



An
Bord
Pleanála

Inspector's Report

ABP-305541-19

Development	Construction of 2 storey mixed-use redevelopment, demolition of 2 outhouses and 1 toilet block.
Location	Townparks , Tuam, Co Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	181777
Applicant(s)	Thomas Fahy
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellant(s)	Joe Grogan
Observer(s)	None
Date of Site Inspection	13/12/2019
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site is a backland site in the centre of Tuam. The site is accessed from Egan's Lane, a narrow part vehicular part pedestrian lane that services a number of commercial and residential properties.
- 1.1.2. The site currently comprises a car park, rear access to a public house on Shop Street and a number of outbuildings.

2.0 Proposed Development

- 2.1.1. On the 12th December 2018, planning permission was sought to demolish three structures (75sq.m.) and the construction of a two-storey mixed use development comprising ground floor retail unit (318sq.m.), two 2-bed apartments (158.5sq.m) and two office units (40.9 and 35.9sq.m) at first floor level, all on a site of 0.0484ha.
- 2.1.2. The application was accompanied by
 - structural survey stating the existing outbuilding facing on to Egan's lane on site is structurally unsound and requires demolition,
 - Architectural Heritage Impact Assessment
 - Planning Statement
 - Letter of consent
- 2.1.3. Following the submission of further information, the application was amended to provide private open space for apartment no. 1 and relocate the balcony for apartment no. 2.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 4th September 2019, the Planning Authority issued a notification of their intention to GRANT permission subject to 17 no. conditions. Conditions of note include no. 4 which requires archaeological monitoring, condition no. 5 which restricts the use of the ground floor retail unit to Class 1 retail use and the use of the office units to class 2 and 3 uses, condition no. 7 which restricts the amalgamation of any of the permitted units and condition no. 9 details of shopfront to be agreed.

3.2. **Planning Authority Reports**

3.2.1. **Roads Report:** Refusal recommended on the grounds of the confined nature of the subject site, the lack of car parking provision, which would endanger public safety by reason of traffic hazard or obstruction of road users.

3.2.2. **Planning Report:** Private open space required for both apartments. Planning Authority has concerns regarding impact proposed balcony may have on the residential amenity of the property to the east. Shadow analysis required. Having regard to town centre location, lack of parking is acceptable. Proposed roof pitch of retail building and proposed reg corrugated roofs are not appropriate in ACA. Applicant to address. Proposed development is acceptable in principle but further information required.

3.3. **Further Information**

3.3.1. On the 13th February 2019, the Planning Authority requested the applicant to address the following:

- 1 omission of one of the office unit and retention of the smoking area. They were not advertised and cannot be considered to be part of the application
- 2 open space for both apartments. Relocation of balcony for apartment no. 2
- 3 letter of acceptance from Irish Water
- 4 shadow and lighting projection diagram
- 5 construction management plan
- 6 revised plans showing: gable depth of retail unit reduced, roof pitch increased to reflect Egan's Lane, eaves and fascia in line with proposed buildings, corrugated roofs replaced with natural slate.
- 7 Archaeological Impact Assessment

3.3.2. On the 12th August 2019, the applicant responded to the FI request with the following:

- 1 both offices were mentioned in the public notice. The smoking unit is part of the adjoining public house and reference to it has been removed from the drawings.
- 2 Private open space area proposed for each apartment. Balcony for apartment no. 2 relocated

- 3 Correspondence from Irish Water
- 4 Shadow analysis
- 5 Construction management plan and waste management plan
- 6 Revised roof details as requested
- 7 Archaeological pre-development testing report.

3.3.3. **Second Planning Report:** Response to further information request is acceptable. Recommendation to grant permission subject to conditions.

3.4. **Prescribed Bodies**

- 3.4.1. **TII:** No observations
- 3.4.2. **DAU:** Archaeological Impact Assessment required

3.5. **Third Party Observations**

- 3.5.1. Issue raised are similar to those raised in the appeal, as addressed in section 7.0 below.
- 3.5.2. **Cllr. Killilea** – supports the proposed development.

4.0 **Relevant Planning History**

- 4.1.1. Planning Authority reg. ref. **08/1851**: Planning permission refused for the demolition of outhouses, construction of 2 no. retail units, 2 no. one-bed maisonettes, 2 no. two-bed townhouses and 1 no. one-bed town house. The reasons for refusal related to the Tuam ACA, overshadowing of the properties on Egan's Lane, lack of car parking and lack of compliance with Part V.

5.0 **Policy Context**

- 5.1. The government published the **National Planning Framework** in February 2018. Objective 3c is to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford. Objective 11 is to favour development that can encourage more people to live or work in existing settlements. Objective 27 is to prioritise walking and cycling accessibility to existing and proposed development. Objective 33 is to prioritise the provision of new homes that can support sustainable development. Objective 35 is to increase residential density in settlements.

