



An
Bord
Pleanála

Inspector's Report ABP-310524-21

Development	Demolition of commercial unit and house and construction of 9 apartments
Location	4 Church Place, Oliver Plunkett Hill, Carrignagroghera, Fermoy, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	20/5774
Applicant(s)	DASCL Property Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Patrick Delaney & Patricia Sheehan
Date of Site Inspection	19 th October, 2021
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The site of the proposed development is located to the north of the town centre of Fermoy in County Cork at Church Place, Oliver Plunkett Hill. There is a single-storey structure (formerly a nightclub) and a vacant three-storey house on the site with frontage onto the public road. The nightclub extends to cover the curtilage beyond the house on the site. There is a large advertising structure on the northern gable elevation of the existing house. Development in the vicinity includes a terraced of protected structures to the south (houses), a protected structure to the north (a house), and a protected structure on the opposite side of the street (a church). There are also residential properties to the east (rear) and to the south-east fronting onto Allen's Walk. This location forms part of a designated Architectural Conservation Area. The street slopes from north to south and the buildings on this street are stepped to reflect the fall.

2.0 Proposed Development

2.1. The proposed development originally comprised:

1. The demolition of an existing single-storey commercial unit (a former nightclub) and a three-storey house.
2. The construction of 9 apartments consisting of four 1 bedroom ground floor apartments, one 1 bedroom first floor apartment, and four 2 bedroom duplex units over ground floor level.

This proposal was intended to be developed in two blocks, one consisting of a three-storey building containing 7 apartments to the west and one consisting of a two storey building containing two apartments to the rear. The proposal would include the provision of a new vehicular entrance off Oliver Plunkett Hill and the relocation of an advertising billboard.

2.2. A covering letter with the application addressed the planning policy context and the design philosophy of the proposal. An Engineering Report on drainage was also submitted.

3.0 Planning Authority Decision

3.1. Decision

On 20th May 2021, Cork County Council decided to grant permission for the proposed development subject to 19 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the planning history of the site and the immediate area, pre-planning consultation, the planning policy context, reports received, and third party submissions. The principle of the development was considered to be in line with the development objective of the wider area. The need for further consideration of the proposed density of development was highlighted. The retention and relocation of the advertising structure in the Architectural Conservation Area was of concern. The Conservation Officer's request for a revised design was noted. The unit mix was seen to be acceptable. The lack of detail on the two studio apartments to the rear of the site was noted. The inadequacy of open space was also referenced. It was considered that the proposal for 7 apartments would not give rise to unacceptable overlooking and loss of privacy, given the separation distances and urban context. Overlooking from the first floor studio apartment to the rear was a concern. It was submitted that the impact on the property to the south required further detailing. The proposed parking provision was seen to be adequate. Regard was had to the reports received and the recommendations for further information. A request for further information was recommended.

3.2.2. Other Technical Reports

The Conservation Officer recommended that the application be deferred for the design to be reconsidered and to provide details on existing boundary treatment.

The Area Engineer considered the density to be too high. It was recommended that further information be sought relating to a road safety audit, the omission of the studio apartments to the rear, and proposals to relocate an Irish Water telemetry plant, a mini pillar, and signage at the footpath edge.

The Environment Section report on drainage had no objection to the proposal subject to a schedule of conditions.

The Environment Section report on waste had no objection to the proposal subject to a schedule of conditions.

3.3. Prescribed Bodies

Transport Infrastructure Ireland stated it had no observations to make.

The Department of Culture, Heritage and the Gaeltacht recommended that an assessment for swifts and bats be carried out prior to works taking place.

Irish Water had no objection to the proposal.

3.4. Third Party Observations

Objections to the proposal were received from Robert Condon, Gillian Condon, David and Audrey Pine, Mary and Leo Bartley, Patrick Delaney and Patricia Sheehan, Fionnuala O'Reilly, Hazel Baylor, and Joe Keane. Concerns raised related to the impact on the Architectural Conservation Area (ACA), on protected structures, and on pedestrians and cyclists, insufficient on-site parking, traffic impact, overlooking, noise, impact on daylight, excessive density, inadequacy of drawings, lack of residential amenity for occupiers, and the impact of the relocated billboard.

3.5. On 9th October 2020, the planning authority sought further information in accordance with the Planner's recommendation. A response was received on 16th March, 2021. This included the omission of the two studio apartments to the rear of the site and the advertising hoarding and design revisions to the remaining development.

3.6. The reports to the planning authority were as follows:

The Water Services Section had no objection.

The Environment Section referred to the previous report recommendations.

