



An
Bord
Pleanála

Inspector's Report ABP-306511 - 20

Development

The demolition of existing nightclub building (1605 sq m) to rear of a Protected Structure (RPS Ref: B05-47 and NIAH Ref: 11803042); change of use of ground floor and basement of Protected Structure (271 sq m) to restaurant use with associated internal alterations; change of use of first floor of Protected Structure (240 sq m) to student recreational and common room use with associated internal alterations; new glazed opening to Protected Structure at ground floor level on south west façade; construction of four storey 91 No. room student accommodation units (100 No. bed spaces) and associated uses comprising common rooms, storage areas, study rooms, service areas, accessible WC's, reception room, lobby and circulation areas with vehicular access off Main Street and pedestrian access from existing laneway; enclosed refuse storage and plant areas; basement plant room;

accessible screened roof garden at third floor level 110 sqm; bicycle shelter with 64 No. spaces; 10 No. surface bicycle spaces; 1 No. disabled parking space and 3 No. drop-off spaces; new landscaped courtyards and all associated site works.

Location	The Duke & Coachman, Main Street, Maynooth, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19/542
Applicant(s)	Buzztap Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party – Conditions 2, 3 and 24 only.
Observer(s)	None
Date of Site Inspection	7 th May 2020
Inspector	Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site contains the 'Duke & Coachman' public house, located on the southern side of Main Street Maynooth, Co. Kildare. The site has a stated area of 0.232 hectares and is approximately 31 m to the south west of the junction of Main Street and the Straffan Road (R406).
- 1.2. The front of the building facing onto Main Street is a two-storey unit finished in stone and is listed as a protected structure in the public notices. A more modern, large two-storey structure is attached to the rear of the public house and appears to be/ has been in use as a nightclub, and a small yard/ car park is provided to the rear/ south of the site. A mix of retail/ commercial uses is located to the east and west of the subject site. Maynooth University is approximately 200 m to the west of the subject site.
- 1.3. Maynooth is approximately 25 km to the west of Dublin City Centre. Maynooth and the subject site are within walking distance of a number of bus routes and a railway station is located approximately 370 m to the south.

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
 - The demolition of the existing building attached to the rear of the protected structure/ public house and formerly used as a nightclub. This has a stated floor area of 1,605 sq m.
 - The change of use of the basement and ground floor of the public house to use as a restaurant. This has a stated floor area of 271 sq m.
 - The change of use of the first floor of the public house for student recreational use. This has a stated floor area of 240 sq m.
 - The construction of four storey building to the rear of the public house for use as student accommodation with a stated floor area of 2,649 sq m and providing for 91 rooms/ 100 bedspaces.
 - All associated site works and service provision. A screened garden to be provided at roof level, sheltered parking for 64 bicycles and an additional parking

area for 10 bicycles. Also, a landscaped courtyard and provision of photovoltaic panels.

Following the receipt of further information, the number of rooms was reduced to 88 and providing for a total of 94 bed spaces.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to conditions. The conditions are generally standard. Condition no. 2 and 3(a) which are the subject of this appeal state the following:

Condition no.2:

‘Permission is not granted for the proposed third floor (i.e. 10 bedrooms and 11 no. bed spaces and associated communal area). Prior to the commencement of development, the Developer shall submit to the Planning Authority for formal written agreement a revised roof plan, sections and elevations accordingly. The communal roof terrace floor area shall be increased and adequately screened for safety and privacy reasons.

Reason: To reduce the height and bulk of the development on the skyline and to protect the character of the Maynooth Architectural Conservation Area’.

Condition no.3(a):

‘The number of student bedrooms permitted is 78, comprising of 83 no. bed spaces, as indicated on ground, first and second floor plans received by the Planning Authority as further information on 11th October 2019’.

3(b) refers to the opening hours of the restaurant, 3(c) clarifies that the restaurant is not for take-away use, any such use requires a new application and 3(d) refers to the material to be as those submitted by way of further information on the 11th of October 2019.

Condition no.4 requires the management of the student accommodation to be in accordance with the submitted Student Management Plan and that residents be limited to registered third level students only. Condition no. 5 requires the provision

of obscured glazing in the hallway windows of the southern elevation and in specified locations on the eastern elevation, all to prevent overlooking.

