



An
Bord
Pleanála

Inspector's Report ABP-310579-21

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| Development | Chun bloc dhá stór go leith do 4 árasán a thógáil le leagan amach páirceála athbhreithnithe agus na hoibreacha láithreáin gaolmhara go léir. |
| Location | Áth an Ghlugair, Bearna, Co. na Gaillimhe. |
| Planning Authority | Galway County Council |
| Planning Authority Reg. Ref. | 21514 |
| Applicant(s) | Sean O'Conchubhair |
| Type of Application | Permission |
| Planning Authority Decision | Refuse |
| Type of Appeal | First Party |
| Appellant(s) | Sean O'Conchubhair |
| Date of Site Inspection | 23 rd September 2021 |

Inspector

Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.253 hectares, is located in the centre of Bearna Village. The appeal site is occupied by an existing mixed use development located on the northern side of the R336. The existing mixed use development is made up of 2 no. blocks with a two-storey block with commercial/retail units at ground floor level and residential units above and a single-storey block made up of commercial units. These blocks are set back from the road with car parking between them and the public road. There is a vehicular access between the blocks and to the rear and is currently an open area in use as car parking and a service area for the commercial units. The north western and north eastern boundary of the site is defined by a wooden fence. Adjoining uses include a housing development consisting of two-storey dwellings (An Leac Lian) backing onto the north western boundary and the Twelve Hotel located to the north east.

2.0 Proposed Development

2.1. Permission is sought to for a three-storey apartment block consisting of 4 no. apartments (2 no. two bed units and 2 no. 3 bed units). The proposed development features a pitched roof (second floor within the roof space). The apartment block is located to the rear of an existing two-storey mixed use development (commercial and residential) is accessed between two existing structures

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on three reasons...

1. Having regard to the excessive scale of the proposed development on a restricted site and the lack of adequate vehicular circulation and parking provision, it is considered that the proposal would constitute and overdevelopment of the site, would be out of character with the existing pattern of development in the vicinity, would seriously injure the amenities of the area, including residential amenities of adjacent properties and the visual amenity of the area. The development would

therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the development footprint to the established built form and character of the area, it is considered that the design of the proposed development, in particular the building, scale and bulk would form a visually obtrusive feature in the local landscape and seriously injure the visual amenity of the area. The proposed development therefore would be contrary to Objective UD2 of the Bearna Plan and UHO 7 & 8 of the Galway County development plan and to the proper planning and sustainable development of the area.

3. The development footprint of the proposal is located within an identified as Constrained Land use in the Bearna Local Area Plan. Taking account of the scale of the proposed multiple residential development as proposed in conjunction with the ethos of said land use zoning associated with the subject site being restricted to minor development to existing building, the Planning Authority considers that if permitted, the development would constitute an incompatible form of development on an environmentally sensitive setting and as a consequence be contrary to the principle Objective LU 8 of the Bearna Local Area Plan and therefore would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (26/05/21): The proposed development was considered excessive in scale, inadequate in parking and circulation space, visually obtrusive and contrary to Development plan policy. Refusal was recommended based on the reasons outlined above.

3.2.2. Other Technical Reports

3.3. Prescribed Bodies

Udaras NaGaeltachta

- Sets out the role of Údarás na Gaeltachta and their overall objective to ensure that Irish remains the main communal language of the Gaeltacht for future generations.
- Outlines that statutory plans for the area also include policies aimed at saving the Irish language, as required by the Planning Act.
- The planning authority has a central role to play in developing and conserving the Irish language as part of the delivery of services and infrastructure in the Gaeltacht;
- The Irish language is under continued pressure with native families moving away and people from outside the area moving into the Gaeltacht areas and the planning authority has a role to play in addressing this;
- The Irish language is recognised as being of significance and strong in Bearna, and to ensure this continues practical measures to back the Irish community should be employed, protecting the importance of the language, while restricting growth in the use of the English language;
- The planning authority should ensure that signage as well as business names are in Irish, that Irish language is acknowledged and to the fore in the proposed development and that conditions are included to meet obligations under the Planning Act.

3.4. Third Party Observations

3.4.1 A number of submission were received from the following...

Susan Folan

An Leac Lian Management Company

Patrick McCabe

Ruairí Ó Néill

Frankie Leonard & Zara Lenihan, 19 An Leac Linn, Barna, Co. Galway.

The issue summarised can be summarised as follows...

