



An  
Bord  
Pleanála

## Inspector's Report ABP-303641-19

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<b>Development</b>	Demolition works, two-storey side and rear extensions, provision of a house and two apartments with change of use of public house (Protected Structure) to residential use
<b>Location</b>	O'Sullivan's, Main Street, Easky, County Sligo
<b>Planning Authority</b>	Sligo County Council
<b>Planning Authority Reg. Ref.</b>	18/379
<b>Applicant(s)</b>	Mary Finnegan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third-Party
<b>Appellant(s)</b>	Desmond Forde
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	11 <sup>th</sup> April 2019
<b>Inspector</b>	Colm McLoughlin

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## 1.0 Site Location and Description

- 1.1. The appeal site is located centrally within the village of Easky in northwest County Sligo. It contains a two-storey end-of-terrace former public house, known as O'Sullivan's, and ancillary residential accommodation, which are included in the Record of Protected Structures (Ref. 181) and the National Inventory of Architectural Heritage (NIAH Ref. 32306003), which dates the building from approximately 1870. The building features a two-storey rear projection, four bays under a pitched-slate roof, painted smooth-rendered walls and quoins, timber sash windows and two doors with overlights opening onto Main Street (R287 regional road). The NIAH record outlines that it is an attractive example of a late nineteenth-century house combined with a public house. Since inclusion in the NIAH record, the building has deteriorated and features various signs of poor condition, including ivy emerging around the upper levels.
- 1.2. The surrounding area is primarily characterised by a terrace of two-storey residential and commercial buildings fronting onto Main Street. Ground levels in the vicinity are relatively flat.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following:
- demolition and removal of rear annex, as well as front boundary wall and outbuilding structures to the side of a protected structure, with a stated gross floor area (GFA) of 69sq.m;
  - change of use of licensed public house, including ancillary residential accommodation, to residential use with a stated GFA of 33sq.m;
  - construction of two-storey rear and side extensions with a stated GFA of 287sq.m;
  - provision of a three-bedroom two-storey house on the west side with a GFA of approximately 153sq.m and a rear garden area (75sq.m);
  - provision of a ground-floor two-bedroom apartment on the east side with a stated GFA of 64sq.m and a rear garden area (79sq.m);

- provision of a first-floor two-bedroom apartment on the east side with a stated GFA of 70sq.m, served by a first-floor balcony to the rear (15sq.m).

**2.2.** Asides from the standard documentation and drawings, the planning application was accompanied by a Conservation Report prepared by a Conservation Architect.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. The Planning Authority issued a notification of a decision to grant permission for the proposed development, subject to eight conditions of a standard nature, including the following:

Condition 2 – Additional conservation details to be submitted and agreed;

Condition 3 – Bat Survey to be undertaken.

### **3.2. Planning Authority Reports**

3.2.1. Planning Report

The first report of the Planning Officer (November 2018) noted the following:

- bringing the structure back into use accords with planning policies and there is precedent from a previous grant of permission for a similar scale of development on this site;
- the design of the development and sole use for residential purposes is acceptable;
- further information is required relating to the impact of the proposed development on the architectural heritage of the building on site, construction details, services locations, waste proposals, potential impact on bats and Part V exemptions.

3.2.2. The final report recommendation of the Planning Officer (January 2019) reflects the decision of the Planning Authority to grant permission and noted the following:

- the further information submitted satisfies the Planning Authority's request, while car parking provision is adequate and development contributions apply.

### 3.2.3. Other Technical Reports

- Area Engineer – grant of permission recommended;
- Water Services – no response on file;
- Heritage Officer – further information requested and subsequently a grant of permission was recommended, subject to conditions;
- Environment Section – grant permission, subject to conditions.

### 3.3. Prescribed Bodies

- Irish Water – no response;
- An Taisce – no response;
- Department of Culture, Heritage & the Gaeltacht (Architectural Heritage) - no response;
- Department of Culture, Heritage & the Gaeltacht (National Monuments Services) - no response.

### 3.4. Third-Party Submission

- 3.4.1. One submission was received by the Planning Authority during consideration of the application. This submission was received from the owners of the adjacent property to the east of the appeal site. The issues raised are covered within the grounds of appeal below.

