction of road users.
3. The proposed residential development is in an area which is at risk of flooding. Notwithstanding the preparation and submission of a site specific flood risk assessment, it has not been demonstrated to the satisfaction of the planning authority that the proposed development would not be at risk of flooding. The proposed development, therefore, could lead to conditions

which would be prejudicial to public safety and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. The application was subject to a request for Further Information. Therefore, there are a number of planning and technical reports on file. They can be summarised as follows with emphasis on the content of the final reports.

First Planning Report:

- Notes proximity of proposal to existing residences, to items of architectural and archaeological significance and the impact of same in terms of scale, bulk, and massing - notes appropriate balance will need to be struck.
- Design has attempted to address possible overlooking of adjacent dwellings. Views from adjacent dwellings have not been submitted and more detail required.
- Notes Architect Department requires Further Information. Notes the Wardens apartment does not meet minimum standards for one-bedroom apartments.
- Notes the provision of 7 no. car parking spaces is significantly below the number required for residential development. Notes Chief Fire Officer has concerns with traffic generated by the proposal and access to Maynooth Fire Station.

Second Planning Report

- Notes deviation from original proposal includes: retained portion of curved garden wall and incorporation into new curved glass screen; revised landscaping to Buckley House; additional pitched louvers to soften junction with Leinster Street; revised fenestration of ground floor units; revised warden's apartment to meet minimum size; revised reports and 3D images provided.
- Notes no change to the number of units proposed.
- Acknowledges site is an underutilised town centre site which represents an opportunity for urban renewal.

- Planning Authority are mindful of recent Department Circular which indicates there is an unmet demand for c. 25,000 bed spaces nationally and acknowledge need for student accommodation in Maynooth.
- A number of issues require clarification of Further Information including access to the laneway to the south of the site which appears to be in private ownership, flood risk and details relating to water services provision.
- Planning Authority have a number of fundamental concerns which have not been overcome in the response to Further Information request.
- Concerns about scale, bulk and massing of the proposal. Proposal represents over development of the site, insufficient car parking spaces, open space and density of development in general.
- Planning Authority has concerns with the visual impact on the ACA and the proximity to a number of Protected Structures.
- Policies HP2 and EA11 are of note.
- Proposed design is not an appropriate response having regard to the location in the ACA.
- Flooding is still a concern.
- 7 car parking spaces is a gross under-provision of car parking which would likely result in traffic congestion.
- Recommends refusal for three reasons.

The decision was in accordance with the Planner's recommendations.

3.2.2. Other Technical Reports

The Planning Application was referred to:

Area Engineer: Sought Further Information and upon receipt no objection subject to conditions.

Environment Section: Sought Further Information and upon receipt no objection subject to conditions.

Water Services Section: Sought Further Information and upon receipt sought clarification of Further Information with respect to Flood Risk and Surface Water Drainage and Attenuation.

Transportation Department: Sought Further Information and upon receipt no objection subject to conditions. Notes that this proposal is a “unique and experimental” development. Conditions required include the developer to contribute a bond of €585,000 for 10 years which will be drawn in the event that parking congestion occurs in the vicinity of the development. The applicant will also be required to submit annual car parking study every November.

Architects Department: Sought Further Information and upon receipt no objection subject to conditions. Expressed concerns about the proposed massing on the south-east corner onto Leinster Street with the building rising to 4 storeys. Notes no proposal in response to FI to reduce height or set back the elevation at third floor. Recommends Applicant reduces the footprint at 3rd floor level by omitting units 301, 302 and 304 to emphasise book-end nature of stone-clad tower.

Conservation: Sought Further Information and upon receipt no objection subject to conditions. Recommends a number of conditions relating to the preservation of Buckley House.

Heritage: Sought Further Information and upon receipt no objection subject to conditions.

EHO: Sought Further Information and upon receipt no objection subject to conditions.

Chief Fire Officer: Objects to proposal. CFO remains concerned with access and egress from Maynooth Fire Station which is located at the end of Leinster Street. Notes the Fire Service in Maynooth is a retained service. This means that the Firefighters live and work in the community and respond to the fire station on activation of alerts. They respond in their own vehicles as they drive to the fire station. Considers that approval of the proposal would adversely impact on the response times from Maynooth Fire Station. Consider there will be increased traffic flows on Leinster Street during construction and increased traffic and pedestrian activity during occupation and a resultant adverse impact on access to the Maynooth Fire Station.

