



An  
Bord  
Pleanála

## Inspector's Report ABP-310602-21

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<b>Development</b>	Partially demolish and convert community centre to 7 units (2 apartments, 5 houses). The works are to be carried out to protected structure CV44018.
<b>Location</b>	Holborn Hill / Barrack Lane, Belturbet, Co Cavan.
<b>Planning Authority</b>	Cavan County Council
<b>Planning Authority Reg. Ref.</b>	20602
<b>Applicant(s)</b>	Erne Palais Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Brian McDermott.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	29 <sup>th</sup> September 2021.
<b>Inspector</b>	Barry O'Donnell

## 1.0 Site Location and Description

- 1.1. The subject site consists of the former Erne Palais Ballroom, which is situated adjacent to the junction of Holborn Hill and Barrack Lane, towards the east end of Belturbet town centre. The site has a stated area of 0.063ha.
- 1.2. The existing building on the site is a Protected Structure. It is a prominent feature in views from the south and east within the town. It lay derelict for a time and was extensively damaged in a fire, which caused significant damage to the structure and interior. The application documents state that the rear portion of the building has been damaged beyond repair.
- 1.3. The building, which is also listed on the National Inventory of Architectural Heritage, is described within the NIAH appraisal thus: -  
  
*'Its delightful curved gable front is typical of cinemas of its time and makes an eye-catching contrast to the predominantly rectilinear facades found elsewhere in the town. It is a reminder of a time when the cinema played an important social role in local communities, before the widescale ownership of televisions.'*
- 1.3.1. The site is in an area of mixed commercial and residential uses and the River Erne routes approx. 125m to the north. Adjacent buildings are primarily residential in nature, with a mix of traditional and contemporary typologies in evidence.

## 2.0 Proposed Development

- 2.1. The development entailed within the public notices comprised: -
  - Partial demolition and conversion of existing community centre (formerly Erne Ballroom/Palais & protected structure) to 2 No. 1-bed apartments, retaining the front façade of the building
  - Construction of 3 No. 2-storey, 2-bed terraced houses
  - Construction of 2 No. 2-bed terraced bungalows
  - Connection to public services and associated site works
- 2.1.1. Amendments to the development have been incorporated as part of the first party response to the appeal, in the form of the provision of private open space for both

apartments and the provision of bin storage areas for both apartments. Additional drawing numbers PL17-199-03, PL17-199-02 have been provided.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. The Planning Authority granted permission on 8<sup>th</sup> June 2021, subject to 13 No. conditions.

- Condition No. 4 required details of materials, colours and textures of external finishes should be agreed with the Planning Authority and that external windows and doors on the front façade should be solid timber or other material as agreed. The condition specified that these windows and doors should not be uPVC materials.
- Condition No. 8 required that the set down area should be marked with thermoplastic road marking materials, designating parking bays, circulation areas and areas to be kept clear of parking.

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

3.2.1. Planning Reports dated 22<sup>nd</sup> February 2021 and 4<sup>th</sup> June 2021 have been provided. The first report set out that the development complies with the town core zoning and that the scale and layout of housing was in-keeping with relevant standards within national guidelines and the development plan. The report outlined that parking provision was considered to be acceptable, in view of the site's location and that reduced private open spaces were acceptable, in view of site constraints and the proximity of Morrissey Park. The report recommended that additional information be sought in relation to a number of aspects of the development, in addition to the issues identified by other technical consultees, as follows: (1) A construction & demolition waste management plan was requested, (2) a structural engineer's report was requested, to highlight measures necessary to ensure the integrity of the remaining part of the building is protected and (3) details of external materials to be used.

