



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307234-20

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<b>Development</b>	Retention and completion of an elevated walkway, elevated decking and a green house
<b>Location</b>	Bridge Street, Cornaroya, Ballinrobe, Co Mayo
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	20130
<b>Applicant(s)</b>	Dallas Dallaghan
<b>Type of Application</b>	Retention and Completion
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party V. Refusal
<b>Appellant(s)</b>	Dallas Dallaghan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	5 <sup>th</sup> August 2020
<b>Inspector</b>	Máire Daly



## 1.0 Site Location and Description

- 1.1. The subject site is located in the town of Ballinrobe in south Co. Mayo. The appeal site is situated on the north western side of the town, on Bridge Street (N84 primary road) with the Robe river flowing close by to the west. The site boundary as outlined in red has two three storey terraced dwelling houses located on it, both of which are listed on the National Inventory of Architectural Heritage (NIAH Ref. No. 31215018 and 31215019) as having a 'Regional' rating under the category of special interest for Architectural Artistic reasons. The buildings date from between 1897-1923.
- 1.2. Access to the front of the building is directly off Bridge Street and rear access to the site is off Brewery Lane via roller shutter doors. The building attached to the east of the property has a butcher shop on the ground floor and residential use on the upper floors. Several other more recently built three storey residential terraced properties exist to the west fronting onto Bridge Street. The remainder of street appears to have a large amount of vacant properties.
- 1.3. The site has a stated area of 406 sqm with the gross floor space of the structure to be retained measuring 47sqm. The dwelling house has a two-storey rear return and several large sheds along the western side boundary and to the rear of the site. The site has an unusual shape in that a central section to the rear of the eastern most terraced building is not in the applicant's ownership. This stone finished warehouse structure forms part of the rear of the adjoining site to the east and the existing walkway runs along its western elevation. A roofless stone ruin is located to the rear of this adjoining warehouse structure, which is in the applicant's ownership, the proposed greenhouse area overlooks this part of the site. The existing elevated walkway is located at first floor level along the eastern boundary of the site and the proposed greenhouse area is located between the existing storage shed to the west and roofless structure to the east. The walkway, landing and greenhouse are constructed from steel members, timber floor joists and PVC decking.

## 2.0 Proposed Development

- 2.1. The proposed development is to comprise the retention and competition of the following elements:

- Retention of existing elevated walkway at first floor level to the rear of the property. The walkway is comprised of steel structure supported by steel supports, with timber floor joists and PVC decking.
- Retention and completion of elevated open landing to rear of property and greenhouse structure.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission was refused for the following reasons:

- 1. The development to be retained, both by itself and the precedent which the grant of permission would set for other relevant developments would if permitted provide for very poor residential amenity for future inhabitants of the adjoining property to the east. It is for this reason that the proposed development would seriously injure the amenities and privacy of the inhabitants and depreciate the value, of property in the vicinity and endanger the health or safety of persons occupying or employed in the structure or any adjoining structure.*
- 2. The applicant has failed to establish to the satisfaction of Mayo County Council that he has sufficient legal interest in the entire site to carry out the works it is proposed to retain. The proposed development is therefore contrary to the proper planning and sustainable development of the area.*

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

##### **3.2.1. Planning Reports**

The recommendation to refuse permission in the Area Planner's report reflects the decision of the Planning Authority.

- The Area Planner noted the similarities between the current application (P.A. ref. P20/130) and a previous application on the same site (P.A. ref. P19/723) and stated that the same fundamental principles apply and therefore that the

recommendation in relation to the development remains unchanged from the previous recommendations to refuse permission.

- There is an existing enforcement file on site PE67/17, a warning letter was issued to the developer and all works ceased on site following receipt of this letter.
- The development is structurally adjoined to the adjacent property to the east which is not in the applicant's ownership.
- The walkway has an adverse impact on the adjoining property and would affect the residential amenity of any future inhabitants.
- Should retention permission be granted the development would also impact on any future development potential of the adjoining property.