3.3. **Prescribed Bodies**

Irish Water: Sought Further Information and upon receipt sought clarification of Further Information. Consider drawings contain discrepancies which would mitigate against proper servicing, there are issues with manhole levels and conflicts with surface water and foul sewer pipes and building foundations.

Inland Fisheries Ireland: Recommends conditions.

An Taisce: Proposal should not injure the character of the Protected Structures or the ACA.

Department of Arts, Heritage and the Gaeltacht: Further Information sought re Archaeology. Notes the proposed development will be partly within an area of Archaeological potential around Recorded Monuments (Castle, House, well, church). Recommends development is assessed by a suitably qualified archaeologist and the effect of the development on the visual amenity of the National Monument and Recorded Monuments should be considered. In addition, pre-development testing should be carried out. A report on the visual amenity assessment and testing should be submitted as Further Information. Following the response to Further Information, the Department recommended that if development is to proceed on site, it must be carried out subject to archaeological planning conditions that will ensure assessment and to influence the final foundation design. Conditions are recommended.

3.4. **Third Party Observations**

Five no. third party submissions were made on foot of the lodgement of the application and upon re-advertisement, further submissions from two of the original five were received.

Concerns included impact on privacy, overdevelopment of the site, historical context of the site, impact on the ACA, visual impact, scale of development, lowering the standard of development in the harbour area, and the laneway is privately owned.

The Trustees of Maynooth College welcomed the principle of provision of student accommodation but expressed concerns relating to the design, its modern monolithic elevation to Parson Street, its impact on the ACA and lack of parking spaces.

4.0 Planning History

The site has been subject to a number of planning applications. Of relevance:

- KCC Reg. Ref. 08/425 was granted in July 2009 for 101 student accommodation units, 2 no. retail units and conversion of Buckley House to office along with basement parking for 57 cars.
- KCC Reg. Ref. 14/700. This was an Extension of Duration of Reg. Ref. 08/425 request submitted in August 2014. The Council decided to refuse the request due to Flood Risk issues. The Council were precluded from adding attenuation measures as conditions to the original permission and therefore were not satisfied that the proposal would not endanger the safety of residents.
- KCC Reg. Ref. 04/3086 and ABP Ref. PL09.214151. Permission was refused by the Board in January 2006 for the refurbishment of Buckley House as a medical centre, construction of a mixed use development in blocks up to 4 storeys, containing 2 no. retail units and 35 no. student accommodation units. The Board decided to refuse permission for *“the proposed new development, by reason of its excessive height and mass, its location directly adjoining protected structures on Leinster Street and the proximity of the restaurant to the protected structure of Buckley House, would constitute a visually dominant form of development which would detract from the character and setting of these protected structures and diminish the value of their protected status”*.
- KCC Reg. Ref. 00/1527. Permission for a 2 storey mixed commercial development comprising 9 retail units, restaurant/art gallery, and 7 apartments was deemed withdrawn following the lack of response to the request for Further Information.

5.0 Policy Context

5.1. Development Plan

5.1.1. Maynooth Local Area Plan 2013 – 2019.

Section 2 refers to Maynooth Historic Development and Urban Context. Section 3 refers to the Town Function and Role, Section 4 to the key challenges facing the town and Section 6 Future Development Strategy. Section 7 forms Part B of the Plan and contains the policies and objectives, and Section 8 forms Part C and refers to Specific Objectives.

Section 3 notes that Maynooth is recognised nationally and internationally as a University Town. It notes that many students live in Maynooth adding to the vibrancy and atmosphere in the town. Section 4 notes key challenges which need to be addressed in the Plan include: Facilitating the development of educational facilities for an expanding population; Protecting the unique character of Maynooth as a University town steeped in history and heritage; and, Supporting the re-use of land and buildings, particularly through backland development and regeneration of town centre sites. Section 6, Future Development Strategy, includes planning for residential expansion and the expansion of the town centre in a sustainable manner by utilising backlands, in particular the Harbour Area.