- 3.2.2. A further item of additional information was requested by the Planning Authority's Senior Planner, which requested the applicant to give further consideration to internal storage and external amenity spaces as part of the development.
- 3.2.3. The second report followed receipt of the AI response and followed the submission of revised public notices and a further period of public consultation. The report summarised and responded to the responses to each of the further information request items and stated that issues raised within the AI request had been satisfactorily addressed. The report recommended that permission should be granted, subject to 13 No. conditions, which are consistent with those attached to the Planning Authority's decision.
- 3.2.4. A further note was also provided by the Planning Authority's Senior Planner, which endorsed the recommendation to grant permission.
- 3.2.5. Other Technical Reports

A **Municipal District Engineer** report dated 18<sup>th</sup> February 2021 has been provided, which advised that although the site may not be capable of providing parking, there is ample on-street parking in the area. Additional information was requested in the following areas: (1) the applicant was requested to provide a set-down along the east side of the building, (2) proposed paving blocks were requested to match those used in adjacent pavement construction and (3) the applicant was requested to assess the feasibility of relocating signage from the paved area at the south side of the main building, to an alternative location. The Planning Report dated 4<sup>th</sup> June 2021 refers to a further submission from the District Engineer, dated 4<sup>th</sup> June 2021, but this has not been provided as part of the appeal documents.

### 3.3. **Prescribed Bodies**

- 3.3.1. Irish Water made submission a dated 16<sup>th</sup> January 2021, requesting that the applicant should be required to submit a pre-connection enquiry, to determine the feasibility of connection to the public water/wastewater infrastructure.
- 3.3.2. The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media made a submission dated 9<sup>th</sup> February 2021, which recommended a condition requiring archaeological monitoring.

### 3.4. Third Party Observations

3.4.1. A single third party submission was received, the issues raised within which can be summarised as follows: -

- Concerns were expressed regarding traffic congestion and road safety.
- The area was considered to be overdeveloped with existing apartment developments in the area not fully occupied.
- There is a shortage of parking spaces in the area and the development was considered likely to extend. Parking within the development site is considered to be inadequate.
- It was considered inappropriate to demolish all of the existing protected structure building, except for the front façade, until a survey has been carried out to determine how much of the building can be retained.
- The proposed design was considered to be out of character.
- Wheelchair / disabled access to the development was questioned.
- It was suggested that it would be better to develop the site for community use, rather than housing.

3.4.2. A further submission was received following the submission of revised public notices, the issues raised within which can be summarised as follows: -

- The proposed set down area was considered inadequate for the scale of development proposed.
- The proposed alternative signage location was considered inappropriate.
- It was questioned whether a survey of existing site characteristics had been undertaken, to ensure that surface run-off would create an overflow.
- Proposed parking provision and amenity spaces were considered to be inadequate.
- It was queried whether the external walls and stairwell should be preserved.

## 4.0 Planning History

- 04/2437 - Permission granted for demolition of existing derelict building known as the Palais Hall and to erect three storey building over basement carpark with access of Barrack Lane, to accommodate a shop unit and 11 no. apartments.
- 03/1264 - Permission granted for change of use of community centre to retail unit, provide new shop front/signage and internal alterations to include the provision of a new first floor and alterations to elevations

## 5.0 Policy Context

### 5.1. Ministerial Guidelines

#### Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

- 5.1.1. The Guidelines define a smaller town or village as having a population ranging from 400 to 5,000 persons. In these locations, Section 6.3(a) and (b) state that development should be plan-led and that new development should contribute to a compact urban form. Section 6.3(a) advises that increased residential densities can be acceptable as long as they contribute to the enhancement of the town or village form by reinforcing the street pattern or assisting in the redevelopment of backlands. The section acknowledges that special care is required, to protect the architectural and environmental qualities of these towns and villages.