Condition no. 24 states:

The Applicant/Developer to pay to Kildare County Council the sum of €44,751.44 being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 5th November 2015 in accordance with Section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in accordance with (sic)

Reason: It is considered reasonable that the developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report reflects the decision to grant permission. Alterations and further details were provided by a further information response on the 11th of October 2019 and a Clarification of Further Information Response on the 22nd of November 2019. The Planning Report Recommendation includes a paragraph on the reasoning for Condition no.2. The Case Officer discussed the proposal with the Senior Executive Planner and Senior Planner, and it was decided to remove the third floor from the development so as to reduce the bulk and height of the proposed development on the skyline, located within the Maynooth Architectural Conservation Area. A larger roof terrace could therefore be provided. This issue was not raised previously in the assessment of the development by the Case Officer.

The Planning Authority Case Officer included the following under Condition no. 24:

‘Development Contributions:

(Protected Structure located in Town Centre).

Demolition of 1605 sqm commercial

Restaurant 271sqm (change of use of ground floor of PS)

Student accommodation 240sqm (change of use of first floor of PS)
Construction of 2319sqm (2649sqm – 330sqm) New Commercial Student
Accommodation – third floor 330sqm not permitted.
Roof Terrace 110sqm’.

This provides for a breakdown for the drafting of the condition and the levying of the appropriate contribution.

3.2.2. **Other Technical Reports**

Maynooth Municipal District Planning Report: No objection subject to conditions.

Conservation Officer: No objection.

Water Services: Further information requested as it appeared that the applicant was going to construct part of the development over a 750 mm sewer. On receipt of the Further Information response, conditions were recommended in the event that permission were to be granted.

Transportation Department: Further information requested in relation to the provision of suitable footpaths, parking spaces, a swept path analysis for refuse vehicles and a revised site plan demonstrating these revisions. On receipt of the response, no objection subject to conditions.

Chief Fire Officer: Further information requested and on receipt of the response, no objection subject to condition.

Principal Environmental Health Officer: No objection subject to conditions.

3.2.3. **Prescribed Bodies Reports**

Department of Culture, Heritage and the Gaeltacht (DCHG): Recommend conditions in the event that permission is to be granted.

3.2.4. **Objections/ Observations**

None

4.0 Planning History

P.A. Ref. 12745 refers to a June 2013 decision to grant permission for the retention of the as-constructed premises at Mantra bar & nightclub, including retention of a two-storey extension to the rear of the original two storey premises on Main St. Also, retention of part semi-covered ground and first floor areas to the rear of the original two storey premises, retention of alterations to the original premises facing onto Main St. together with retention of associated site works.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Maynooth is designated as a Large Growth Town II in the County Kildare Settlement Hierarchy contained within the Kildare County Development Plan 2017 - 2023.

5.1.2. The Settlement Strategy allows for a targeted population increase from 12,510 in 2011 to 18,996 in 2023. Section 4.7 of the County Development Plan includes the following:

'Student Accommodation

The provision of appropriate student accommodation will enable Maynooth University to continue to develop as a national and international centre for education and research.

Purpose built student accommodation is generally of a higher density with a range of ancillary facilities appropriate for student living. Student accommodation should be located convenient to the University by foot, bicycle or public transport and generally, either within the college campus or appropriately zoned and located lands within Maynooth Town'.

Objective SNO 6 states the following: 'Facilitate the development of appropriately located and designed student accommodation to allow Maynooth University to continue to develop as a national and international centre for education and research'.

5.2. **Maynooth Local Area Plan 2013 - 2019**

5.2.1. The Maynooth Local Area Plan came into force on 26th August 2013. The important role of the university is recognised throughout the Local Area Plan.

5.2.2. The site is zoned A1 – ‘Town Centre’ with the objective ‘To provide for the development and improvement of appropriate town centre uses including retail, commercial, office, residential, amenity and civic use’.

The following description is provided: ‘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’. Residential and Restaurant uses are listed as Permitted in Principle.

5.2.3. Within Section 7.4.8.1, ‘Strategic Policies’, Policy UDS1 seeks ‘To reinforce Main Street as a vibrant town centre with a diverse mix of uses and to consolidate the town centre areas which surround Main Street by intensifying development in order to create a compact core’. Policy UDS 3 seeks ‘To strengthen the identity of the town by achieving a balance between old and new therefore reinforcing the distinctiveness of the historic town core’.