- 5.2. The **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas** were issued by the minister under section 28 in May 2009. Section 1.9 recites general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. Section 5.11 states that densities for housing development on outer suburban greenfield sites between 35 and 50 units/ha will be encouraged, and those below 30 units/ha will be discouraged. A design manual accompanies the guidelines which lays out 12 principles for urban residential design.
- 5.3. The **Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments** were issued in March 2018. It contains several specific requirements with which compliance is mandatory. The minimum floor area for one-bedroom apartments is 45m², for two-bedroom apartments it is 73m² and for three-bedrooms it is 90m². Most of proposed apartments in schemes of more than 10 must exceed the minimum by at least 10%. Requirements for individual rooms, for storage and for private amenities space are set out in the appendix to the plan, including a requirement for 3m² storage for one-bedroom apartments, 6m² for two-bedroom apartments and 9m² for three-bedroom apartments. In suburban locations a minimum of 50% of apartments should be dual aspect. Ground level apartments should have floor to ceiling heights of 2.7m.
- 5.4. The minister issued **Guidelines for Planning Authorities on Urban Development and Building Heights (December 2018)**. Section 3.6 states that development in suburban locations should include an effective mix of 2, 3 and 4 storey development. SPPR 4 is that planning authority must secure a mix of building heights and types and the minimum densities required under the 2009 guidelines in the future development of greenfield and edge of city sites
- 5.5. **Tuam Local Area Plan 2018 -2024**
- 5.5.1. The subject site is zoned C1 Town Centre Commercial in the Tuam LAP. Retail, residential use and office use under 100sq.m. are permitted in principle. Of relevance to the subject proposal are the following:

Objective LU 1 – Town Centre/Commercial (C1), Promote the development of the Town Centre as an intensive, well connected, high quality, well-landscaped, human-scaled and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail, services, facilities and amenities to the local community and visitors. The town centre and associated main streets shall remain the primary focus for retail and service activity within Tuam.

DM Guideline LU 1 – Development Densities: The development density guidance in the tables below indicate the range of densities generally considered appropriate in the various land use zones and in different residential locations within the plan area. Plot Area Ratio: 1.00 to 1.25 Maximum Site Coverage: 80% Minimum Public Open Space: Site Specific

5.6. Natural Heritage Designations

5.6.1. The subject site does not adjoin any designated sites.

5.7. EIA Screening

5.7.1. Having regard to nature of the development and location of the site in a built-up urban area, there is no real likelihood of significant effects on the environment arising from the proposed and existing 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. A third-party appeal against the decision of the Planning Authority to grant permission has been submitted by and agent on behalf of the owner & resident of the adjoining property on Egan's Lane. The grounds of the appeal can be summarised as follows:

- The proposed development will adversely affect the appellants property, reducing natural light, particularly into the residential section of the building.
- The 7.5-8m high building will overshadow the appellants property. The existing buildings on site do not impact the availability of light.

- The roofed smoking area appears to have been built without planning permission.
- With an overall floor area of 592.5sq.m. on a site of 0.0484sq.m, site coverage is 73%. This is the upper limit of permitted in the LAP. These densities are rarely achievable without having a negative impact on adjoining properties.
- The appellant provides a map showing the location of 4 no. windows on his properties.
- Window no. 1 on the ground floor of the appellants property is the only natural light source to the office of the Appellants Travel Agency. This window will now overlook a 4-5m wide passageway, with a two-storey building at the northern end.
- Window no. 2 is a first-floor window to the appellants kitchen. Window no. 3 is a first-floor bathroom window. This will now face a two storey-residential block with a balcony at first-floor level and a smoking area at ground floor. Window no. 4 will now overlook a bin store. The light entering no. 4 will be affected by the adjoining two-storey building.
- The applicants shadow analysis clearly shows a negative impact on the appellants property.
- The proposed development has no parking and residential parking permits for Shop Street are not available. No parking is permitted on Egan's Lane. The appellant requires vehicular access on Egan's Lane. The proposed development will cause illegal parking.
- Construction activity will affect access to the appellants properties. The appellant notes that the Roads and Transportation department of the Council recommended a refusal of permission.
- The laneway that will be created by the proposed development will facilitate anti-social behaviour.
- The Board is requested to refuse permission.

6.2. Applicant Response

- The appellants building on Shop Street has a commercial use at ground level and office at first floor. His two-storey building on Egan's lane is vacant. Given the

level of commercial development in the area, these uses are not considered sensitive.