Section 7.1 notes that there are currently 900 students residing in University provided campus accommodation with a further 100 students staying in University accommodation located off site. The University also has plans to construct accommodation for a further 300 students on campus. **Policy HP** state:

***HP 1:** To facilitate sustainable development in Maynooth in line with its designation as a Major Growth Town II in the RPGs and the CDP and to ensure that this development reflects the character of the existing and historic town in terms of structure, pattern, scale, design and materials with adequate provision of open space, and which also protects the amenities of existing dwellings.*

HP 2: *To ensure that the density and design of development respects the character of the existing and historic town in terms of structure, pattern, scale, design and materials with adequate provision of open space.*

HP 3: *To encourage appropriate densities for new housing development in different locations in the town while recognising the need to protect existing residential communities and the established character of the area.*

HP 6: *To restrict apartment developments generally to the University campus and town centre locations or suitably located sites adjoining public transport connections. Apartments will not be permitted where there is an over concentration of this type of development. Higher density schemes will only be considered where they exhibit a high architectural design standard creating an attractive and sustainable living environment. Duplex units shall not generally be permitted.*

Section 7.4.8 refers to Strategy. Policy UDS3 states:

UDS 3: *To strengthen the identity of the town by achieving a balance between old and new therefore reinforcing the distinctiveness of the historic town core.*

The harbour area, which this site is part of, is specifically identified as an appropriate location to accommodate town centre expansion. Expansion area policies include:

EA 11: *To ensure that new development proposals protect the existing heritage and the amenities of adjoining development.*

Map 2 identifies the area as being located within an area which requires applicants to prepare a specific Flood Risk Assessment.

Section 7.10 refers to the Architectural and Archaeological Heritage of the town. In addition to the protection of individual buildings and structures the Council has designated a proposed Architectural Conservation Area (ACA) in Maynooth. The subject site is located within the ACA. Buckley House is listed on the Record of Protected Structures, as well as Harbour House, the Garda Station, Castle View house and the structures associated with the college, in the vicinity of the site.

The policies include:

BH 3: *To protect those built heritage items as listed below and shown on Maps 3 and 3a of this Local Area Plan.*

BH 4: *To protect and preserve the views to and from those items listed below as shown on Maps 3 and 3a of this Plan.*

Map 4a identifies 3 views and prospects to be preserved in the vicinity of the site, including a view towards Leinster Street.

Part C Section 8 lists the Land Use zonings. The site is zoned A1 Town Centre which is:

To provide for the development and improvement of appropriate town centre uses including retail, commercial, office, residential, amenity and civic use. The purpose of this zone is to protect and enhance the special character of Maynooth town centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of a developing town. It will be an objective of the Council to encourage the full use of buildings, backlands and especially upper floors. Warehousing and other industrial uses will not be permitted in the town centre.

5.2. Draft Kildare County Development Plan 2017 – 2023

Chapter 12 of the Draft Plan refers to Architecture and Archaeological Heritage. Map V1-12.4 identifies the boundary of the Maynooth ACA and includes the subject site. With respect to ACA's, policies include:

ACA 2: To ensure that any development, modifications, alterations, or extensions within an ACA are sited and designed appropriately, and are not detrimental to the character of the structure or to its setting or the general character of the ACA and are in keeping with any Architectural Conservation Area Statement of Character Guidance Documents prepared for the relevant ACA.

5.3. Natural Heritage Designations

The site is located approximately 1.8km from the Rye Water Valley/Carton SAC (Site Code 001398).

6.0 The Appeal

A First Party appeal against the Planning Authority's decision to refuse permission has been submitted.

6.1. Grounds of Appeal

The applicant addressed each reason for refusal in the grounds of appeal following a summary of the submissions of each department within the Council. The applicant notes that the Council have not referred to the development materially contravening the Maynooth Plan. The applicant has also addressed each item that was requested as 'Clarification of Further Information' by the relevant departments.

Reason no.1 Overdevelopment.

- The Further Information request only raised issue with massing on the south-east corner yet reason for refusal refers to the scale and mass of the entire development.
- Reports from Architect and Conservation support the scheme.
- Appears that reason for refusal relates to massing of the proposed development on the ACA/Protected Structures, impact on residential amenity, and the view of the Council that the proposal would contravene policies HP2 and EA11.
- No clear indication as to what specific element of built heritage in the vicinity is materially impacted or if considered to impact them all.
- Refer to applicant's Conservation Report which accompanied the proposal. Report concludes that the proposal will have a neutral impact on Buckley House and the setting of Parson Street with Castle View House, St. Mary's Church and the entrance to the college and a positive impact on Leinster Street.
- Refers to Visual Impact submitted at FI stage which concludes it will result in an imperceptible to moderate visual impact. When the improvements to Buckley House are factored in the impact on the ACA will be a significant improvement.

