



An  
Bord  
Pleanála

## Inspector's Report ABP-307818-20

### Development

Demolish rear stores, construct 3 townhouses and a first-floor apartment to the rear, subdivide upper-floor residence into 2 apartments and install gates to rear boundary and front lane

### Location

Main Street, Roscommon, County Roscommon

### Planning Authority

Roscommon County Council

### Planning Authority Reg. Ref.

PD/19/440

### Applicant(s)

David Molloy

### Type of Application

Permission

### Planning Authority Decision

Refuse

### Type of Appeal

First-Party

### Appellant(s)

David Molloy

### Observer(s)

1. Edward Donnellan & Others,
2. Richard O'Gara

### Date of Site Inspection

30<sup>th</sup> October 2020

### Inspector

Colm McLoughlin

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## **1.0 Site Location and Description**

**1.1.** The appeal site has a stated area of 0.16ha and is located in the centre of Roscommon town in County Roscommon. It accommodates a three-storey building fronting onto Main Street, containing a café and an off-license premises at street level and with a residence on the upper floors. Access to the rear of the site, including two-storey rear stores situated along the side boundaries, is available from the rear off a car park and also by a laneway with recessed gates off Main Street. Vehicular access to the rear is partially restricted via bollards on the boundary with the car park. The gates off Main Street and on the western boundary with the car park were open at the time of my visit allowing passage through the site. There is a roller-shutter door installed along the northern side boundary to the rear of the stores on site. The surrounding town centre streets are dominated by terraced buildings primarily ranging in height from two to three storeys and generally accommodating retail and related services at street level and upper-floor commercial and residential uses. On-street parking is available to the front of the site and these spaces were used for street trading at the time of my site visit. Ground levels in the vicinity drop gradually moving southwards along Main Street.

## **2.0 Proposed Development**

- 2.1.** The proposed development comprises the following:
- demolition of two-storey outbuildings and first-floor projection to the rear along the northern side boundary with a stated gross floor area (GFA) of 416sq.m;
  - construction of a terrace of three two-bedroom townhouses to the rear each with enclosed front terrace and with a stated GFA of between 79sq.m and 82sq.m;
  - construction of a first-floor one-bedroom apartment to the rear with a stated GFA of 57sq.m and subdivision of a first and second-floor residence into a pair of two-bedroom apartments with stated GFAs of 96sq.m and 106sq.m to be served by a communal roof garden at first floor and shared access from the rear;

- partial change of use of an area of the ground floor rear stores measuring approximately 33.5sq.m, to an ancillary storage area for the proposed residential units;
- installation of recessed security gates on the front laneway and on the rear boundary with the car park, and connections to local engineering services.

**2.2.** In addition to a schedule of accommodation and the standard documentation and drawings, correspondence addressing design, ownership, rights of way, leases agreements and structural engineering matters were submitted with the planning application.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. The planning authority decided to refuse to grant permission for the proposed development for two reasons, which can be summarised as follows:

- Reason 1 – insufficient information provided to establish if the proposed development would unduly impinge on a right of way;
- Reason 2 – potential to have an injurious impact on residential amenity due to the proposed works and insufficient evidence with respect to ownership of the northern boundary wall.

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

3.2.1. Planning Report

The initial report of the planning authority (October 2019) noted the following:

- proposals comply with the zoning provisions for the site;
- a right of way exists partially over the laneway from the adjoining premises to the north and the precise location of the right of way should be clarified;
- the shortfall of seven car parking spaces for site could be accommodated in the public car park to the rear and without the need for associated development contributions;

- the development would have some benefits in terms of its visual impact;
- the apartments meet the relevant development standards and the townhouses do not strictly need to meet specific accommodation standards;
- the absence of public open space would be acceptable within this town centre location, although concerns arise regarding the positioning of the private amenity space to the front of the townhouses and the communal space at roof level. Rationale for the proposed provision of private amenity space is required;
- clarification is required with respect to the construction works along the northern boundary, and also with respect to any potential conflicts in using the first-floor communal space alongside the existing commercial equipment;
- a Part V social housing exemption certificate has been applied for.