## 4.0 Planning History

### 4.1. Appeal Site

- 4.1.1. Pre-planning discussions were undertaken with the Planning Authority under Sligo County Council (SCC) Ref. 4013, where the principle of the development was accepted, subject to an appropriate design and the recommendations of a building condition report being applied. The following recent planning application also relates to the appeal site:

- SCC Ref. PL09/264 – permission granted in August 2009 for the demolition of the rear annex, change of use of the licensed public house area to retail use, construction of two-storey extensions to the side and rear and the provision of two retail units at ground floor and two apartments at first floor.

## **4.2. Surrounding Sites**

- 4.2.1. Reflective of the village centre context, there have been numerous applications on lands in the immediate vicinity, primarily relating to extensions and alterations to existing properties.

## **5.0 Policy & Context**

### **5.1. Sligo County Development Plan 2017-2023**

- 5.1.1. The general planning policies and objectives for County Sligo are outlined in Volume 1 of the Sligo County Development Plan 2017-2023, while more specific local planning policies and objectives are outlined in Volume 2 of the Plan, including the Easky Mini-Plan. The Development Plan outlines that Easky is placed in the fourth tier of the county settlement hierarchy, where it is identified as a ‘village sustaining rural communities’. The Plan notes that the wastewater treatment plant for the village, designed for a population equivalent of 450 persons, is operating near capacity.
- 5.1.2. The appeal site has a land-use zoning objective for ‘Mixed Uses’ within the Easky Mini-Plan, where the stated objectives include:
- ‘b. - promote the creation of a distinctive streetscape and ensure that new development is consistent in form and character with the existing traditional buildings along the Main Street. Terraced buildings are preferable along the Main Street.
  - c. - require any development on or immediately adjoining Main Street to continue the building line of the street and to comply with the policies set out in Chapter 12 (Urban design) and the requirements of Section 13.2.4 development in historic streetscapes (development management standards) of this Plan’.

5.1.3. Section 5.2 of the Development Plan outlines policies with respect to housing in urban areas, the following of which are of note:

- P-UHOU-2 – require high-quality layouts and design in developments;
- P-UHOU-4 – promote more compact forms of residential development, including infill housing.

5.1.4. In addressing town and village design, Section 12.3.2 of the Plan outlines that in facilitating compact settlements, infill proposals shall have regard to the character and context of the surrounding area. Section 13.3 of the Plan lists development management standards required for residential development in urban areas.

Relevant standards include:

- minimum size of a rear garden shall be 75sq.m;
- infill developments may be permitted if there are no overlooking issues;
- to ensure privacy rear gardens should generally be provided with a permanent durable barrier (wall or fence) with a height of 2m;
- two car parking spaces per house are required (see Table 13C).

5.1.5. The appeal site is included within the Record of Protected Structures (RPS) under Ref. 181, alongside four other structures in the village centre.

## **5.2. National Guidelines**

5.2.1. The following national guidelines are considered relevant in the consideration of this appeal:

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018);
- Architectural Heritage Protection: Guidelines for Planning Authorities (2011);
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

### **5.3. Environmental Impact Assessment - Preliminary Examination**

- 5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. One third-party appeal has been submitted from the current owner of the adjacent property to the east of the appeal site. The issues raised can be summarised as follows:

- the boundary between the appeal site and the appellant's property is incorrect;
- any damage to the appellant's property arising from the proposed development would need to be fully addressed by the applicant;
- details are omitted regarding the proposed construction access;
- a condition should be attached to restrict windows being installed overlooking the appellant's property.

### **6.2. Applicants' Response**

- 6.2.1. The applicant's response to the grounds of appeal is accompanied by maps, including a Land Registry map, and can be summarised as follows:
- the boundary between the appeal site and the appellant's property was discussed at a meeting on the site between the relevant parties;
  - the applicant is willing to transfer a triangular section of land along the boundary to the appellant to address concerns regarding the boundary line (maps included);



- an existing condition survey would be undertaken by a competent person prior to demolition and construction works commencing;
- access to the rear of the site is available off the R297 regional road via the applicant's landholding to the west;
- no windows are proposed overlooking the appellant's property and the applicant does not intend inserting same.

### **6.3. Planning Authority Response**

6.3.1. The Planning Authority did not comment on the grounds of appeal.

### **6.4. Observations**

6.4.1. None received.

### **6.5. Further Submissions**

6.5.1. None received.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. The subject infill site and adjoining lands are within an established village centre that is zoned for 'Mixed Uses' within the Easky Mini-Plan, a Plan that is included in Volume 2 of the Sligo County Development Plan 2017-2023. I am satisfied that, subject to compliance with planning and environmental considerations as addressed below, the principle of developing the site solely for residential use is acceptable based on the context, the scale of development, the reuse of a protected structure and the Development Plan land use zoning matrix. Consequently, I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Impact on Architectural Heritage;
- Residential Amenity;

- Land Ownership.