The Area Engineer recommended a grant of permission subject to conditions.

The Planner recommended that clarification be sought in relation to revised design of the building fronting onto the street and the submission of a building lifecycle report.

3.7. A request for clarification was issued on 8th April 2021 and a response was received on 28th April 2021. This included revised design proposals for the building.

3.8. Further objections were received from Patrick Delaney and Patricia Sheehan, David and Audrey Pyne, Robert Condon, Gillian Condon, and Hazel Baylor reiterating concerns raised previously.

3.9. The reports to the planning authority were as follows:

The Conservation Officer had no objection to the proposal subject to a schedule of requirements to be met.

The Area Engineer had no objection to the proposal subject to conditions.

The Planner noted the Conservation Officer's recommendation. A grant of permission subject to conditions was recommended.

4.0 **Planning History**

P.A. 08/51034

Permission was refused for the construction of 6 apartments, 9 duplex units, 2 ground floor commercial units and a basement car park at 1-4 Church Place.

P.A. Ref. 13/51005

Permission was granted for the demolition of dwelling and former nightclub and the construction of 3 no. three-storey townhouses.

P.A. Ref. 18/5253

An extension of Planning Permission 13/51005 was granted.

5.0 **Policy Context**

5.1. **Fermoy Town Council Development Plan 2009**

Zoning

The site is zoned 'R-00 Residential'. The strategic objective is to seek to provide a broad range of residential accommodation types to satisfy the requirements of all stakeholders in the town.

Heritage

The site lies within a designated Architectural Conservation Area.

It is an objective to preserve the character of areas of special interest in the town including the Architectural Conservation Areas designated.

Proposals involving re-use, change of use, new build and extension of buildings and structures in Architectural Conservation Areas will normally only be permitted where it can be clearly demonstrated that development will:

- a) Reflect and respect the scale, massing, proportions, design and materials of existing structures and reflect the character of the area and its streetscape; and
- b) Retain important exterior architectural features that contribute to the character and appearance of the architectural conservation area;

or

- c) Where it is not possible to retain the existing features, make use of traditional materials.

It is an objective of the Plan that development proposals will be required to conserve and enhance the character and appearance of structures in the Architectural Conservation Area.

Note:

The buildings flanking the site and the church on the opposite side of the street are listed in the Record of Protected Structures.

5.2. EIA Screening

Having regard to the nature, scale and location of the proposed development, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The appellants are owners of the Old Adair Schoolhouse, a protected structure to the north of the site. The grounds of the appeal may be synthesised as follows:

- The scale of the development is out of character with the existing design character and visual context of adjacent listed buildings to the north and south and does not align with heritage objective 4.4.13 of the Fermoy Town Development Plan. The high density scheme would seriously detract from the setting and context of adjacent heritage structures and the streetscape.
- The maximum permissible density in the Fermoy Plan is 21 units per acre. The proposal at 35 units per acre far exceeds this and is out of step with the adjoining terrace.
- The proposal would provide insufficient privacy and amenity for prospective residents, with entrance stairwells and first floor balconies being particularly problematic.
- The proposal would have a serious negative impact on the residential amenity of the Old Adair Schoolhouse by way of a negative visual impact due to the design of the eastern elevation, unacceptable noise from entrances and balconies, overshadowing and loss of light from the south and west, and overlooking from four first floor balconies.
- The proposed vehicular access would endanger public safety. The footpath kerbing is listed and cannot be adjusted.
- There is insufficient on-site parking.
- The proposed car park and bin storage would provide an unacceptable lack of residential amenity for prospective residents due to the lack of open space.

6.2. Applicant Response

The applicant's response to the appeal may be synthesised as follows:

- The proposal is in keeping with the scale of the building proposed to be demolished. The proposal was revised to suit the character of the area. The site can suitably sustain the proposed 7 units. The proposed density is applicable to town centre locations as per Table 3.1: Settlement Density Guide in the Cork County Development Plan.
- The Medium density policy attached to the Fermoy Plan has been superseded by more current guidelines aimed at delivering targets set out by the County Development Plan. The proposal is in line with provisions relating to brownfield sites and building height also.
- All of the apartments have been designed in strict adherence to guideline documents. Open space provision complies. Overlooking is mitigated by opaque screening and there is no overlooking of private open space between the four upper apartments or adjacent properties. There is a suitable design solution to further screen patio areas should this be warranted.
- The development enhances the context of the protected structures and promotes the maintenance of the area. Existing screening in the form of a stone wall and timber fencing restricts visibility from the internal ground floor level or ground floor level of the curtilage of the schoolhouse. A similar screen could be provided at the party wall and be maintained by the management company. The proposed first floor patio area includes a tall privacy wall. The noise generated by day-to-day residents would be substantially less than from the permitted nightclub. The proposed development is sufficiently far away from the appellants' building so as not to cast additional shadow. Regarding overlooking, the proposed floor level of the closest balcony is c.1.4m below the neighbouring property and c.3m below the top of the existing timber fence/screen. No overlooking is possible from these levels. The other rear private open spaces / balconies are stepped even more below these levels and each have their own 1.8m privacy screening.
- A Road Safety Audit was carried out and the redesigned scheme took the recommendations on board. Safe access and egress to parking has been designed for, including stopping space at the gate. It is not intended to disturb the existing flush limestone kerbing outside the area where the proposed