The second report of the planning authority (January 2020) noted the following:

- concerns remain regarding the extent and location of a right of way on site;
- the provision of private open space to the front is acceptable given the town centre context, and as this amenity space would provide defensible space along the front street;
- concerns remain with respect to the conflicting use of the first-floor area as a communal amenity space and the position and operation of the equipment associated with the ground-floor commercial units;
- revised accurate drawings are required to illustrate the area along the northern boundary in control of the applicant, as well as the proposals for the communal roof garden. The written consent of others may be required.

The final report of the planning authority (July 2020) noted the following:

- sufficient evidence has not been provided to verify that a right of way to the adjoining premises to the north would not be unduly impacted on and written consent to undertake the works to the northern boundary has not been provided;
- sufficient evidence has not been provided to verify that the right of way would not impact on the provision of the amenity space proposed for the

townhouses and that this private amenity space would not impede the right of way running through the site;

- repositioning of the commercial equipment is a civil matter.

### 3.2.2. Other Technical Reports

- Environment – no objection, subject to conditions;
- Road Design – concerns regarding the shortfall in car parking;
- Chief Fire Officer –no objection raised;
- Area Engineer – no response.

### 3.3. Prescribed Bodies

- Irish Water – no response.

### 3.4. Third-Party Observations

- 3.4.1. During consideration of the planning application by the planning authority, observations were received on behalf of the operator of the café located on site, Rogue & Co. Café, including legal correspondence and a lease map, and separate observations were received from the stated owners and residents of the adjoining property to the north, known as Donnellan's. The issues raised are similar to those raised in the observations to the grounds of appeal and they are collectively summarised under the heading 'Observations' below.

## 4.0 Planning History

### 4.1. Appeal Site

- 4.1.1. Pre-planning discussions between representatives of the planning authority and the appellant were undertaken under register reference (reg. ref.) 3101 in May 2018 to discuss the provision of two apartments on site. A planning history for the appeal site is provided on page 2 of the planning authority's initial report, with the following planning application the most recent application relating to this site:

- planning reg. ref. PD/13/242 – permission granted by the planning authority in October 2013 for a change of use from retail to coffee shop / restaurant.

## **4.2. Surrounding Sites**

4.2.1. Recent planning applications in the surrounding area primarily relate to proposals for changes of use, infill developments and commercial alterations. The following approval relates to the car park area immediately to the rear of the appeal site:

- planning reg. ref. PD/12/299 – ‘part 8’ planning permission approved in October 2012 for new civic headquarters for Roscommon County Council and associated town centre improvements, including provision of additional car parking.

## **5.0 Policy & Context**

### **5.1. Roscommon Town Local Area Plan 2014-2020**

- 5.1.1. The appeal site has a zoning objective ‘Core Town Centre’ within the Roscommon Town Local Area Plan 2014-2020, with seven stated objectives, including objectives to provide an attractive accessible environment, to encourage regeneration of backlands, including the use of upper floors preferably for residential use, and to require the appropriate provision of open space in developments. The site also forms part of the Roscommon town centre regeneration lands. Map 12b of the Local Area Plan identifies the majority of the site as being within an architectural conservation area (ACA).
- 5.1.2. Relevant planning policies and objectives for residential and urban development are set out in section 7.13 of the Local Area Plan, while development management guidelines and standards for parking and new residential development are outlined in sections 8.3.8 and 8.3.10 respectively. The Local Area Plan aims to ensure the ongoing protection of the ACA with policy 73 seeking to prevent the demolition of any building within the ACA that contributes to its character, while policy 74 requires all new development within the ACA to assimilate sensitively into the existing built fabric. Policy 119 of the Plan promotes permeability within developments.

## **5.2. Planning Guidelines**

5.2.1. The following planning guidance documents are considered relevant to this appeal:

- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2018);
- Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2013);
- Architectural Heritage Protection Guidelines for Planning Authorities (2011);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009);
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes and Sustaining Communities (2007)
- Development Management - Guidelines for Planning Authorities (2007).