#### Architectural Heritage Protection Guidelines for Planning Authorities (2011)

- 5.1.2. The Guidelines provide guidance to assist in the protection of architectural heritage, when a protected structure, proposed protected structure or the exterior of a building within an ACA is the subject of development proposals.
- 5.1.3. Of relevance to this appeal, chapter 16 deals with '*making good disaster damage*'. It includes guidance in the case of mitigating loss and salvaging materials, partial loss, total loss, reinstatement of interiors

## 5.2. National Planning Framework

- 5.2.1. National Policy Objective 4: *‘Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.’*
- 5.2.2. National Policy Objective 6: *‘Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.’*
- 5.2.3. National Policy Objective 11: *‘In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.’*
- 5.2.4. National Policy Objective 17: *‘Enhance, integrate and protect the special physical, social, economic and cultural value of built heritage assets through appropriate and sensitive use now and for future generations.’*
- 5.2.5. National Policy Objective 60: *‘Conserve and enhance the rich qualities of natural and cultural heritage of Ireland in a manner appropriate to their significance.’*

## 5.3. Development Plan

- 5.3.1. Belturbet is identified as a medium sized town by the Cavan County Development Plan 2014-2020. The town centre is identified as consisting of a linear main street, with smaller narrow streets radiating from it in a grid-like fashion. The town is acknowledged as having experienced dereliction and under-use and development of the town core is promoted.
- 5.3.2. The site is zoned ‘Town Core’ under the development plan, under which residential development is permitted in principle. The zoning applies to much of the Town Centre and is accompanied by a broad objective:  
*‘Establishes the extent of the town core and identifies the most suitable location for a mix of retail, commercial, residential, cultural and social uses. The overall aim is to*

*strengthen the vitality and viability of the town core by actively facilitating the reuse of existing buildings, as well as, brownfield and Greenfield sites. The emphasis will be on high quality urban design which does not detract from the existing urban framework.'*

5.3.3. The zoning map identifies that Specific Objective 4 applies to the group of buildings on the north side of Holborn Hill. It seeks '*To encourage backland development to the rear of Holborn Hill creating new frontages using the existing access from Barrack Lane, such developments will have to be sympathetic to the proximity of the river.'*

5.3.4. Chapter 10 provides development management standards and section 10.3 deals with residential development in urban areas.

5.3.5. Relevant policies include: -

CSP3: To guide development of towns in a sequential manner, outwards from the core area to maximise the use of existing and future infrastructure provision, promote sustainable development and make better use of underutilised land.

Town Core: It is a policy of Cavan County Council to;

- Facilitate and encourage the coherent and integrated renewal of derelict/unused/underutilised sites and buildings, where appropriate.
- Strengthen and support the development of retail and service provision within Town Cores.
- Require all new retail development proposals to demonstrate compliance with the DECLG documents 'Retail Planning Guidelines for Planning Authorities, 2012' and the companion document 'Retail Design Manual, 2012'
- Encourage and facilitate the co-ordinated development of backlands in towns and villages, in a way that is sympathetic to the existing streetscape and character of the town or village
- Restrict the location of retail development outside the Town Cores of large and medium sized towns unless in strict compliance with the DECLG documents 'Retail Planning Guidelines for Planning Authorities, 2012' and the companion document 'Retail Design Manual, 2012' can be demonstrated.



- Retail and commercial development shall be in line with the policies and objectives of Chapter 3; Economic Development

BHP1: To protect, preserve and enhance the architectural heritage of County Cavan by taking into consideration the advice contained in the 'Architectural Protection, Guidelines for Planning Authorities', 2004. To adhere to the standards advocated in the 'Principles of Conservation' published by the Department of the Environment, Heritage and Local Government in undertaking works on elements of the built heritage and to protect all structures or parts of structures, where appropriate, that are of special architectural, historical, archaeological, artistic, cultural, scientific social or technical interest, which are included in the RPS.

BHP2: To encourage the sympathetic retention, reuse and rehabilitation of Protected Structures and their settings. The Planning Authority will require that all works to Protected Structures be carried out in accordance with conservation guidelines and best practice and that the special interest, character and setting of the building be protected.

BHP3: To encourage the continued use of protected structures and their curtilage and to promote their sensitive adoption to accommodate modern requirements.