- Considers that the Garda Station will retain its dominant position on the corner.
- Refers to Architectural Heritage Protection Guidelines for Planning Authorities and specifically Criteria for Assessing Proposals within ACA's – notes that contemporary designs should be encouraged where there is an existing mixture of styles, and the scale of new structures should be appropriate to the general scale of the area and not its biggest building.
- Council have not specified exactly what material impact on neighbours occurs – overlooking, overshadowing, overbearing – and which dwellings. Castle View House and Harbour View Cottage are 44m and 28.5m distant and the angling of windows ensures no material overlooking.
- Consider reference to policy HP2 and Section 7.1.1 unusual as Section 7.1.1 refers to Housing Location and Density. Consider that student accommodation is normally assessed on its own merits, and is not subject to policies relating to housing, such as HP2, which refers to residential development. Notwithstanding this, considers density and design does respect character of the existing and historic town. Considers proposed development a significant improvement on the pastiche style previously approved for the site and reads as a modern insertion into the urban morphology. Refer to the Maynooth Library.
- With respect to Policy EA11 submits that the design team has provided a building of architectural merit. Applicant is prepared to accept a condition as suggested by the Council's Architect to omit three units at the south-east end and includes drawings with design amendment.
- 3D Computer Generated Images are also included comparing views of the proposed development with views of previously granted and refused schemes. Submits that the massing is reduced from the scheme previously refused by the Board and accepts that the massing is larger than the approved scheme but considers architectural quality of current scheme is superior.
- Applicant puts forward further modifications: a) omission of 3 units as suggested by Architects Department, and b) set back of the western elevation

by 2.6m. This will further reduce the bulk/massing of the overall development. CGI's for revised scheme are included.

- Applicant provides additional information in relation to plot ratio – Kildare County Development Plan considers plot ratios for town centre should be 1-2 and site coverage should be 80%: plot ratio is 1.35, site coverage is 55%. Notes no standards of Open Space for student accommodation in the Plan. Considers open space and covered recreational space and communal recreational space and facilities (café, common rooms and gym) equates to 45% of the site which is considered generous.
- Concludes that quantitative standards used indicate site is not overdeveloped; submits massing is less than previously refused proposal and is not much more than that previously approved; quality is very high and complimentary to its setting.

Reason no.2 Parking.

- Transport Department did not object to shortfall in spaces subject to conditions.
- Students will be made aware that there is no parking provided. As such, facility will generate virtually no traffic.
- No need for students to have a car given its town centre setting.
- No parking provision for students in Dublin City Centre student accommodation – reference is made to a number of student accommodation proposals in the city with no parking.
- Consider the suggested condition by the Transport Department highly unorthodox. Refers to Development Management Guidelines and questions how congestion is measured and related back to the proposed development.

Reason no.3 Flood Risk.

- The clarification of FI should have been dealt with by way of condition.
- Notes that the previous permission was granted by the Council and the extension of time was refused on a technicality.

- Considers that the applicants Engineer is fully satisfied that all queries can be addressed as part of this appeal – refers to accompanying drawings and report. Fully satisfied that there is no risk to future residents nor flood risk to others downstream.
- Justification Test carried out and current scheme is an enhancement on previous flood protection.

The applicant also addresses the Chief Fire Officers recommendation to refuse permission. It is considered that the development will generate only minimal traffic and will therefore not cause congestion which could impede on fire fighters accessing the development.

The applicants draw the Boards attention to circular PL8/2016 which states that student accommodation is a key priority in addressing the housing crisis. Attention is drawn to the support of Maynooth University for the proposed new development.

6.2. Planning Authority Response

The Planning Authority responded to the appeal as follows:

- Notes revised drawings indicating modifications to south-east corner and pulling back of western boundary.
- The FI request did seek information in relation to visual impact and raised concerns about massing of the proposal, particularly the south-east corner.
- Repeats the assertion that the development is contrary to policies HP2 and EA11.
- Wish to bring to the attention of the Board that the recommendation of the Conservation Officer in his report of 14th September 2016 related to the appropriate use of the Protected Structure and its immediate curtilage. The initial report from May 2016 raises concerns regarding the impact on the ACA. The Board's attention is drawn to policy BH4 of the LAP; To protect and preserve views to and from those items (i.e. built heritage) shown on Maps 3 and 3a. Acknowledges that a written statement has yet to be prepared for the ACA.