- Inappropriate scale, character and visual impact.

- Inadequate separation from existing residential properties with overlooking. Overshadowing and overbearing impact.
- Lack of provision of communal open space.
- Failure to comply with Building Regulation in terms of apartment layout.
- Set an undesirable precedent.

4.0 Planning History

- 4.1 ABP-305124: Regularisation Fire Safety Certificate for retail unit which has been converted to a restaurant at Unit 1B.
- 4.2 18/1553: Permission granted at Unit 1B for changes to the restaurant previously approved (granted under PI. No. 17/1872) including replacement of parking in front of the premises with outdoor seating area, provision of additional surfacing parking at the rear of the site, construction of stairs and refuse storage to the rear of the building and permission for review of front elevation signage, together with the associated works and site services.
- 4.3 17/1872: Permission granted for a change of use of the ground floor, from retail to a sitting restaurant, change of use of first floor from ancillary retail area to restaurant storage area, additional surface parking at the rear of the site and for revised elevation signage, together with associated site works and services.

5.0 Policy Context

5.1. Development Plan

Bearna Local Area Plan 2015-2021. The appeal site is zoned Village Centre, VC. Objective LU1- Promote the development of the Village centre as an intensive, high quality, well-landscaped, appropriately scaled and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism,

enterprise, public and community uses that also provides a range of retail services, facilities and amenities to the local community and visitors to the village. The village centre shall remain the primary focus for retail and service activity within Bearna.

Objective LU8 - Constrained Land Use Zone (CL)

To facilitate the appropriate management and sustainable use of flood risk areas. This zoning limits new development, while recognising that existing development uses within these zones may require small scale development, as outlined below, over the life of the Bearna Plan, which would contribute towards the compact and sustainable urban development of the village. The underlying zoning or the existing permitted uses are deemed to be acceptable in principle for minor developments to existing buildings (such as small extensions to houses, most changes of use of existing buildings), which are unlikely to raise significant flooding issues, provided they do not obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances.

Development proposals within this zone shall be accompanied by a detailed Flood Risk Assessment, carried out in accordance with The Planning System and Flood Risk Assessment Guidelines & Circular PL 2/2014 (or as updated), which shall assess the risks of flooding associated with the proposed development.

Proposals shall only be considered where it is demonstrated to the satisfaction of the Planning Authority that they would not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities, or increase the risk of flooding to other locations.

The nature and design of structural and non-structural flood risk management measures required for development in such areas will also be required to be demonstrated, so as to ensure that flood hazard and risk will not be increased.

Measures proposed shall follow best practice in the management of health and safety for users and residents of the development.

Specifications for developments in flood vulnerable areas set out in this plan shall be complied with, as appropriate (Please also refer to DM Guidelines FL 1 of this plan)

Objective ED2 - Proliferation of Any Individual Uses Protect and enhance the vitality and viability of the village centre by ensuring that it remains the primary retail, commercial and mixed use centre in Bearna and prohibiting a proliferation of any individual use or other uses, which in the opinion of the Planning Authority does not contribute to the vitality and viability of village.

Objective UD2 - New Buildings Building heights, widths and material finishes shall be in keeping with the character and scale of existing development in the area and shall be appropriate to the locality, site context and building function. A maximum building height of two and half storeys will generally apply but reduced building heights will be required in visually vulnerable locations e.g. coastal side of the road. Increased building heights may be considered in exceptional circumstances where they contribute positively to the village character and design, subject to a high standard of urban design and have no adverse impacts on amenity.

Galway County Development Plan 2015-2021

Objective UHO 7 – High Quality/Mix and Sensitive Design Ensure that new developments are responsive to their site context and in keeping with the character, amenity, heritage, environment and landscape of the area. New development proposals will be required to complement the existing character of the town centre/area in terms of scale, height, massing, building line, housing mix, urban grain and definition and through high quality design and layout proposals for buildings and structures.

Objective UHO 8 – Urban Design Promote the use of sustainable urban design principles and approaches that will help to create high quality built and natural environments appropriate to the context and landscape setting of the specific area, having regard to the guidance contained in the Sustainable Residential Development in Urban Areas Guidelines 2009, the accompanying Urban Design Manual 2009 (or any updated version) and the Design Manual for Urban Roads & Streets (2013) (including any superseding document).