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

5.3.1. Having regard to the limited nature and scale of the development, including the proposed connections to engineering services, and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the 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. The grounds of the first-party appeal can be summarised as follows:

- the planning authority acted beyond its powers and in a manner contrary to the guidance within the Development Management Guidelines;
- the planning authority did not have sufficient basis for refusing planning permission;
- as outlined in the Development Management Guidelines, disputes about rights over land are ultimately matters for resolution in the Courts and it is up



to the developer to ensure that they have sufficient legal rights to undertake a development;

- precise details of the right of way and its location have been provided and the development would not impede or interfere with the right of way. Despite this, the planning authority persisted in requesting clarification on this matter and ultimately refusing the permission;
- the proposed development allows the adjoining owner to the north to 'cart coal etc. through the yard portion of the premises' along the subject right of way. The adjoining owner does not have sole rights or preferential use of the rear right of way and the café operator is not a beneficiary of the right of way. Furthermore, a right of way for the public to pass through the site does not exist;
- the entire boundary wall with the property to the north is entirely under the ownership of the appellant, as evidenced by its function, overhang elements and defined linear alignment. The neighbouring parties submissions have not included sufficient supporting evidence to contradict this;
- notwithstanding the factual evidence provided by the appellant, the issue of ownership of the boundary wall is not an appropriate matter for consideration by the planning authority;
- the other side of the boundary wall to the appeal site is used by the neighbouring property for support only;
- the planning authority's reasons for refusing planning permission effectively bars the appellant from accessing the dispute resolution process under the Land and Conveyancing Reform Act 2009.

## **6.2. Observations**

- 6.2.1. Two observations accompanied by various appendices, including photographs, legal correspondence and a ground-floor layout drawing for the adjoining property to the north, were separately received from the stated owners and residents of the adjoining property to the north and from the operator of the café on site. The issues raised in these observations can be collectively summarised as follows:

### Conflicting Land Uses on Site

- the development would be prejudicial to public health and would adversely impact on the ability to operate the established café on site, given the opening hours and the location of the existing café service equipment at first-floor rear roof level, including a water storage tank and mechanical and electrical equipment, such as air conditioning units and ventilation equipment;
- concerns regarding the structural integrity of the roof proposed to accommodate part of the new build apartment and the communal amenity space for the development have not been substantially addressed and the amenities of residents would be undermined by the use of this space for commercial service equipment;
- details with respect to sound insulation and connections to services have been omitted;

### Residential Amenity

- proposals are excessive in height, scale and density and would result in undue impacts for the residential amenities of the adjoining residence to the north, including via noise, vibration, overshadowing and overbearing impacts, as well as loss of light and privacy;
- proposals would provide a poor form of residential amenity for future residents, with internal areas to the townhouses overlooked from the front and the existing service equipment proximate to residential apartments that cannot be repositioned, resulting in undue noise, vibration and odour impacts for future residents;
- proposals would result in disorderly development of a backland site with an inappropriate provision, layout and standard of communal and private amenity space serving the apartments and townhouses, relative to a pedestrian route running through the site and contrary to various guidelines;
- proposals would result in excessive noise and may require the appellant to access the adjoining property to undertake construction works;

### Parking

- proposals would result in a haphazard car parking arrangement, as the existing spaces on site are for the café and the proposed development would place undue pressure for parking in the area;
- an insufficient quantum of car parking would be provided;

### Access & Right of Way

- the proposed development would reduce the width of the right of way and render the vehicular and pedestrian route unsafe, including the established access through the site to Donnellan's premises on the north side;
- the appellant has not provided sufficient clarity with regard to the extent of the right of way on site, which would appear to traverse the proposed private open space for the townhouses and an assigned lease area for the café operator;

### Northern Boundary Wall

- details provided with respect to the northern lateral boundary wall, including clarification of ownership and its structural composition, are not adequate and the Board is unable to conclude that the appellant owns the boundary wall in its entirety based on the information provided, including the alignment of the roof structures. As such the Board must presume that it is in joint ownership;
- the removal of the boundary wall, which is a shared ownership party wall, to facilitate the townhouses is of serious concern and legal consent for works to this wall has not been provided;
- the Board is required to consider the validity of the application. A grant of planning permission should not have issued, as the prior consent of the owner of the lands or structures that are intended to be developed should have accompanied the planning application, as required under Article 22 of the Planning and Development Regulations 2001-2020 and endorsed in the appended high court decision, *McCallig v An Bord Pleanála* - High Court [2013] IEHC 60;

- no evidence has been submitted by the appellant to back their statement that the adjoining neighbours building is a lean-to structure supported against the boundary walls.

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

6.3.1. The Planning Authority did not respond to the grounds of appeal.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. The following represents my de novo assessment of the application proposals. The observations to the application and the appeal centre on matters relating to legal ownership and a right of way. 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:

- Land Use & Architectural Heritage;
- Access & Parking;
- Ownership;
- Residential Amenities.