vehicular entrance would go. There would be reinstatement of any disturbed footpath.

- Regarding parking, the Town Plan has been superseded by the County Development Plan. The 7 parking spaces are considered to be sufficient.
- The ground floor refuse storage will be provided for four apartments only and should not interfere with the quality of the communal open space. The car parking will be a shared surface. The open space equates to 22% of the overall site area.

6.3. **Planning Authority Response**

The planning authority submitted that all the relevant issues were covered in the technical reports of the planning authority.

7.0 **Assessment**

7.1. Introduction

I consider that the principal planning issues relate to the impact of the development on residential amenity, the impact of the development on the Architectural Conservation Area, and the traffic impact. I acknowledge that the proposed development includes the demolition of the former nightclub on the site and a three-storey house. I accept that these structures are of no architectural or heritage merit and I have no objection to their demolition. The Board will note that there is no third party objection to the demolition of these structures.

7.2. The Impact of the Development on Residential Amenity

I first submit to the Board that I concur with the planning authority's decision to omit the two studio apartments to the rear of the site during its determination of this application. The inclusion of such a development would constitute overdevelopment of this site as it would greatly undermine the provision of basic amenities to serve the needs of the residents in the proposed main block to the west. Furthermore, the form, layout and proximity of this component of the development to neighbouring

property would bring with it concerns relating to potential impacts on the amenities of the neighbouring residential property to the east by way of interference with privacy.

I acknowledge also that permission has previously been granted on this site for the demolition of the house and former nightclub and for the construction of 3 no. three-storey townhouses under P.A. Ref. 13/51005. Therefore, the principle of permitting residential development three storeys in height along the west side (street frontage) of this site has been established. The Board will note that there was an extension of this permission granted under P.A. Ref. 18/5253.

The proposed development would be sited north of the town centre of Fermoy on lands zoned for residential purposes and in an area in which there is a mix of land uses. The development would provide seven apartments on a 0.0772 hectare site, producing a density of 91 units per hectare. This is an area that is well served by a wide range of services and facilities and is easily accessible by pedestrians to the town centre. The development itself would accommodate adequate on-site communal open space and one parking space for each unit to the rear of the proposed buildings to serve occupants needs. The density of this development is considered suitable for such a location so close to the town centre, while adequately providing for the amenity and service needs of occupants. I acknowledge that such a density of development is compatible with the Cork County Development Plan provisions for town centre development where there is no limit to the maximum net density in town centre areas (Table 4.1 of the Plan). Such development should be understood to relate to inner suburban infill residential development as considered in *the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas*, as published by the Department of the Environment, Heritage and Local Government. It is my submission that the planning authority's acceptance of the density of development arising from seven apartments on this site is compatible with the clear guidance provided to encourage increased densities of residential development in such locations. The density of development poses no particular concerns for established development in this area.

I note that the appellants have raised concerns about how the development is designed and how it may impact on the occupiers of the apartments. This development adequately provides off-street parking, communal open space, bin storage and bicycle parking to the rear of the building. It also provides private open

spaces and balcony spaces to serve the occupiers private amenity needs. The scheme has been designed with screens to balconies and retention of flank boundary walls. Rear and gable elevations ably demonstrate that there would be no particular concern about privacy for the occupiers of the apartment scheme.