5.2. Natural Heritage Designations

5.2.1 None in the vicinity.

5.3. EIA Screening

5.3.1 The proposed development is of a class (Schedule 5, Part 2(10) of the Planning and Development Regulations, 2001 (as amended)) but substantially under the threshold of 500 units and the development is well below the threshold of urban development which would involve an area greater than 2 hectares (appeal site is 0.04965 hectares) in the case of a business district to trigger the requirement for submission of an EIAR and carrying out of EIA. Having regard to the nature of the site on lands zoned for urban development, the availability of public sewerage and water supply, the absence of features of ecological importance within the site, the nature of the adjoining land uses as residential, institutional and commercial. I conclude that there is no real likelihood of significant effects on the environment based on the nature, size and location of the proposed development. No EIAR is required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Planning Consultancy Services on behalf of Sean O'Conchubhair. The grounds of appeal are as follows...

- The proposal is consistent with national and regional policy in terms of provision of residential development in urban areas.
- The scale and design of the proposal is modest and would not be excessive or out of character at this location.
- The principle of accessibility of the rear of the site for vehicular traffic and parking has been accepted by the PA with a development permitted on such grounds. The proposal provides sufficient parking for the proposed development retains sufficient car parking associated with existing development at this location. The applicant/appellant has provided an

amended parking layout of considered necessary to eliminate certain vehicle manoeuvres.

- The proposal would not be overdevelopment of the site and the location is a village centre location.
- The location of the site and scale of development is such that it would not be highly visible in the surrounding area including along the coast road (R336) or have an adverse visual impact.
- The proposed development and the revised scheme comply with Objective UH07 of the County Development Plan.
- The proposal would not be contrary Objective UH08 of the County Development Plan.
- The appellant questions the classification of Constrained Land Use as a zoning objective.
- Should the Board consider that the provisions of Section 37(2) of the Planning Act apply the appellant notes the Objective LU8 and LU1 are conflicting objectives.
- Objective LU8 provides exception for developments which can demonstrate no adverse impact in terms of flood risk. The appellant has submitted Flood Risk Assessment demonstrating that the site and development is satisfactory in terms of flood risk and is within Flood Zone C.
- A revised design with a similar footprint but a reduced height and floor space has been submitted with the appeal for consideration if considered necessary.

6.2. Planning Authority Response

6.2.1 No response.

7.0 Assessment

7.1. Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Principle of the proposed development/Development Plan policy

Quality of residential development

Visual Amenity/Architectural Character/Height

Neighbouring residential amenity

Traffic/Car Parking

Flood Risk

7.2. Principle of the proposed development/Development Plan policy:

7.2.1 The appeal site is located in the centre of the village and to the rear of an existing mixed use commercial/residential development. The appeal site is a yard area to the rear with the area of the appeal site defined by a concrete apron used for some level of parking and servicing of the commercial units to the south of the site. There is parking area located to the west of the site. The appeal site is zoned VC-Village centre with apartments stated as being 'permitted in principle' under the land use zoning matrix of the Bearna LAP. On the land use zoning map for the LAP the part of the site (northern corner) is within a hatched area denoted as being 'Constrained Land Use'. This designation appears to be related to flood risk issues with the onus on any development proposal to demonstrate that they would not be subject to flood risk or exacerbate flood risk in the area. A part of the appeal response the applicant/appellant has submitted a flood risk report and such will be assessed in later section of this report.

7.3 Quality of residential development:

7.3.1 The proposal is for a three-storey apartment block consisting of 4 no. apartments (2 no. two bed units and 2 no. 3 bed units). The relevant guidance for quality of apartment units is the Sustainable Urban Housing: Design Standards for New Apartments 2020. In relation to minimum apartment size the requirement is 45sqm, 73sqm and 90sqm for 1, 2 and 3 bed apartment units respectively (SPPR3). All apartment units meet the standards set out under Appendix 1 of the guidelines in relation to room dimensions, aggregate living area, bedroom space and internal storage. The requirement in relation to private amenity space for 1, 2 and 3 bed units is 5sqm, 6/7sqm (3/4 person units) and 9sqm respectively. A minimum depth of 1.5

metres is required for balconies, in one useable length to meet the minimum floor area requirements under these guidelines. All of units are provided with a balcony and meet the minimum standards required under the guidelines.

7.3.2 In relation to aspect, the relevant guidelines standard states that “a minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate” (SPPR4). In this case the percentage of dual aspect apartments is 100%.