### 3.2.2. **Other Technical Reports**

The Area Planner has included reference to the reports received on the previous application on the site (P.A. ref. P19/723), she has stated that the same reports apply as there has been no change to the development for which retention is sought:

- Area Engineer Ballinrobe (Mayo County Council - MCC) – received 10/10/19 – refer to fire officer for comment.
- Flood Risk Engineer (MCC) – no objection at this location.
- Senior Executive Architecture (MCC response dated 03/10/19) - raised concerns regarding the impact of the development on the adjoining property. The elevated walkway passes directly outside the windows on the adjoining building and therefore raises concerns regarding privacy, right to light and fire safety. Also discrepancies were noted on the drawings submitted.
- Architectural Conservation Officer (MCC) - stated in her response (response dated 17/10/19) that the development was inappropriate given that the two structures are rated as being of regional significance on NIAH.

### 3.3. **Prescribed Bodies**

None.

### 3.4. Third Party Observations

None - Invalid submission on planning application P.A. Ref. 20/130 noted.

### 4.0 Planning History

- P.A. Ref. 19/723 – Permission sought to retain and complete an elevated walkway, elevated decking and greenhouse. 2019 Refused – refusal on impacts on future residential amenity and privacy of adjoining structure and setting of poor precedent, as well as depreciation of the value of property in the vicinity and endangering the health and safety of those in the structure and the adjoining structures.
- P.A. Ref. 19/497 – Permission sought to retain and complete an elevated walkway, elevated decking and greenhouse. 2019 Incomplete application.
- P.A. Ref. 18/34 – Permission sought to retain and complete an elevated walkway, elevated decking and greenhouse. 2018 - Application withdrawn.
- P.A. Ref. PE67/17 – 2017 – Enforcement – Warning Letter issued to developer and all works ceased on site following receipt of letter.
- P.A. Ref. 15/113 – Retention permission sought for alterations to existing shed. 2015 Grant. Condition No. 2 prohibits the use of the shed for agricultural, commercial, industrial uses or for the purpose of human habitation.

### 5.0 Policy Context

#### 5.1. Development Plan

- 5.1.1. The operative development plan is the Mayo County Development Plan 2014-2020 (as varied).
- 5.1.2. Volume 2 of the plan contains the following '*Planning Guidance and Standards for Development in County Mayo*' (April 2014)

The following sections are of particular relevance to the current application:

- Section 7 *Layout, Scale & Design* under 7.1 *General* which states the following under subsection 7.1.7 *'Proposed development that includes buildings or extension to buildings that are significantly higher or larger than neighbouring buildings will generally not be acceptable, particularly if there are unresolved issues relating to loss of privacy or light, and lack of integration with the existing landscape. Daylight and shadow projections diagrams will be required where overshadowing may be a concern'*.
- Section 10 *Ancillary Buildings* which states the following under Subsection 10.1 *'Ancillary buildings associated with residential development include sheds, stores, greenhouses, buildings incidental to the enjoyment of the house or granny flats / dependent living units* and subsection 10.2 states *'Ancillary buildings shall be designed to complement the main dwelling(s) and shall be secondary to the main dwelling(s)'*.
- Section 20.3 *Surface Water*, subsection 20.3.1 states *'The overall objective when addressing the surface water drainage system for any new development is to mimic the pre-development situation insofar as possible'* in the case of the current application the following would apply *'Discharge of surface water to a drain/stream/river or to a stormwater Sewer. Where surface water is discharged in this way, the surface water system shall be designed in accordance with Sustainable Urban Drainage Systems (SUDS) where the discharge shall be kept under the existing Greenfield run-off rate'*.
- Section 30 *Infill Development*, subsection 30.2 states *'Infill development must have regard to the main adjoining existing uses, design features, building lines and heights, as well as the existence of any features such as trees, built heritage and open spaces on the site or on adjoining sites. Proposals for infill development must demonstrate how they will integrate satisfactorily with the adjoining developments, without any loss of amenity.'*

### 5.1.3. Local Plan

The Ballinrobe Area Plan forms part of the Development Plan and is located in Volume 1 of the Plan (page 72) in the Area Plan for Key Towns Section.