## **7.2. Impact on Architectural Heritage**

- 7.2.1. The public house and associated ancillary residential accommodation are recorded as a protected structure in the Development Plan (Ref. 181) and also within the NIAH (Ref. 32306003). The proposed development would involve maintaining the terrace building fronting the site containing the house and public house, changing the use of the public house to residential use, demolishing the rear annex and constructing two-storey side and rear extensions.
- 7.2.2. The applicant submitted a Conservation Report, which included historical images of the subject protected structure and immediate streetscape, while also providing a detailed condition survey of the property, both internally and externally. The Report concluded by listing the works that would be undertaken to the protected structure. The Heritage Officer for the Planning Authority requested that the applicant supplement this Conservation Report to address the impact of the proposed work on the protected structure and the streetscape, as well as specifying detailed requirements for the development, including retaining and reusing remaining features of the building façades. In response to the further information request of the Planning Authority, the applicant provided a dry rot survey and recommended that a bay survey be undertaken following the finding of a bat carcass in the attic to the building. The Heritage officer was not satisfied with the extent of assessment undertaken regarding the impact of the development on the protected structure, while the Planning Officer noted the response of the applicant, prior to recommending a grant of planning permission.
- 7.2.3. Policy P-ARH-2 of the Development Plan requires development, modifications, alterations, or extensions affecting a protected structure to be sited and designed appropriately and not to be detrimental to the character of the structure or its setting. The Plan also outlines that in order to prolong the life of a protected structure, it may be necessary for a building to accommodate change or new uses. In considering a proposed change of use, the Architectural Heritage Guidelines outline that a Planning Authority should carefully consider the implications for the fabric and character of the structure.

- 7.2.4. The NIAH record for this property focuses on the historical architectural merits of the four-bay terrace fronting the site. The drawings submitted reveal that the change of use would not significantly affect the character or appearance of the protected structure. The Conservation Report submitted highlights that the side extensions would follow the established building line along Main Street and the applicant has broadly outlined those elements that would remain or be reused to maintain the primary features on the front elevation of the building. I am satisfied that the proposed two-storey side extension would be consistent with the form, character, proportions, building height and appearance of the existing traditional buildings along the southside of Main Street. The Planning Authority included a condition in their decision requiring submission of a report detailing those aspects of the main wooden elements of the building that would be maintained as part of the proposed development, which I consider reasonable to request via condition.
- 7.2.5. In conclusion, I am satisfied that the setting and character of the existing protected structure on site and the adjoining streetscape would not be compromised by the proposed development. Furthermore, I am satisfied that the development would not conflict with policy P-ARH-2 of the Development Plan. Accordingly, permission should not be withheld for reasons relating to the impact of the development on architectural heritage.

### **7.3. Residential Amenity**

- 7.3.1. Should planning permission be granted, the grounds of appeal request that a condition is attached to restrict the potential for overlooking of the appellant's adjoining property to the east. In response to this, the applicant highlights that the proposed development does not include windows facing onto the appellant's property. Section 13.3 of the Development Plan outlines that infill developments may be permitted if there are no overlooking issues. I am satisfied that overlooking would not arise in the subject circumstances, given that no windows are proposed facing onto the appellant's property.
- 7.3.2. In August 2009, planning permission for a similar scale and design of development was permitted under SCC Ref. PL09/264. The house on the appellant's adjoining property to the east is situated on a similar level and a minimum of 3.2m from the proposed extensions, which are proposed to be splayed to the southwest away from

the house on the appellant's property. I am satisfied that the potential for the proposed development to restrict light to the appellant's property would not be significant given this context.