5.2.4. The front of the site containing ‘The Leinster Arms’ is included on the list of protected structures – RPS no. B05-47. The site is outside but adjacent to an area of archaeological potential. The site is within the Maynooth Architectural Conservation Area (ACA).

5.2.5. The ‘Core Retail Area Map’ indicates that the subject site is located within this area and the same is true for the ‘Strategic Flood Risk Assessment Map’.

5.3. **Kildare County Development Contribution Scheme 2015 – 2022**

5.3.1. Sets out the contribution scheme for development in County Kildare, including Maynooth. Section h) Town Centres is relevant:

‘h) Town Centres

A reduction of 33% in development contributions may be applied in relation to development within Town Centres as designated in

- Kildare County Development Plan 2011-2017, Chapter 9, Table 9.1 – County Retail Hierarchy Levels 2 and 3 only;
- Naas Town Development Plan 2011-2017, Chapter 6, Core Retail Area – Map 6.1 and
- Athy Town Development Plan 2012-2018, Chapter 6, Core Retail Area – Map 6.1

Where development requires work to a protected structure, recorded in the Record of Protected Structures (RPS), a further 25% reduction will be allowed'.

Chapter 9 of the Kildare County Development Plan 2017 – 2023 lists Maynooth as a Level 3 centre – Tier 1 Town Centre.

5.4. National Guidance

5.4.1. National Planning Framework – Project Ireland 2040

The National Planning Framework (NPF) recommends compact and sustainable towns/ cities and encourages brownfield development and densification of urban sites. Policy objective NPO 35 recommends increasing residential density in settlements including infill development schemes and increasing building heights.

Other relevant policies from the NPF include the following:

- NPO 6 – Regenerate/ rejuvenate cities, towns and villages.
- NPO 13 – Relax car parking provision/ building heights to achieve well-designed high-quality outcomes to achieve targeted growth.

5.4.2. Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (DoEHLG, 2009) and its companion, the Urban Design Manual - A Best Practice Guide (DoEHLG, 2009).

These Guidelines promote higher densities in appropriate locations. A number of urban design criteria are set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. Increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and

town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout.

5.4.3. **The following are also relevant:**

- **Urban Development and Building Heights Guidelines for Planning Authorities (DoHPLG, December 2018)**
- **Design Manual for Urban Roads and Streets (DMURS).**
- **Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DoHPLG, 2018).**
- **Development Contributions – Guidelines for Planning Authorities (DoECLG, 2013)**

5.5. **Natural Heritage Designations**

None.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The applicant has engaged the services of David Mulcahy Planning Consultants Ltd, to appeal Conditions no. 2,3 and 24 as issued by Kildare County Council. The appeal is brought in accordance with Section 139 (1) of the Planning and Development Act 2000 as amended.

The grounds of appeal can be summarised as follows:

- Seek to omit Condition No.2 that requires the omission of the third floor from the development, 10 bedrooms/ 11 bed spaces. The issue of height was not raised in the Planning Authority Case Officer's report, it only arose as an issue following a discussion with the Senior Executive and Senior Planner. No concerns were raised in relation to overlooking or overshadowing.
- The proposed building is not easily visible from public view as it is screened by existing buildings. A number of CGIs have been submitted in support of this appeal.

- The proposed development is of a contemporary design and is suitable for this site. The development will not impact on the existing skyline or on the Maynooth Architectural Conservation Area.
- The development is in accordance with the Urban Development and Building Heights guidelines.
- In the event that Condition no. 2 is removed/ omitted, Condition 3 (a) will also have to be revised.
- Condition no. 24 refers to contributions to be levied on the development – A total of €44,751.44. The appeal contends that the roof terrace should be omitted from the calculation – reducing the contribution to €33,777.34. The contribution scheme allows for a reduction of 33% for developments in Town Centres, reducing the contribution to €22,630.81 and works to protected structures are further reduced by 25% - contribution reduced to a final total of €16,973.11.

6.2. **Planning Authority Response**

The Planning Authority have noted the first-party appeal and have reported that they have no further comment to make.