- Planning Authority considered the revised drawings with the appeal and in a report dated 23rd November 2016 the Conservation Officer states (with reference to the applicant's ground of appeal point 3.2.1) that the *“proposal is out of scale with the streetscape character of this area of the ACA. The proposal negatively impacts on historic open space and setting of the protected structure in the ACA, when viewed from St. Mary's and St. Patrick's College complex entrance gates and environs”*.
- Board's attention is drawn to 'views and prospects to be preserved' in Map 4a – consider the proposed development would have a considerable impact on these views and prospects. Planning Authority stand over their decision to refuse permission.
- Transportation Section have prepared a supplementary report on foot of the appeal. Acknowledges there are currently serious traffic issues in Maynooth at peak times. The Council has engaged Consultants to undertake a traffic management study in the town which is substantially complete and will be used in assessing future planning applications. The Report notes that attaching a bond is a new departure for the Council in this instance and reference is made to similar developments in Dublin.
- Authority question how the applicant can state that no car parking will be generated and ergo no traffic congestion will arise. Likely that the development (residential and commercial) will generate some level of traffic.
- Notes Department Guidelines require a minimum of 1 car park space per unit and that the Guidelines do not differentiate between types of developments.
- Having regard to location on a cul-de-sac serving the train station and the lack of set-down area the development would likely result in traffic congestion.
- Notes applicant has included additional information addressing concerns of Water Services Department with respect to flooding. Water Services consider, in their report of the 24th November 2016, that outstanding issues can be dealt with by way of condition. The planning authority note that no pre-commencement conditions have been drafted and it is unclear how such conditions might affect the development such as to impact on the setting of the Protected Structure or the ACA etc.

- Drafting of conditions may be satisfactory from an Engineering point of view but are not from planning, heritage, amenities etc. Planning Authority request that in the event that the Board are disposed to grant permission such matters are dealt with in full, prior to a favourable decision.

6.3. Observations

An observation on the appeal has been submitted by Ciara Houlihan and Robert Landy, the residents of Castle View House. They state that their concern has always been the proximity of the development to their boundary.

- Distance between the proposed development and their boundary wall does not adhere to the regulations. Notes the appeal documents state there is 44m distance which overlooks their key concern which is the proximity of the development to their garden which they enjoy with their young family.
- Proposed structure is anathema to the surroundings and would become a dominant aspect to the town and would serve to detract from the historical core of the town.
- Concerns over lack of parking.
- Consider that student accommodation can be addressed in many ways in many different locations.

6.4. Further Responses

Under Section 131 of the Planning and Development Act, 2000 as amended, the Development Application Unit of the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs and An Chomhairle Ealaíon were requested to make submissions. No submissions were received.

The applicant and the observer parties were provided an opportunity to comment on the Planning Authority's response.

6.4.1. Applicant's response to Planning Authority:

The applicant responded to each of the issues raised as follows:

- Notes submission outlines why the Council refused permission. Notes that Draft Kildare County Development Plan 2017 – 2023 specifically states that purpose built student accommodation is generally of higher density.
- Considers it remarkable that the Conservation Officer would only limit his assessment of the application to Buckley House. States the Conservation Officer attended meetings and was fully aware of the scheme. Submit that the response was rushed and given without consideration of the facts or opinions submitted with the application. Submit that the Board should restrict itself to the comments made during the planning application process only.
- Provides revised drawing with amended heights of Roost Bar. Notes that the ground level of the subject site is lower than that of the established development on the east side and this is a material consideration in respect of the proposed building height. The Roost Bar is 3.5 storeys high and as such this is not a low scale environment. Contention that the proposed development is out of scale with the streetscape character does not hold up to scrutiny.
- Board is referred to the Grade 1 Conservation Architect Report which accompanied the application which notes that the proposed development will result in a positive impact to the streetscape of Leinster Street.
- Board is referred to the Visual Impact Assessment submitted at Further Information stage in relation to St. Mary's church. View from the central point of the front elevation of St. Mary's is largely obscured by Castle View House itself. Applicant's Conservation Architect considers the impact on the setting of the structures will be negligible.
- St. Patrick's college key view is from the university entrance towards the Main Street. View point is not listed on Map4a of the Plan. Submits that the primary view from the University entrance will be Buckley House. Student accommodation would only be visible at an oblique angle and therefore would not be as prominent. The conversion of Buckley House into a restaurant would be a positive impact on the view.
- View from Maynooth Castle was discussed with National Monuments Section and the applicant's expert archaeologists notes the visual impact is slight.

Accepts that views of the north end of the student scheme from the castle ruins will be unencumbered by any planting, however, visual impact of this view takes into account the restoration of Buckley House which will be a significant improvement on the visual amenity of the area and will allow for a better appreciation of Maynooth Castle from the restaurant.