### **7.2. Land Use & Architectural Heritage**

7.2.1. As recognised by the planning authority, the proposed residential uses, forming part of a mix of uses on site, would be permitted in principle, based on the land-use zoning objectives for the site. Potential conflicts of the proposed residential uses with other uses are addressed as part of my assessment below. It is intended to demolish the rear stores and a first-floor rear projection along the northern boundary. Policy 73 of the Roscommon Town Local Area Plan 2014-2020 seeks to prevent the demolition or partial demolition of any building or structure within an architectural conservation area (ACA) that contributes to its character, while strategic aim no.12 of the Plan notes that the streetscapes and facades within the ACA are of particular merit for protection. While the subject structures to be demolished are all within the

ACA and the site does not have any other conservation status, I am satisfied that their removal and replacement with contemporary structures of similar scale and siting would not have a detrimental effect on the character or setting of the ACA. In conclusion, the proposed development would not be contrary to the provisions set out in the Local Area Plan with respect to land-use zoning objectives and ACAs.

### **7.3. Access & Parking**

- 7.3.1. The planning authority's first reason for refusal of planning permission states that insufficient evidence has been provided by the appellant to establish that a private right of way would not be unduly impeded by the proposed development. It is understood that there is a private entitlement for persons to pass over part of the site. The observers' assertions align with the planning authority's position regarding the right of way. The appellant does not dispute the private right of way entitlement and as part of the application, including responses to further information requests, a drawing was provided identifying the location of the right of way running from Main Street and leading to a roller-shutter door installed along the rear of the stores along the northern site boundary. On the proposed 'Site Plan' drawing (no.02A), the appellant identified that a right of way would be maintained from Main Street to the location of the shutter doors. In their third submission to the planning authority, the adjoining observers to the north provided a 'lease map' illustrating a right of way in a similar location to that shown on the appellant's 'Site Plan' drawing. The proposed building layout does not appear to impede connectivity across the site, including the route leading from Main Street to the roller shutter door on the northern boundary. I am not aware of other registration details for the right of way and from a planning perspective, I am satisfied that there is sufficient information on file with respect to the right of way, thereby refusal of planning permission due to a perceived impediment or lack of evidence regarding the right of way would not be warranted.
- 7.3.2. The appellant proposes inserting a set of security entrance gates on both the rear boundary with the car park and in a location recessed off Main Street (see Ground Floor Plan drawing no.03A). These gates appear to be in situ already and I note that at present the gates were open allowing pedestrians to pass through the site, at least during the daytime. The planning authority concluded that car parking to serve the proposed residential units would be available in the car park area immediately to the

rear of the site, and I am satisfied that given the inner-urban site context, this parking provision would be appropriate to serve the proposed residential units.

#### **7.4. Ownership**

- 7.4.1. The planning authority's second reason for refusal of planning permission states that insufficient evidence had been provided by the appellant to show that they have sole ownership of the northern side boundary wall or to undertake works to the boundary that could undermine the residential amenities enjoyed by residents of the adjoining property to the north. The grounds of appeal assert that sufficient evidence has been provided to allow permission to be granted and that the planning authority did not have a sufficient basis for refusing planning permission, particularly considering the guidance contained in the Development Management Guidelines. The observers to the appeal support the planning authority's position in this regard and assert that the appellant does not own or have sufficient legal entitlement to undertake development to the northern boundary wall, including the demolition works.
- 7.4.2. Section 10 of the planning application form submitted states that the appellant is the owner of the site. The appellant's 'Existing Elevations showing Demolished Structures' drawing (no.09) and 'Floor Plan' drawing (no.08) reveal that the majority of the northern boundary wall would remain in situ, although stretches of the wall and structures on the boundary would be demolished and replaced by the rear wall for the townhouses, as well as first and second floor extensions to accommodate the apartments (see drawing no.05A).
- 7.4.3. The observers to the appeal assert that the boundary wall is in shared ownership, while the planning authority state that the appellant has not verified that the boundary wall is in their sole ownership. The grounds of appeal describe those elements of the boundary wall that they claim to be in their ownership. 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 subject to the terms 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'. Attempts to clarify legal ownership have been provided by the appellant as part of their responses to the further information requests issued by the planning authority and also within the grounds of appeal. The northern boundary features a host of structures and roof features that make it difficult to identify the precise alignment of the boundary and while the appellant has attempted to clarify the ownership boundary alignment through photographs of these structures, property deeds that definitively identify the precise alignment of ownership along the northern boundary have not been provided. Land registry documentation would not be likely to clarify the ownership boundary.