7.0 **Assessment**

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Nature of Development
- Design and Impact on the Visual Amenity of the Area
- Development Contribution
- Appropriate Assessment Screening

7.2. **Nature of Development**

7.2.1. The site is zoned A1 for Town Centre uses and the Planning Authority have permitted the proposed development of a restaurant and student accommodation on

this site. This requires the demolition of an existing extension to the protected structure on site and the construction of a four storey building. The Planning Authority omitted the fourth storey by way of condition.

- 7.2.2. The appeal has been made on the basis of Section 131(1) of the Planning and Development Act 2000 as amended; this is considered to be acceptable and I will only consider the implications of Condition no.2 and the associated 3(a) only. The other part of this appeal refers to a development contribution and will be assessed separately in this report.

7.3. Design and Impact on the Visual Amenity of the Area

- 7.3.1. I have noted the comments made in the appeal and have considered the Planning Authority Planning Report. It appears that the Planning Authority undertook pre-planning consultation with the applicant and following assessment of the application, further information was requested. Item 2 raised concern regarding the ration of units/ bed spaces to communal areas and Item 9 raised some issues regarding overlooking from the ground, first and second floors. Screening details regarding the rooftop balcony were also requested. At no point was the issue of height and/ or impact on the skyline/ character of the Architectural Conservation Area raised. The further information response was considered by the Planning Authority with Item 2 addressed in an acceptable manner and Item 9 requiring clarification. The issue of height etc. was not raised as a matter of concern.
- 7.3.2. The Planning Authority decided to grant permission on receipt of the Clarification of Further Information. It was at this stage following internal discussion that it was decided to remove the fourth floor. This reduces the number of units from the original proposed 91 bedrooms/ 100 bed spaces to 78 bedrooms and 83 bed spaces; the revisions made by way of further information reduced the total to 88 bedrooms and 94 bed spaces. In lieu of these bedrooms, additional communal space was to be provided. No reference is made in the condition to the removal of a lift/ stairwell.
- 7.3.3. I would have concern regarding the somewhat arbitrary replacement of bedrooms with a large communal open space area at roof level. The communal area proposed by the applicant appears to have been carefully considered in its design. The glass screen surrounding the communal space is set back from the building edge and is

located towards the centre of the site. Extending this area especially to the south of the building, may impact negatively on third parties who are not/ were not made aware of such alterations. I note that no objections/ comments were received during the statutory period for submissions.

- 7.3.4. I note the reason for condition 2. This is broken down into two parts – reduce the height and bulk of the building on the skyline and to protect the character of the Maynooth ACA. From the submitted plans and subsequent details, the extension is to be finished in a mix of render and composite panels at first and second floors with stone cladding at ground floor level. From the trade brochure submitted by way of further information, the panels are finished to appear like wood. The third floor/ fourth storey is proposed to be finished in ‘Translucent Polycarbonate Cladding Panels’. This material will provide a clear contrast with the render and from experience the material appears ‘light’ when viewed against the sky.
- 7.3.5. I have no concern regarding the impact of the development on the skyline. The design and proposed materials will ensure that it is not a dominant feature on the skyline. I note the submitted CGIs submitted with the appeal and I would consider those indicated in Figure no.5 and no. 6 to have a neutral to negligible impact on the skyline. The site is surrounded by existing buildings of different quality/ design and the development if constructed would only be visible from a very limited number of locations and I do not foresee a negative impact on their visual amenity.
- 7.3.6. Protection of the Maynooth ACA was provided as the second reason for Condition no.2 and again I have no concerns regarding this impact. The existing extension and alterations to the protected structure are not sympathetic and I would consider the proposed development to be of a much superior quality. The removal of the upper level would result in a monotonous length of building and the proposed upper floor provides a necessary relief in this regard. The design of the development ensures the importance of the protected structure is maintained and I would suggest that the ACA is enhanced by this development.
- 7.3.7. I therefore recommend that Condition no. 2 be omitted and similarly that Condition no.3 be revised to state the number of permitted bedrooms at 88 and bed spaces at 94, a recommended condition is provided at the end of this report. This reduced number from that originally proposed is appropriate to ensure that adequate communal space is provided on site. The provision of additional roof level open

communal space is not recommended considering the location of this development. I consider that the proposed development including the third floor/ fourth storey is in accordance with the Kildare County Development Plan, the Maynooth Local Area Plan and National Guidance.