- Restates position that there will not be an overbearing impact on Castle View House and Harbour View Cottage.
- Restates that views to and from protected structure will not be materially adverse. Consider that significant weight should be given to the positive impact this proposal will have on the redeveloped Buckley House.
- Drawing included which shows the elevation in comparison to the street view from the opposite side of Parson Street. There will be minimum view of the student accommodation. Additional CGI provided which gives a better interpretation of development of view along Leinster Street. Massing has been broken up to ensure against a dominant building presence on the street.
- Contiguous streetscape elevation shows height of predominant three storey is the same as the ridgeline of Buckley House.
- In relation to transport, state that the function of the 5 car park spaces (2 no. disabled) is for set-down. However, two options provided which could work as set-down – both options are for the Board to consider.
- Argue that car parking standards in the Development Guidelines do not apply to purpose built student accommodation. Notes that Draft County Development Plan refers to 1 car park space per 5 bedrooms and that these are maximum standards. Notes Draft Plan states that lower rates of parking may be appropriate in certain sites.
- Caretakers role will include monitoring of car parking spaces.
- Flood Risk – the FRA has dealt with the worst case event and then raises the ground by a further 500mm to account for climate change.
- Planning Authority should have requested pre-commencement conditions from the Water Services Section. Likelihood of conditions impacting any built/natural heritage is low.

6.4.2. Planning Authority's response to First Party

The Planning Authority was invited to make an observation on the response of the First Party. In summary, the Planning Authority state:

- Concerns regarding the size, scale, height and bulk and the impact of the proposed development on the ACA were conveyed during pre-planning consultations.
- This was conveyed to the applicant's Planning Consultant via email on the 10th November 2015. A copy of the email is appended to this submission.
- Notes that the scale, massing and bulk increased in the final design which was submitted for planning permission.
- Notes that the photomontages and detailed drawings do not indicate the proposed flood defence wall which will bound Parson Street or the external tanking c. 250mm in height to the base of Buckley House.
- Reiterate there are two views and prospects which would be impacted by the proposed development.
- Transportation Department reviewed the response and commented further – they do not agree that the demand for additional parking spaces will be zero.
- Students have greater public transport in Dublin compared to Maynooth and concerns exist that there will be temptation for students to still use a car to access the development and to park nearby.
- With respect to the proposed bond, it is considered that it offers the Council a safety net if parking congestion occurs in the future. The Transport Department would recommend a refusal if there was no bond.
- The reason for the 10-year bond is taking into account the timescale for the delivery of some of the road objectives in the Maynooth Local Area Plan.
- Council engaged JBA Consulting to comment on the Flood Risk issue.
- JBA conclude that the issue of Flood Risk has not been adequately addressed and that pre-development conditions will not adequately address flood risk.

- Report draws attention to the possible flood risk implications on the development and other nearby development which have not been adequately addressed.
- Justification Test – not sufficiently detailed to pass Part 2i of the Justification Test, passes Part 2ii on the basis of supplied detail and Part 2iii is not passed.
- The FRA and subsequent s.131 Response fails to provide sufficient insight or investigation into how and why the draft flood maps are presenting flooding to the site, or if estimates provided by the Draft CFRAM are appropriate or realistic.
- The development delivers a design that seeks to develop within Flood Zone A and configure below ground flood storage to substitute loss of floodplain. This is not an accepted mitigation measure and is not the basic level to level storage required in the Planning Guidelines. The FRA does not offer a full technical analysis on how the system will function and the impacts of the development proposal – it is not a coherent or evident bases response.
- It is essential that flood risk to the site is fully investigated and modelled under Stage 3 Flood Risk Assessment which should include a detailed hydraulic model as the proposal includes significant alteration to the flood plain.
- Recommends scope of a revised FRA.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. I am satisfied that the principle of development is in compliance with the relevant statutory plans and guidelines. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Design, Scale and Mass of Development
- Impact on Protected Structures and Architectural Conservation Area (ACA)
- Traffic and Transportation

- Flood Risk issues

7.1. Design, Scale and Mass of Development

The site of the proposed development is within the Architectural Conservation Area of Maynooth Town. Protected Structures surround the site, including Buckley House (RPS no. B05-11) which forms part of the proposals for the site. St. Mary's Church (RPS no. B05-57), Maynooth Castle, St. Patrick's College (11 no. RPS listed), Castle View House (RPS no. B06-12), Harbour View Cottage (RPS no. B05-12), the Garda station (RPS no. B05-49) and two vernacular type houses (both on NIAH) are in the immediate vicinity.