- 7.4.4. In conclusion, it is not clear who the disputed boundary is registered with, including whether or not the boundary is solely registered with the appellant, but this is not a matter that needs to be resolved as part of this appeal. Disputes with respect to party boundaries are addressed under the Land and Conveyancing Law Reform Act 2009 and not the Planning and Development Act 2000, as amended. While some doubt remains regarding the legal owner of the disputed boundary, which is delineated by the appellant as being entirely within their control (see Site Plan drawing no. 02A), thereby not requiring consent, and sufficient evidence has not been provided by other parties to wholly contradict this, I am satisfied that, as per the Development Management Guidelines, it would not be reasonable to withhold planning permission in this case for reasons relating to the legal interest of the appellant in the boundary. Should the Board decide to grant planning permission, the onus is on the appellant 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 grant of permission.

## **7.5. Residential Amenities**

- 7.5.1. When considering planning applications for residential development, the Local Area Plan requires the preservation of residential amenities. The observers to the appeal raise concerns regarding the impact of the proposed development on the amenities enjoyed by residents of the adjoining property to the north. The proposed development would involve demolition of a first-floor structure immediately to the rear of the original main building on site and stores to the rear of the site along the

northern boundary. Replacement structures would be constructed along the northern boundary, including a first and second-floor flat-roof rear extension to accommodate access to a second-floor apartment in the main building. Photographs and a ground-floor layout drawing of the property to the north have been provided within an observation to the appeal and this show that the residential unit adjoining to the north is situated abutting the boundary with the appeal site. Given the location and orientation of this residential unit onto a yard space and the existing extent of structures on the appeal site, I am satisfied that the potential for the proposed development to substantively impact on the residential amenities of the neighbouring property to the north would not arise from excessive overlooking, overshadowing or overbearing impacts.

- 7.5.2. Within the planning authority's reports assessing the proposed development, concerns were not expressed regarding the internal standards of the proposed residential accommodation. I am satisfied that the internal space, layouts, communal open space and ancillary areas for the three proposed apartments would provide an appropriate level of amenity for their future occupants, in line with the provisions set out in the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2018). Observers to the appeal refer to concerns regarding the structural capacity of the first-floor flat roof to accommodate the communal roof garden, as well as other concerns, including potential overlooking of this space and conflicts with service equipment for the ground-floor commercial units. A revised layout for the communal area to accommodate an enclosed water storage tank and repositioned equipment, as well as correspondence addressing the structural capacity of the roof was addressed by the appellant as part of a response to a further information request. Observers state that the repositioning of the commercial service equipment would not be possible, while the planning authority consider this to be a civil matter not relevant to planning. Notwithstanding this, it is proposed to subdivide an upper-floor residence with no apparent current private amenity space into two apartments and construct an additional apartment. I am satisfied that the provision of communal open space to serve the three apartments would be reasonable in these circumstances, while also providing for an effective use of the upper floors to this town centre ACA property. I am also satisfied that sufficient details with respect to connections to services and



structural matters have been provided within the application and additional details can be requested via standard conditions of a permission. Construction-related impacts would be of temporary duration and with appropriate management and mitigation in place, the works would not unduly impact on residential amenities.

7.5.3. The appellant has provided a schedule comparing the proposed accommodation to the minimum standards outlined in the 'New Apartment Guidelines'. However, the proposed development includes three townhouses to the rear, whose internal accommodation is more appropriately considered having regard to the Departmental 'Quality Housing for Sustainable Community' best practice guidelines. In this regard, a target gross floor area of 80sq.m is set out within these Quality Housing Guidelines for a two-bedroom two-storey four-person house. Measuring 79sq.m, only proposed townhouse no.3 would feature a gross floor area below the standard, but this shortfall would be only marginally below the guideline standard and not substantive relative to the guideline targets. Based on the guidelines, some marginal shortfalls would also arise for the aggregate areas to the living and bedroom spaces in each of the proposed townhouses, however, again these shortfalls would be marginal and would not be substantive relative to the guideline targets. The townhouses would be set out in a terrace arrangement with outlook over the laneway and with south-facing habitable rooms. Despite primarily being single aspect and having a depth of 5m, the townhouses would not be excessively deep and they would be provided with sufficient natural lighting from the front, as indicated on the 'Section Showing Skylight Effect' drawing no.10.