The subject site is zoned *'Town Centre'* in Map BE1 and has the following landuse zoning objective in accordance with part (g) of Objective O-07 of the Development

Plan 'To maintain and enhance the vitality, viability and environment of the town centre and provide for appropriate town centre uses'.

The following objectives are of relevance to the current proposal:

- Objective KTBE-01 *It is an objective of the Council to encourage development in the town of Ballinrobe in accordance with the Land Use Zoning Map BE1.*
- KTBE-04 *It is an objective of the Council to encourage the re-development and refurbishment of Bridge Street/High Street whilst safeguarding the protected structures and their curtilages along the street.*
- KTBE-06 *It is an objective of the Council to designate within the lifetime of this plan an Architectural Conservation Area for Ballinrobe Town centre, including all or parts of Bowgate Street, Main Street, High Street/Bridge Street, Glebe Street and Abbey Street.*

## 5.2. Natural Heritage Designations

None relevant.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal, were raised in the submission from Patrick J. Newell Consulting Engineers, on behalf of the first party appellant and can be summarised as follows:

- The applicant notes the following errors in the Area Planner's report on planning application P.A. Ref. 20/130:
  - There was a failure to acknowledge the variation between Planning Application P19/723 and P20/130. The Area Planner's report stated, '*the current application is effectively the same as the previous planning applications on site to retain the walkway*'. The applicant therefore believes that the recommendation for refusal was determined before a full assessment of the new application occurred.



- The Area Planner's report relating to the current application P.A. Ref. P20/130 includes extracts from a number of internal reports submitted on the previous application P19/723. The applicant states that the concerns raised in these comments have now been addressed in the current application P.A. Ref 20/130 and that the internal departments were not afforded the opportunity to comment on these details as the application was not circulated for up to date comments.
- In the interest of clarity, the applicant has appended the written submission made to MCC as part of the application P.A. Ref. P20/130 which he states address the concerns raised in the internal reports.
- The drawings referred to in the Area Planner's report are not the drawings presented as part of the current application P.A. Ref 20/130 and instead are drawings from the previous application on site P.A. Ref 19/723. The older drawings show the windows on the adjoining structure open whereas the updated drawings show the windows blocked up.
- The elevated walkway is not structurally adjoined to the property to the east or any property outside of the applicant's ownership.
- The adjoining property to the east is an abattoir and therefore it is questionable how the development would impact on residential amenities of this property. It could be argued that the use of the adjoining structure as an abattoir is actually having a detrimental impact on the current applicant and his residence.
- The development does not impinge structurally or visually on the development to the west.
- The elevated walkway does not impinge on the windows of the property to the east as the windows in the abattoir have been blocked up for a number of years and reopening them would require planning permission and would impact on the applicant's privacy.
- The raised walkway and greenhouse will not have an impact on potential future development at the adjoining properties.

- The applicant's health circumstances should now be considered and his limited mobility. A green house at first floor level would provide a vital means of escape from the dwelling in the event of a fire.

## 6.2. **Planning Authority Response**

- None.

## 6.3. **Observations**

None received.

## 7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, inspected the site and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Impact on Residential Amenity
- Impact on Architectural Heritage
- Access
- Drainage
- Appropriate Assessment

## 7.2. **Principle of Development**

7.2.1. The site is zoned 'town centre' under the Ballinrobe Area Plan which forms part of the Mayo County Development Plan 2014-2020. The zoning objective in place seeks '*To maintain and enhance the vitality, viability and environment of the town centre and provide for appropriate town centre uses*'.

7.2.2. The development for which retention is sought relates to the residential property on site. The applicant seeks to utilise the elevated walkway, decking and greenhouse (all at first floor level) as a use incidental to the main dwelling. While the use of the area to the rear of the property for purposes ancillary to the main residential property is supported under the Development Plan, the type of structure and the impact that

this may have on the adjoining properties, the historical environment and also the precedent that this may set needs to be considered further. An examination of each element is carried out under the sections that follow.