Leinster Street Elevation:

The design of the proposed development is contemporary in nature and is divided into vertical bays which step up to four storeys along its eastern edge facing Leinster Street. The design of the elevation facing Leinster Street has evolved over the course of the application. A number of modifications to the design have been incorporated to minimise the perceived massing on Leinster Street.

Parson Street Elevation:

The western side of the proposal has not changed significantly since the initial application. This façade reads as one long horizontal block facing Parson Street and overlooking Castle View garden. Views have been provided from a number of the Protected Structures on 3D visuals. The applicant, during this appeal stage, states that Castle View house obscures the view of the development from St. Mary's church – however the 3D visuals and my site inspection indicates otherwise.

The horizontal façade will read as a monolithic block which will jar and be visually intrusive, dominant and out of character with the historic structures surrounding the site.

I note that the Planning Authority requested the applicant to address the fact that where development might extend over more than one historic plot they should address the plot through design, with variations in the façade composition that echo the historic street pattern – the applicant addressed this somewhat on the façade facing Leinster Street, but as mentioned, very little changed over the course of the

application on the façade facing Parson Street. I accept that the Parson Street façade does not form a streetscape as such, but nonetheless I consider the massing and scale of development and the modern monolithic elevation as viewed from Parson Street to be visually intrusive, out of character and unacceptable.

Open Space:

I share the Planning Authority's concerns with respect to the design of the open space, in particular the fact that the student open area is in shadow for quite a lot of the time. I also have concerns that the applicant is including the indoor areas, such as cafes, gym and common rooms as open space (open/covered) type areas. I do not consider that the provision of open space has been adequately addressed in the design and consider that the proposal represents over development of the site.

In conclusion, I am of the opinion that the design, massing and scale of the proposal constitutes overdevelopment of the site. I am not satisfied that the proposed design reflects the character of the existing and historic town in terms of scale, design, or provision of open space as required for compliance with policy HP1 of the Maynooth Town Plan. I also consider the proposal would have a seriously negative impact on the residential amenities of the occupiers of Castle View house.

7.2. Impact on Protected Structures and Architectural Conservation Area (ACA)

As mentioned above, Protected Structures and structures listed on the National Inventory of Architectural Heritage surround the site. The applicant has provided numerous 3D visuals of the development and has proposed changes on the Leinster Street elevation as well as 'pulling back' the western elevation by 2.6m.

The elevation facing Parson Street and Maynooth Castle, is in my opinion, the most visually sensitive. Policy BH4 protects views to and from the structures listed on the Record of Protected Structures. St. Patricks college, St. Mary's Church and Castle View House will all, to a lesser or greater degree, have views towards the proposal from Parson Street. I am of the opinion that the views in particular from St. Mary's Church as well as Castle View House will be seriously negatively impacted by the subject proposal.

One of the three protected views identified in Map 4a faces toward Leinster Street. I agree with the applicant that the restoration of Buckley House will have significant

positive impact on the view towards Parson Street and Leinster Street and I accept the view towards Leinster Street will not be unduly impacted by the proposal.

As noted above the design of the proposal is contemporary and not 'pastiche', which the applicant considers an improvement on the proposal granted permission by the Council in 2009. However, I am of the opinion that the current design, particularly the western elevation towards Parson Street, does not respect the character of the existing and historic town and is contrary to policy HP2.

I am also of the opinion that the proposal materially contravenes policy EA11, which seeks to ensure that new development proposals protect the existing heritage and the amenities of adjoining development.

The Draft Kildare County Development Plan includes policies to protect ACA's. The Council acknowledge that they have not prepared a plan for the Maynooth ACA, but nonetheless I am of the opinion that the proposal would not comply with policy ACA2 which seeks to ensure that any development within an ACA is sited and designed appropriately, and is not detrimental to the general character of the ACA.

In conclusion, I am of the opinion that the proposal is not in accordance with a number of policies of the Maynooth Plan which seeks to protect the character and setting and amenities of historic structures, in particular policies HP1, HP2, BH4 and EA11.

7.3. Traffic and Transportation

Car Park spaces:

There are 5 no. car park spaces proposed plus 2 no. disabled spaces. The applicant states that these car park spaces are for set-down only, during arrival and departure at term time, and the spaces are mainly for use by cleaning, catering and management staff etc. Students will be clearly advised that there is no parking available.