7.5.4. To address the potential for overlooking of the townhouses from the front, a railing is to be installed fronting the townhouses along a footpath and this would also enclose front terrace areas for each of the townhouses, measuring between 9sq.m and 12sq.m. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), which the Local Area Plan refers to with respect to housing standards, requires all houses to have an area of private open space behind the building line. The townhouses would not be provided with any amenity space behind the building line and the space provided would not be private given the positioning of the terraces directly onto the laneway. Scope to potentially provide private amenity space in an alternative location on site is constrained. For example, the first-floor roof garden would only be overlooked and easily accessible

from the proposed apartments. The planning authority considered that the provision of amenity space fronting the townhouses would be acceptable given the town centre context. However, I am not satisfied that an appropriate and adequate provision of private functional amenity space has been provided for the townhouses and as a consequence the proposals fail to provide a reasonable level of amenity for the future residents of the three townhouses. Consequently, permission for the townhouses should be omitted in the event of a grant of permission for the other aspects of the proposed development.

## **8.0 Appropriate Assessment**

- 8.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the 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 planning permission be granted for the demolition works to facilitate the subdivision of the upper-floor residence into two apartments and the construction of a first-floor apartment, including the provision of a communal garden space, landscaping and ancillary services, in accordance with the plans and particulars, based on the reasons and considerations marked (1) under and subject to the conditions set out below.
- 9.2. I recommend that planning permission be refused for the construction of the three townhouses to the rear of the site and the demolition works to facilitate the townhouses, for the reasons and considerations marked (2) under.

## **10.0 Reasons and Considerations (1)**

1. Having regard to the nature and scale of the development, the existing development on site and the prevailing pattern of development in the vicinity, including the location of the site in an Architectural Conservation

Area, it is considered that, subject to compliance with the conditions set out below, the demolition of structures to the rear, the subdivision of the upper-floor residence to two apartments and the construction of a first and second-floor rear extensions to accommodate apartment access and a one-bedroom apartment, would not seriously injure the visual amenities of the area, including the character and setting of the Architectural Conservation Area, would not seriously injure the residential amenities of the area or of property in the vicinity, would provide a suitable level of amenity for future occupants of the apartments, in accordance with the provisions of the Roscommon Town Local Area Plan 2014-2020 and the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2018) prepared by the Department of Housing, Planning and Local Government, and 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 the further plans and particulars submitted on the 13<sup>th</sup> day of May 2020, 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:
  - (a) the three townhouses to the rear of the site are excluded from the permission and the existing stores shall remain and not be

demolished, where they are not required to facilitate the works to create the apartments, including the internal access.

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 residential and visual amenity.

3. Details of 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 commencement of development.

**Reason:** In the interest of visual amenity.

4. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

5. Water supply and drainage arrangements, including the attenuation and 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 and to ensure a satisfactory standard of development.

6. 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 recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Thereafter, the waste and recycling shall be managed in accordance with the agreed plan.

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

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This Plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, traffic management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

8. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

9. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

10. Proposals for an apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all apartment numbers, shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

11. 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 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. 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 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.

**Note:** A person shall not be entitled solely by reason of a grant of planning permission to carry out any development.

## **12.0 Reasons and Considerations (2)**

1. Having regard to the layout and design of the proposed development, including the provision of amenity space to serve the three townhouses in the form of front terraces directly onto a laneway, it is considered that the proposed development would fail to provide a satisfactory form of private

amenity space for the townhouses, would constitute a substandard form of development, would be seriously injurious to the residential amenities of future occupants of the proposed townhouses and would be contrary to the provisions set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) prepared by the Department of Environment, Heritage and Local Government in 2009, which require all houses to have an area of private open space behind the building line and the provisions of the Roscommon Town Local Area Plan 2014-2020. The construction of the three rear townhouses as part of the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Colm McLoughlin  
Planning Inspector

8<sup>th</sup> December 2020