PIO36: Ensure that Road Safety is an integral part of all new planning applications and to ensure that formal Road Safety Audits are included in Planning Applications, as appropriate in line with requirements of NRA, DMRB HD 19/12 'Road Safety Audit.'

PIO44: New developments shall provide adequate provision within the site for servicing the proposal, parking and for the safe manoeuvring of vehicles and pedestrians associated with it. New developments shall comply with the parking and servicing standards set out in Table 4.7.

Specific Objective 3: To ensure the protection of 'Erne Bridge' and all sites of archaeological, cultural and/or historic value.

- 5.3.6. The subject building is identified as a protected structure on the RPS, (Ref. No. CV44018), identified as the Erne Ballroom.

## 5.4. Natural Heritage Designations

- 5.4.1. The subject site is not located within or adjacent to any designated European Site. The Lough Oughter and Associated Lough SAC (Site Code 000007) lies approx. 125m north.

## 5.5. EIA Screening

- 5.5.1. The proposed development falls within the categories of '*Infrastructural Projects*', under Schedule 5, Part 2 of the Planning and Development Regulations 2001-2020, where mandatory EIA is required in the following circumstances:

*10(b) (i) Construction of more than 500 dwelling units.*

*(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.*

- 5.5.2. The subject development comprises partial demolition and conversion of an existing community centre building, to provide 7 residential units, on a site with a stated area of 0.063ha. The proposed development falls well below the development threshold and mandatory EIA is therefore not required.
- 5.5.3. In respect of sub-threshold EIA, having regard to the limited nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for sub-threshold 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 appeal can be summarised as follows: -
- Physical and cultural heritage issues

- The building proposed for partial demolition is part of the cultural heritage of the community and its destruction should be a last resort. The local community should also have a say in its fate.
- The Erne Palais is a significant built heritage asset and is of unusual design. The proposal has been developed without an understanding of what heritage is, or what it means. The architectural impact assessment (AIA) provided as part of the application is inadequate.
- Under the Planning and Development Act, 2000, a structure included on the record of protected structures includes its interior, the land in its curtilage, other structures on that land and their interiors and all fixtures and features forming part of the interior and exterior of the structure on any structure on the grounds attached to it. The heritage value is the entire fabric of the building and its value cannot be preserved by simply retaining a façade.
- Issue is taken with the statement within the AIA, that the main architectural features of the building are on the front façade. The eastern elevation includes a rare set of stone steps designed as a fire escape from the old cinema and there are other features such as unusually shaped windows on this elevation. A survey of surviving elements of the building would uncover further elements which relate to its former uses.
- Issue is also taken with the statement within the AIA, that the architectural integrity of the protected structure will not be materially affected by the works. Anything that destroys historic features also destroys its architectural integrity.
- Section 6.8.15 of the Architectural Heritage Protection Guidelines states that where a protected structure has suffered fire or other accidental damage and substantial demolition is necessary, the elements that contribute to its special interest that have survived should be retained in any reconstruction or repair.
- Reference is also made to Sections 6.8.5 and 6.8.17 of the Guidelines, which discuss the issue of façade retention in redevelopment situations and also the impact of rear extensions on other elements of the fabric of protected structures.
- Site selection / economic analysis