### **7.3. Impact on Residential Amenity and Adjoining Structures**

- 7.3.1. The elevated walkway is located along the eastern boundary of the site with access provided at first-floor level via what appears to be a recently inserted door opening. The walkway slopes upwards at approximately 6 degrees to access the decking and partially constructed greenhouse area to the rear of the site.
- 7.3.2. The current appeal and its related application to the Planning Authority under P.A. Ref. 20/130 seeks to regularise the development on site and in doing so also seeks to address the issues expressed by the internal departments of the Local Authority and reasons for refusal under the previous planning application on site P.A. Ref. 19/723. The main concerns expressed by the internal consultees were in connection with the potential impact of the development on the residential amenity of adjoining properties. The applicant seeks to address these concerns by stating that firstly the elevated walkway is at no point connected structurally or otherwise to properties outside the applicant's ownership. Having inspected the site, I would question this statement and note the following below:
- 7.3.3. The structure supporting the walkway appears to adjoin the building to the east (which is not in the applicant's ownership) at two separate points which were visible during the site inspection. One which is questionable is a steel girder, which when viewed from ground floor level appears to be located on the boundary between the applicant's residential property and the adjoining structure to the east. The drawings submitted however show this SHS support located clearly on the applicant's property. The second is located above first floor level, on the rear section of the walkway between the area where the walkway ends, and the larger open decking begins. In this area there is a visible green support fixture attached to the western facing elevation of the adjoining building (not in the applicant's ownership) which appears to support the roof of the proposed greenhouse.
- 7.3.4. I note the comments on the planning application P.A. Ref 20/130 from MCC's Senior Executive Architect dated 03/10/19, in which concerns are raised regarding the position of the external elevated walkway passing directly outside the windows of the

neighbouring property which is not in the applicant's ownership. The architect raises concerns regarding the impact that the walkway may have on privacy, right to light and fire safety and requests that evidence be submitted confirming permission has been granted by the owner of the neighbouring property for the elevated walkway to pass directly outside these windows. I note that no subsequent consent letter was included as part of this appeal.

- 7.3.5. It is stated in the 'Engineer's Report on Development' which was submitted as part of the appeal documentation that the applicant also seeks to address the concern in relation to the potential impact on the residential amenity of the adjoining property to the east. The applicant states that this property is not residential in nature and is in fact an abattoir associated with the butchers shop located on Bridge Street. The applicant then states that as this is an adjoining commercial premises, it could be argued that this in turn would have a negative impact on the his residential amenity. The applicant also argues that the windows present on the western elevation of this adjoining property are currently blocked up and have been for many years. I noted however on my site visit that while most of the windows are fully blocked up, that one of the ground floor windows on the adjoining property's western elevation is not. The drawings submitted with the appeal do not reflect this exposed window. The revised drawings submitted with the appeal therefore are not entirely accurate. I also noted that the elevated walkway by virtue of the shadow it casts was blocking light into this window in the late afternoon. Without the walkway in place, light to these windows at ground level is already limited given the orientation of the site and the narrow nature of the yard opening to the rear of the appeal site, therefore this further reduction in my opinion would have even more of an adverse impact on the quality and availability of light into the adjoining property's ground floor. While I note that the adjoining structure to the east may not currently be in use as a residential property, the impacts that this development may have on restricting future use of the building have to be considered. It is therefore my opinion that the elevated walkway would limit the type of future uses that the adjoining structure may take, whether for commercial or residential use, and may result in the future devaluation of the adjoining property. The development would also set an undesirable precedent for similar inappropriate developments to the rear of properties in the area.