7.3.3 The proposal entails provision of an area of communal open space to the rear of the block (north east) with an area of 36sqm and the provision of bike storage shed and bin store. The level of provision of communal amenity space recommended is set out in Appendix 1. The requirement in relation to communal amenity space for 1, 2 and 3 bed units is 5sqm, 6/7sqm (3/4 person units) and 9sqm respectively. This the proposal is for 2 no. two bed units and 2 no. three bed units giving a total requirement of 32 sqm. The proposal meets the minimum standards recommended by the apartment guidelines.

7.4 Visual Amenity/Architectural Character/Height:

7.4.1 Permission was refused in part due to the design and scale of the proposal with it deemed to form a visually obtrusive feature in the local landscape and seriously injure the visual amenity of the area. The proposed development was deemed to be contrary to Objective UD2 of the Bearna Plan and UHO 7 & 8 of the Galway County Development Plan and to the proper planning and sustainable development of the area. The proposed development is a three-storey block with structure having the second floor level in the roof space, which is a pitched roof with a ridge height of 10.5m. The appeal site is located in the centre of the village and surrounded by existing structures mainly two-storey structures with pitched roofs. The proposed block is located to the rear of an existing two-storey block. I would be of the view that the proposed development is not going to be visible or prominent in the vicinity due to its positioning to the rear of an existing two-storey block and its village centre

location with structure similar in scale in the vicinity. I would note that the design and architectural character of the block is not of particularly strong architectural merit, but is a character of development that is not out of keeping with the prevailing architectural character in the area.

7.4.2 I would disagree with the assessment of the proposal as being visually obtrusive and would consider that the proposal would be unlikely be detrimental to the visual amenities of the area as it will not be visible in the surrounding area or from the public areas in the vicinity. The applicant/appellant has submitted a revised design that omits the second floor level and reduced the ridge height by 1m if deemed necessary. This alters the proposal to provide for 4 no. two bed units and also the revised proposal loses 2 no. car parking spaces. As outlined earlier I am of the view that the proposal is satisfactory in the context of design, scale and visual amenity and the revision to the design reducing the ridge height is not necessary.

7.5 Adjoining residential amenity:

7.5.1 In relation to adjoining uses the nearest adjoining uses include a two-storey block to the south east including commercial/retail units at ground floor level and apartment units at first floor level (with an open walkway along the elevation facing the site). To the northwest the site are two-storey dwellings that back onto the north western boundary of the site (An Leac Lian). To the north east of the site is a traffic circulation area associated with the Twelve Hotel.

7.5.2 In terms of overalls physical scale, the proposed block is similar in scale to existing development on adjoining sites, which is predominantly two-storeys in height. The development does feature a second floor level, however such is located within the roof space and the block has the appearance of a two-storey structure. The block is located to the south of the dwellings in An Leac Linn and is approximately 1.5m from the northern western boundary with 2 no. dwellings backing onto the boundary (appears to be a passageway behind these houses). I am satisfied that the scale of development and position relative to existing dwellings is acceptable in overall scale

and proximity and the pattern of development proposed would not be out of keeping in a town centre location such as this. The northern gable does not feature any windows with no issues concerning overlooking. There is a balcony proposed at first floor level that is at the corner of the development and does have side profile orientated towards the rear of the existing dwellings. This balcony features a 1.8m balustrade with opaque glazing to prevent any overlooking.

7.5.3 The block to the south features shop units at ground floor level and apartment units on the upper floor. The gable of the proposed development is 3.1m from the rear elevation of the existing block with it proposed to erect a 1.8m painted steel fence between the proposed and existing block. I would be of the view that the scale and proximity of the block to the existing block is satisfactory and would note that the existing apartments would appear have their main aspect to the south east. The balcony area on the front elevation on the southern corner also features 1.8m in ballustrade with opaque glazing.

7.5.4 I am satisfied that the overall scale, orientation and design of the proposed apartment block is such that the proposal would not have an overbearing physical scale or result in a significant degree of overlooking or overshadowing of adjoining properties. I would consider that the scale and layout of the development is satisfactory in the context of its town centre location. In this regard the proposal would be satisfactory in the context of adjoining amenities.