There were concerns raised regarding the number of spaces or lack thereof. I agree that student accommodation cannot be compared to normal residential development. I note that the Draft Kildare Plan 2017 – 2023, has included standards of 1 car park space per 5 bed spaces for Student Accommodation. This is considered a maximum

and the Council will consider less to be acceptable if appropriate. Assuming 1 car park space per 5 bed spaces in this case would result in a maximum requirement of 23 car parking spaces. I note that the 2009 grant of permission from the Council included 57 car parking spaces for 101 student accommodation units, 2 no. retail units and conversion of Buckley House to an office.

I agree with the applicant however, that given the proximity of the proposal to the university and the significant number of cycle spaces proposed, that 23 car parking spaces may not be required. The Transportation Department also state that a Part 8 project has recently been approved for improvement works to be carried out on the footpath and cycle facilities, which should further encourage cycling and pedestrian activity in and around the college and town. However, there are two restaurants proposed which will generate some parking requirements. The Draft Plan standards state 1 space per 10sq.m of gross floor space is required for restaurants/cafes.

In conclusion, I am of the opinion that a total of 7 no. spaces is a gross under-provision for the 117 student accommodation units plus 2 no. café/restaurants.

Chief Fire Officer concerns:

The Chief Fire Officer expresses concerns with the traffic (pedestrian and vehicular) which is likely to increase on Leinster Street which may impede access to Maynooth Fire Station. There are three (two pedestrian only) entrances to the development proposed which should minimise the risk with respect to pedestrians. There is also a separate car park to the south (albeit temporary) which should minimise illegal parking for visitors or patrons of the café. However, as noted above I am of the opinion that 7 no. spaces for the entire development is insufficient which could potentially result in parking congestion on the cul-de-sac which could impede access to the Fire Station.

I agree with the Chief Fire Officer's concerns regarding the construction phase. Should the Board decide to grant permission, I would recommend that a condition is included requiring the preparation of a Construction Management Plan which addresses construction parking and construction deliveries to ensure that access and egress to Leinster Street is never impeded.

Proposed Conditions:

The applicant expresses concern with the condition suggested by the Transportation Department with respect to the application of a bond, should parking congestion result from this development or if KCC Roads Section has to provide parking elsewhere. I agree with the applicant that this is an unenforceable condition. It will be difficult to determine if the proposal was the cause of congestion without a very sophisticated study and monitoring regime. If the Board are minded to grant permission, I would consider the number of parking spaces to be provided is increased, rather than the imposition of a bond.

7.4. Flood Risk

The third reason stated by the Council for refusing the development permission was because it had not been demonstrated to the satisfaction of the Planning Authority that the proposal would not be at risk of flooding.

In response to the appeal, the Planning Authority considered that conditions suggested by the Water Services section would not have been assessed in terms of the potential to impact on the heritage and amenities of the area.

The applicant states that pre-commencement conditions would not result in any alterations in floor levels or impact on the ACA. The Water Services report states that the issues raised were mostly of a technical design nature. I note that the Council engaged Consultants to address the flood risk issues and that there are concerns expressed with the passing of the Justification Test.

I agree with the Planning Authority that flood risk issues cannot be left to be resolved at pre-commencement stage. I am not satisfied that sufficient detail has been provided to adequately address possible flood risk implications on the development and other nearby development.

7.5. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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.

8.0 Recommendation

I recommend that planning permission should be refused, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

- 1) Having regard to the location of the proposed development's proximity to Protected Structures, it is considered that the proposed development by reason of its design, scale and massing would represent an over-development of the site and constitute a visually dominant form of development which would materially affect the character and setting of these Protected Structures. The development would therefore be contrary to the proper planning and sustainable development of the area.
- 2) The proposed development, by reason of its design, scale and massing, would adversely affect the character of the Maynooth Architectural Conservation Area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 3) The proposed development is in an area which is at risk of flooding. The Board is not satisfied, on the basis of the information lodged with the planning application and in response to the appeal, that the proposed development would not give rise to a heightened risk of flooding either on the proposed development site itself, or on other lands. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
- 4) It is considered that the car parking provision for the proposed development and, in particular the lack of sufficient on-site car parking spaces and loading/unloading areas, would be seriously deficient and would be inadequate to cater for the parking demand generated by the proposed development, thereby leading to conditions which would be prejudicial to

public safety by reason of traffic hazard on the public roads in the vicinity and which would tend to create serious traffic congestion

Ciara Kellett
Inspectorate

2nd February 2017