The appellants have also raised concerns about the visual impact, noise, overshadowing and overlooking on their property. I repeat for the Board that three-storey town houses have been previously permitted on this site. I consider the proposal to be of a reasonably high quality design and finish and forms a coherent infill where the existing development fails. The development would be a significant visual improvement over that which exists. Furthermore, the Board will again note the gable and rear elevations of the proposed development, where there would be no impact on the existing boundary walls proposed and suitable screening to balconies at first floor level would be provided. It is noted that there are no balconies proposed at second floor level. The applicant's further information and clarification details ably demonstrate that there would be no notable impact by way of overlooking to the front of the property to the north of this site. It is apparent that the proposed development would be over 13 metres to the front of the existing house to the north-east and 19 metres to the gable of the house to the north. The three-storey development would pose no significant overshadowing of these buildings. The Board will again note that three-storey houses have recently been permitted at this location. Regarding noise emanating from the proposed development, I submit that the residential development constitutes a suitable and compatible land use at this location. It is anticipated that the occupancy of the apartments would bring increased activity to this vacant site along with normal residential noises and associated undertakings within the site. This should not pose any particular concerns for other neighbouring residential properties in a residential area.

In conclusion, I am satisfied that the proposed development is a satisfactory infill development that would pose no particular concerns for the occupiers of the development or for neighbouring residents.

7.3. The Impact of the Development on the Architectural Conservation Area

The proposed development was subject to a number of design revisions during the time the planning authority was deliberating on the application. I am satisfied to conclude that the permitted design is an appropriate response to the site and its environs. It retains a form and character which is somewhat reflective of neighbouring properties, it respects the sloping nature of the site at this road frontage location and is otherwise compatible with its context. It appears to have been sensitively redesigned specifically with the context of the Architectural Conservation Area understood.

I note the Fermoy Town Council Development Plan and provisions relating to new build in Architectural Conservation Areas (ACAs). Proposals are required to demonstrate that the development reflects and respects the scale, massing, proportions, design and materials of existing structures and reflect the character of the area and its streetscape. As I have referenced above, this proposal achieves this. The form, finishes, fenestration and general character of the development seeks to respect the established development on the streetscape. It would satisfactorily tie-in with the property to the south and would be compatible with it. It would produce an infill development that would significantly address the undesirable development which current prevails at this location. It could reasonably be seen to improve the context of the ACA and the protected structures that are in the vicinity. It would have no impact on important exterior architectural features. It is, thus, reasonable to conclude that the proposed development would be compatible with the Plan objective which requires development proposals to conserve and enhance the character and appearance of structures in the Architectural Conservation Area.

7.4. Traffic Impact

The proposed development is located close to the town centre of Fermoy. The town centre, its services, facilities and amenities are easily accessible by foot from this site. The scheme seeks to provide one parking space per apartment within the confines of the site. I note that there is on-street parking also available at this location. I am satisfied that the parking needs of the occupiers of this scheme would be adequately met by the provisions being made.

Regarding access, I note the arched access leading to the car parking area to the rear of the site. This provides for a recessed vehicular entrance and vehicle waiting area forward of it. There is adequate turning area within the site. The footpath would be suitably dished to accommodate vehicular movement into and out of the site. I note the location of the proposed development within the town and I am satisfied that there should be no particular concerns with traffic speeds or conflict with pedestrian and vehicular movement on the footpath and the street. I note that the Area Engineer had no objection to the vehicular access proposal. I also note that the Conservation Officer and the planning authority had no conservation concerns about the impact of the development on the footpath. Dishing of the footpath is a necessity to provide appropriate access to the site.

Appropriate Assessment

The site of the proposed development is located to the north of the town centre of Fermoy, a serviced urban area and a location which is separated from the Blackwater River which passes through the centre of the town. The river forms part of the Blackwater River (Cork/Waterford) SAC (Site Code: 002170) and the site is separated from it by extensive buildings, infrastructure and other developments. Having regard to the nature, scale, and location of the proposed development, the serviced nature of the development, the nature of the receiving environment, and the separation distance to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not 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 permission is granted in accordance with the following reasons, considerations and conditions.

9.0 Reasons and Considerations

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of Cork County Development Plan and the Fermoy Town Council Development Plan, would be acceptable in terms of height, scale, and density, would not seriously injure the visual amenities of the area or the residential amenities of adjoining properties, would represent an appropriate design response to the site's context within a designated Architectural Conservation Area, and would be acceptable in terms of pedestrian, cyclist and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 16th day of March, 2021 and the 28th day of April, 2021, 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. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-
 - (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - (c) details of proposed street furniture, including bollards, lighting fixtures and seating; and
 - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes of perimeter walls.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual and residential amenity.

4. Prior to the commencement of development, the developer shall provide measures to preserve and protect the existing stone kerb in front of the proposed vehicular entrance to the satisfaction of the planning authority.

Reason: In the interest of protecting architectural heritage.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

6. 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.

7. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of development.

Reason: In the interest of public health.

8. 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 and traffic management measures.

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

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

10. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation

from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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 the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning 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.

Kevin Moore
Senior Planning Inspector

28th October 2021