7.6 Traffic/Car Parking:

7.6.1 Permission was refused on the basis that the excessive scale of the proposed development on a restricted site and the lack of adequate vehicular circulation and parking provision. The appeal site is part of village centre development consisting mainly of commercial/retail development in the form of 2 no. blocks including a two-storey block with commercial on ground floor and residential above and a single-storey block of commercial units. There is a car park to the front of both existing block that is surfaced and clearly marked. The appeal site is behind the existing

twos-storey block with vehicular access between the two existing blocks. The area to the rear is not surfaced and is not clearly demarcated but is used as additional parking and provides access for service vehicles. The proposal would include providing new boundary treatment along the north western boundary (block wall) and marking out formal car parking spaces with 12 no. spaces provided in this area to the rear of the existing development.

7.6.2 The area to the rear of the site, which is to be used to house the apartment block has no formal layout. At present it is an unsurfaced area, which is being used for car parking, circulation and to service the rear elevation of the shops. The footprint of the apartment block is currently used for gas tanks, bin storage, parking and service access for the existing shop units. The proposal would entail placing a formal structure on this area with the provision of formal parking. It is noted that parking space no.s 26-31 are permitted spaces under the development granted under ref no. 18/553 with the provision of space no.s 32-37 to cater for the new development. The requirement under Development Plan policy for 4 no. apartment is 6 no. spaces, which is being met.

7.6.3 At the time of the site inspection it is apparent that the site, which is currently occupied by a mixed use development predominantly commercial in nature with shop units and restaurants and some residential development, is busy town centre location. The proposal for an additional apartment block on a portion of the site to the rear would generate additional traffic and turning movements. At present the parking area to the front does have a formal layout and is surfaced and delineated spaces provided. The area to rear is currently unsurfaced and does not feature any formal markings. Under ref no. 18/553 there is approval for spaces no.s 26-31 with the proposal providing for 6 further spaces in this area. It is apparent from the site visit that the area to the rear although not formally laid out in use for parking and servicing the existing shop units and I would have concerns that the provision of the additional block could have an adverse impact in terms of reduced space on site for circulation and to cater for service vehicles, which would access to the rear elevation of the existing shop units. The proposed development while providing a more formal

layout, which is a positive aspect, would add an additional use and traffic generator with no clear provision on site of a loading area or space for service vehicles. I would consider that the proposed development would constitute overdevelopment of the site and fails to deal with the provision for adequate loading facilities for service vehicles that are currently generated. I would also be of the view that the reduced level of circulation taken in conjunction with the additional turning movements generated would give rise to poor quality environment for future residents and would be detrimental to residential amenity of future occupants at this location.

7.7 Flood Risk:

- 7.7.1 The development was refused on the basis it is in an area identified as Constrained Land use in the Bearna Local Area Plan. This designation appears to be linked with flood risk and advocates minor development proposals unless it can be demonstrated that proposals are not at risk of flooding exacerbating flood risk. In response to the appeal the applicant/appellant submitted a report, Screening Assessment for flood risk. On the flood management map in the Breana Plan the northern corner of the site is in Indicative Flood Zone A with the rest of the site within Indicative Flood Zone C. the submitted report outlines historical flood incidences identifying that there is a history of fluvial flooding in the area from the Trusky Stream. The report identified that existing flood mapping for the area is based on incomplete information and there is no CFRAM mapping data for the area yet. The report indicates that the site is not at risk from coastal flooding due to its level being 4m above the estimated 1000 year tidal storm surge flood level. The report outlines the characteristics of the Trusky Stream and the storm sewer network. The report details estimate flow in the stream and estimate flood level at the Twelve Hotel from the stream. The report details estimated flood levels based on 100year and 1000 year calculations. The report states that site has a level well above the 100 year flood level (1.25m above) and that the entire site is in Flood Zone C and suitable for residential development.
- 7.7.2 I am satisfied based on the information provided by the applicant, which includes a report that appears to robust in terms of methodology and conclusions that the appeal site is likely to be in Flood Zone C. On this basis I do not consider it would be

appropriate to preclude development of the site on the basis of Objective LU8 as such indicates that development will be considered where the applicant demonstrates that such would not be subject to flood risk. I am satisfied that such is the case in this

8.0 Appropriate Assessment

8.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest 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.

9.0 Recommendation

9.1. I recommend refusal based on the following reason....

10.0 Reasons and Considerations

1. The proposed development would constitute overdevelopment of the site and fails to deal with the provision for adequate loading facilities for service vehicles that are currently generated on site. I would also be of the view that the reduced level of circulation taken in conjunction with the additional turning movements generated in this location would give rise to poor quality environment for future residents and would be injurious to residential amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

05th November 2021