- Regarding the appellants submission on overshadowing, the eastern boundary high block wall will be retained. The proposed building line is 3-4m from the common boundary to the east.
- The Applicants shadow study shows that the proposed development will not result in undue overshadowing. The impact on the appellants property will be negligible. Given the existing uses, no adverse impact is expected.
- The plot ratio is 1.21, which is within the range permitted by the C1 land use zoning of the site and DM Guideline LU1. The proposed mixed-use infill development is compliant with the LAP.
- Site coverage is 73%, within the 80% threshold of DM Guideline LU1 and the zoning objective.
- Such densities, being permitted on the site will not have a negative impact on adjoining properties.
- Window no. 1 comprises obscured glazing and therefore does not overlook the subject site.
- Window no. 2 does not directly face the subject site. This window serves an office and would remain unaffected by the proposed development.
- Window no. 3 is narrow and enjoys no amenity, facing onto a commercial yard area. A 1.8m high glazed screen will protect the privacy of the proposed and existing properties.
- Window no. 4 is in a vacant building. If the building becomes occupied it will assist in the passive overlooking of the proposed laneway.
- The central location of the subject site, the proximity to large public car parks and a public transport corridor and the inadequate width of Egan's Lane justify the lack of car parking provision, in accordance with DM Standard 22 of the county development plan.
- Section 4.19 of the Apartment Guidelines encourages minimal car parking in central locations.

- The proposed passageway will be supervised by the extensive ground-floor windows, window no.s 2 and 4 in the appellants property.
- The removal of the proposed 1.8m high glazed screen to the south of apartment two would further aid passive surveillance, should the Board agree.
- The existing smoking area is long-established and has not been the subject of any complaints.
- The Board is requested to grant permission.

6.3. **Planning Authority Response**

None on file.

7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Residential Amenity
- Traffic / Car Parking
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The subject site is zoned for town centre development and is located within the town boundary of Tuam. It is considered that the proposed re-development of a backland under-utilised town centre site is to be welcomed and achieves the objective of Objectiev LU1 if the Tuam LAP which seeks to promote the development of the Town Centre as an intensive, well connected, high quality, well-landscaped, human -scaled and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail, services, facilities and amenities to the local community and visitors. I am satisfied that subject to other planning

considerations the principle of a mixed-use retail, office and residential development on the site is acceptable.

7.3. Residential Amenity

- 7.3.1. The subject site is an infill backland site in the centre of Tuam town centre. All of the adjoining properties must expect that the site will be developed, at a density, height and scale that is fitting for the town-centre location.
- 7.3.2. The proposed site coverage and plot ratio are within the recommended standards for town centre sites, as per DM Guideline LU1 of the Tuam LAP.
- 7.3.3. Within built-up areas such as the town centre, separation distances between buildings \ windows are naturally less than can be expected in suburban areas. It is considered that the 4m wide laneway proposed along the eastern boundary of the site is sufficient to prevent overlooking or overshadowing of the adjoining properties to the east. The windows on the western elevation of the Appellants property currently overlook a car park , smoking area and toilet block. The proposed development of a well-designed residential and office with landscaped open space is an improvement and will likely result in less noise / movements at late-night hours.
- 7.3.4. I agree with the suggestion of the Applicant that the proposed 1.8m screen around the existing stairwell is unnecessary given the high-level nature of the windows illuminating the living area of apartment no. 2. The omission of same can be achieved by way of condition should the Board decide to grant permission.

7.4. Traffic / Car Parking

- 7.4.1. I concur with the reasoning of the Planning Authority that the centrality of the subject site is such that car parking is not required. I note DM Standard 22 of the Galway County Development Plan which recognises that infill sites and those close to public transport /public car parks should be assessed with a flexible approach.
- 7.4.2. Construction traffic shall be managed as per the submitted Outline Construction Management Plan.

8.0 Recommendation

- 8.1. I recommend permission be granted for the following reasons and considerations and subject to the following conditions:

9.0 Reasons and Considerations

- 9.1.1. Having regard to the town centre zoning objective for the site, the pattern of existing and permitted development in the area, the site's centrality, accessibility and proximity to good public transport infrastructure, and the desirability of maximising the use of such land, it is considered that subject to the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not adversely impact on the visual amenity or character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing, by the planning authority. A panel of the proposed finishes shall be placed on site to enable the planning authority to adjudicate on the proposals.

Reason: In the interest of visual amenity.

3. The proposed 1.8m high glazed screen around the external stairs in the north-eastern corner of the site shall be omitted.

Reason: In the interest of increasing passive surveillance of the ground floor external circulation area

4 Prior to commencement of development, and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of provisions to protect the amenity of the existing occupiers of the premises, including protective measures to minimise noise and disturbance, as well as intended construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of orderly development.

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

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works, and

(c) provide satisfactory arrangements for recording and removal of any archaeological material which may be considered appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.

6. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

8 Construction and demolition waste shall be managed in accordance with the 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interests of sustainable waste management and to protect the residential amenities of property in the vicinity.

9. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

10. Prior to the commencement of development the developer shall submit and obtain the written agreement of the planning authority to a plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the

waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

11. 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.

12. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

Gillian Kane
Senior Planning Inspector

19 December 2019