- 7.3.3. The floor area for the proposed house would amount to 186sq.m and would readily exceed the standards outlined in Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007), including the minimum floor area of 100sq.m for a three-bedroom six-person two-storey house. Furthermore, the rear garden of 75sq.m would be in line with Development Plan standards for private amenity space serving a house. The proposed first-floor apartment with GFA of 101sq.m would readily exceed the standards outlined in Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018), including the minimum apartment floor area of 73sq.m for a two-bedroom four-person apartment. The internal floor area of the ground-floor apartment measuring 94sq.m would meet the development standards outlined in the New Apartments Guidelines for a two-bedroom four-person apartment, while the proposed floor to ceiling height of 2.6m would be only marginally below the 2.7m required. The New Apartments Guidelines state that 'care is needed where windows are located on lower floors that may be overshadowed by adjoining buildings' and I am not satisfied that the use of a lightwell as the sole source of natural light for 'bedroom 2' to the ground floor apartment would provide a suitable level of residential amenity for future occupants. Furthermore, the lightwell space would be accessible from the w/c serving the proposed house. Scope to relocate the bedroom to acquire natural light would appear to be limited. Consequently, 'bedroom 2' serving the ground-floor apartment should be omitted and the apartment should be revised to form a one-bedroom apartment only. This may also allow for the omission of the lightwell and a condition requiring submission of drawings adhering to this should be attached in the event of a permission.
- 7.3.4. Having regard to the above considerations, including the need for a condition addressing the ground-floor apartment, the proposed development would not give rise to an unacceptable impact on residential amenity and permission should not be refused for this reason.

## **7.4. Land Ownership**

- 7.4.1. The grounds of appeal primarily centre on issues relating to land ownership, including the precise location of the boundary between the appellant's property to the east and the appeal site. Question 8 of the planning application form states that the applicant is the legal owner of the site. In response to the grounds of appeal the applicant submitted a map identifying a triangular wedge of land along the shared boundary, which they would be willing to transfer to the appellant to address concerns regarding the precise alignment of the property boundary.
- 7.4.2. In addressing 'issues relating to title to land', Section 5.13 of the Development Management Guidelines (2007) outlines that the planning system is not designed to resolve disputes about title to land. The Guidelines also advise that where there is doubt in relation to the legal title of an applicant, and following the clarification sought in additional information, some doubt still remains, the Planning Authority may still decide to grant permission. However a grant of permission is the subject of Section 34(13) of the Planning and Development Act 2000, as amended, which states that 'a person shall not be entitled solely by reason of permission under this section to carry out any development'. Should the Board decide to grant planning permission, the onus is on the applicant to ensure that they have adequate legal interest to carry out the proposed development, and an advice note to this effect should be attached in the event of a permission arising.

## **8.0 Appropriate Assessment**

- 8.1. Having regard to the existing development on site, the nature of the proposed development, including the proposed connections to environmental engineering services, the location of the site in a serviced area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.0 Recommendation

- 9.1. I recommend that permission be granted for the proposed development, subject to conditions, for the reasons and considerations as set out below.

## 10.0 Reasons and Considerations

- 10.1. Having regard to the 'mixed use' zoning for the site, to the nature, form, appearance and scale of the proposed development, and to the existing pattern of development in the vicinity, it is considered that subject to compliance with the conditions below, the proposed development would not compromise the character and setting of the protected structure on site and the adjoining streetscape, would provide a suitable level of residential amenity for future occupants, would not seriously injure the residential amenities of the area or of property in the vicinity and would be in accordance with the provisions of the Sligo County Development Plan 2017-2023, including policy P-ARH-2 which requires development, modifications, alterations, or extensions affecting a protected structure to be sited and designed appropriately and not to be detrimental to the character of the structure or its setting. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further information received by the Planning Authority on the 17<sup>th</sup> day of December 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:

'Bedroom 2' to the proposed ground floor apartment shall be omitted and the resultant floor area shall be absorbed into this apartment in order to form a one-bedroom apartment.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of the residential amenities of future occupants.

3. Prior to the commencement of development, the developer shall provide for the following:-

- (a) The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.

- (b) The submission of details of all finishes and of all existing original features to be retained and reused where possible, including interior and exterior fittings/features, joinery, fenestration, plasterwork, features (cornices and ceiling mouldings), roofs, staircases including balusters, handrail and skirting boards.

All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the 'Architectural Heritage Protection Guidelines for Planning Authorities' (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

4. The materials, colours and textures of all the external finishes to the proposed extensions shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of the development.

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

5. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

**Reason:** In the interest of wildlife protection.

6. Water supply and drainage arrangements, including the 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.

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.



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

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

9. 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 & Development Act 2000, as amended. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning & Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Advice Note:** Under Section 34(13) of the Planning and Development Act 2000, as amended, 'a person shall not be entitled solely by reason of permission under this section to carry out any development.

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Colm McLoughlin  
Planning Inspector

14<sup>th</sup> May 2019