7.4. Development Contribution

7.4.1. The Planning Authority Case Officer has outlined how the Development Contribution forming Condition no. 24 is arrived at. I have prepared the following table outlining this:

Development	Area:	Type
Demolition of existing building.	1,605 sq m.	Commercial
Restaurant	271 sq m.	Change of use of ground floor of protected structure
Student Accommodation	240 sq m.	Change of use of first floor of protected structure
New Student Accommodation	2,319 sq m. (Proposed 2,649 sq m – 330 sq m of fourth storey not permitted by PA).	New Commercial
Roof Terrace	110 sq m.	

From the above, the restaurant and student accommodation (within the protected structure) are excluded, and the new accommodation and roof terrace are combined giving a total of 2,429 sq m, minus the area to be demolished giving a total of 824 sq m. The rate per sq m is €54.31 giving a total of €44,751.44.

7.4.2. I have noted the details provided in the submitted appeal. I agree that the communal roof terrace should be omitted as it is not commercial floor space, it is open space provided to serve the rest of the development i.e. the bedrooms/ bed spaces provide the income for the development. I have also considered section **h) Town Centres** of the Development Contribution Scheme. The site is located within a town centre and

the reduction of 33% should apply and works will be undertaken to a structure listed on the Record of Protected Structures, thereby a further reduction of 25% should apply.

- 7.4.3. If the Board recommend that Condition no.2 be omitted and Condition no.3 be revised, the total floor area will be 2649 sq m – 1605 sq m (area to be demolished), providing a total of 1,044 sq m at €54.31 = €56,699. As the development is located in a town centre, there is a reduction of 33% on the total, providing a contribution total of €37,421. I do not consider that the reduction to be applied to a protected structure applies as the Planning Authority have already omitted the works for the restaurant development from the calculation. I therefore consider that the contribution should be levied at €37,421.

7.5. **Appropriate Assessment Screening**

- 7.5.1. A screening report was submitted in response to the Further Information Request, prepared by Niamh Ní Bhroin of 'Dúlra is Dúchas Teoranta'. The submitted report identified the Rye Water Valley/ Carton SAC (Site Code 001398) as relevant to this site and is within the assessment area. In summary, no direct, indirect or cumulative impacts on the SAC are foreseen from this development. The AA Screening report concluded that significant effects are not likely to arise, either alone or in combination with other plans or projects to any SAC.
- 7.5.2. The proposed development is located within an established urban area on zoned lands that are suitably serviced. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 designated sites. A Stage 2 Appropriate Assessment is, therefore, not required.

8.0 **Recommendation**

- 8.1. Having regard to the provisions of the Kildare County Development Plan 2017 – 2023, the Maynooth Local Area Plan 2013 - 2019, National Guidelines and the zoning of the site for town centre uses, to the location of the site in an established urban area and to the design and material finishes of the proposed development, it is

recommended that Condition no.2 be omitted in its entirety. I do not consider that the development of the third storey/ fourth floor will impact negatively on the skyline or on the Maynooth Architectural Conservation Area. If the Board decide to omit Condition no.2, I therefore recommend that Condition no.3 (a) be revised as follows:

3 (a) The number of student bedrooms permitted is 88, comprising of 94 no. bed spaces, as indicated on the floor plans received by the Planning Authority as further information on 11th October 2019.

8.2. Having regard to the Kildare County Development Contribution Scheme 2015 – 2022 and Maynooth as a town centre, subject to the Board omitting Condition no. 2, I recommend that condition no. 24 be revised to reflect the floor area of 1,044 sq m and to allow for a reduction in contribution of 33% due to the location of the development in a town centre.

9.0 Reasons and Considerations

Recommended revised Condition 3 (a):

The number of student bedrooms permitted is 88, comprising of 94 no. bed spaces, as indicated on the floor plans received by the Planning Authority as further information on 11th October 2019.

Recommended revised Condition 24:

The developer shall pay to the planning authority a financial contribution of €37,421 in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended.

The contribution shall be paid prior to 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. The application of any indexation required by this condition 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.

Reason: It is a requirement of the Planning and 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.

Paul O'Brien
Planning Inspector

12th May 2020