#### 7.4. Impact on Architectural Heritage

- 7.4.1. The buildings to the front (south) of the site are comprised of two terraced two-bay three-storey structures dating from between 1897-1923. Both terraced structures are listed on the National Inventory of Architectural Heritage (NIAH, Reg. no.s 31215018 and 31215019) and are considered of 'Regional' importance in the Architectural Artistic category of interest. Both terraced buildings had former commercial units on the ground floor, which are now disused, but some signage remains indicating the historical use. The upper storeys according to the plans submitted are connected internally and provide for the residential unit for the applicant. Access to the residential unit is via the front door of the building off Bridge Street. Rear access to the property is also possible through firstly the roller door access and then a ground floor rear access door, on the western part of the rear return, with stairs leading up to the residential unit on the floors above.
- 7.4.2. I note that reference is made in the Area Planner's report to a response received from the Architectural Conservation Officer (ACO) of Mayo County Council (dated 17/10/19) in which she states that the development is not considered appropriate given that the two structures are rated as being of regional significance on the NIAH and also due to the fact that the development crosses neighbouring properties of historic interest on Bridge Street. While I note the applicant's concern, that the response received from the ACO was in fact in response to the previous application on the site under P.A. Ref. 19/723, the facts remain the same with regard to the development and the structures in place on site which are of regional importance. The reference to the neighbouring properties of historic interest I would infer refers to the building referred to as the 'abattoir building' by the applicant. This structure though not protected has a historical presence and was noted on the site visit. Though the majority of this building's windows have been sealed up with concrete bricks, one remains unblocked on the ground floor level and the original sills are still visible for all the remaining windows.
- 7.4.3. In conclusion, I would concur with both the ACO and the Area Planner's opinions that the development for which retention is sought is not appropriate given the historical significance of the two structures which are listed as having regional importance on the NIAH. The structure also detracts from the rear of the property and the adjoining structure to the east. Development within such close proximity,

adjoining these NIAH listed buildings, should demonstrate a positive response to the architectural form and the materials and detailing of existing buildings. The proposal is considered inappropriate at this particular site.

## **7.5. Access**

- 7.5.1. The applicant has stated in the information submitted with the appeal that access to walkway and greenhouse area from first floor level is necessary, as should the ground floor of the premises be returned to commercial use it would be unfeasible for the applicant to access the greenhouse from the ground floor, as this would necessitate access through the commercial premises. I would question this statement, given that according to the floor plans submitted, access to the rear of the property can be reached from the residential property using the rear access stairs without having to go through the front shop unit. In addition, access to the rear of the property can be gained through the rear roller shutter doors via the existing yard. I therefore do not consider this a legitimate reason for requiring first-floor access.

## **7.6. Drainage**

- 7.6.1. I note that comments in relation to a preliminary flood risk assessment were attached to the previous application on site (P.A. Ref. 19/723), no further analysis was required according to this report and therefore the Area Planner did not raise the issue again in the current application. Having consulted the OPW's website [www.floodinfo.ie](http://www.floodinfo.ie) I see no evidence of past flooding on the site and therefore I would concur with the Area Planner that no further assessment is required on the current appeal.
- 7.6.2. While conducting the site visit I noted that the rainwater drainage pipe from the adjoining property's roof to the east appears to flow off the roof and into a u-bend pipe fixture and then travels on in an easterly direction, elevated across the greenhouse decking area out onto the roof of the applicant's most westerly located shed. It was not possible to devise where the water flowed from there as no drainage drawings have been submitted with the application. I would have some concerns in relation to the drainage of surface water from the development, given that there are larger impermeable areas of roofing and decking in this area (existing sheds and current structure included). Without detailed drawings of drainage arrangements further assessment is not possible at this stage.

## **7.7. Appropriate Assessment**

- 7.7.1. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any 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.

## **8.0 Recommendation**

- 8.1. 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 historical significance of the existing buildings on site which are listed as having regional importance on the National Inventory of Architectural Heritage (NIAH), it is considered that the proposed development would be incongruous in terms of its design and would set an undesirable precedent for further inappropriate development in the vicinity of the site and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the site's location and the relationship with properties in the vicinity, the proposed development constitutes inappropriate development which would seriously injure the amenities of the adjoining property to the east by reason of proximity, overshadowing, uncoordinated piecemeal development, and possible depreciation of property value, and accordingly would be contrary to the proper planning and sustainable development of the area.

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Máire Daly  
Planning Inspector

27<sup>th</sup> August 2020