- No economic analysis was provided, which would prove that the site is uneconomic for uses other than housing.
- No site selection analysis was provided, to explain why the protected structure must be sacrificed when there are other sites within the town.
- The Heritage Guidelines are clear, that demolition should be a last resort, but no consideration has been given to alternatives.
- It is also questioned why the Planning Authority has not used its powers under the Act, to require the site owner to repair the building.
- Traffic and parking
  - The Planning Authority did not adequately consider road safety and traffic generation aspects of the development. For example, an adjacent recreation area is stated as being sufficient to meet the needs of future residents but it is on the opposite side of the junction and there are potential safety risks for pedestrians. No mitigation measures are proposed to overcome this issue.
  - The lack of parking provision on the site is evidence of overdevelopment.
  - The set down area is too small for the development.
- Overdevelopment
  - Overdevelopment is a significant issue for the site and is in conflict with policies SC 01 and PR 01 of the new draft county development plan. objective PI044 is also referenced, which refers to parking provision.
- Design
  - The proposed design is not of a high standard and incorporates elements which are out of character, such as the recess on the east elevation, timber cladding, aluminium roof and porches.
- Other Issues
  - The development includes relocation of existing signage to a location where there is a monument. The provision of signage in this location will impede access to the monument.

- It is questioned whether any assessment has been undertaken, to confirm that surface water drainage will not present any overflow risks in the town
- The development is likely to result in a poor quality of life for future residents, with reference to the absence of recreation space and the likelihood of noise and fumes from traffic.
- Lack of housing need
  - No justification has been put forward, as to the need for housing in the area. There is no local demand for housing. Reference is made to tables 9 and 14.3 of the development plan, which provide an indication of vacancy rates and population decline in the area. Figures in the emerging development indicate further population decline.
  - A housing target of 173 units over the period to 2028 suggests that the Council does not envisage significant growth for a number of years.
- Planning Policy Background
  - The development is non-compliant with policies PIO44 (parking), PIO36 (road safety), BHP1 (architectural heritage), BHP2 (protected structures) and BH07 (historic buildings) of the development. Reference is also made to non-compliance with Section 10.3.2 and specific objective 3.
  - The development is also non-compliant with policies within the emerging county development plan.
  - The development is in conflict with national policy objectives 4, 17 and 60 of the NPF.

## 6.2. Applicant Response

6.2.1. A first party appeal response was submitted on 16<sup>th</sup> July 2021, which summarises the key aspects of the proposed development and responds to the appeal. The points of appeal response can be summarised as follows: -

- Physical and cultural heritage
  - The proposal represents the most pragmatic design response given the structural damage to the building fabric, which is beyond repair.

- The appeal fails to recognise the fire which has led to the building's historic fabric being lost. Section 16.3 of the Architectural Heritage Protection Guidelines is applicable in this instance, where it relates to 'rebuilding after total loss'.
  - Pictures are provided to demonstrate the extent of damage to the building
  - A submission was made to the Planning Authority requesting that the building should be removed from the RPS.
- Site selection / economic analysis
  - The proposed development is consistent with both the zoning objective and specific objectives for the lands.
  - There is no requirement for an economic analysis to justify a residential development.
  - The general thrust of national planning policy seeks to achieve consolidation and increased levels of density and apartment living in central locations. National Policy Objectives 3A, 4 and 11 of the NPF are referenced, as are *Rebuilding Ireland*, the *Urban Development and Building Height Guidelines* and the *Sustainable Urban Housing: Design Standards for New Apartments* guidelines.
- Traffic
  - No changes are proposed to the road layout or access to the lands.
  - The Planning Authority's Roads Engineer is satisfied that no road safety issues arise.
  - A road safety audit is required only in scenarios which require new road construction of amendments. TII guidance states that proposals such as this, which involve re-paving, do not require an RSA.
- Parking
  - The site is in the town centre and the approach taken to parking is to utilise adjacent public parking. This is consistent with NPO 13 of the NPF, which advises that car parking should be determined based on performance criteria.

- The Planning Authority was satisfied with the approach taken to parking.
- Overdevelopment
  - The site is currently fully occupied by the existing building. The proposed development represents a like-for-like site coverage ratio.
  - The development plan does not contain any policy or restriction relating to site coverage.
  - The draft development plan 2022-2028 is not a material consideration and is not to be relied on for assessment until it is formally adopted. The proposal is acceptable on the basis of the existing site context and current development plan.
- Design
  - The proposal represents the best design solution for the site., incorporating a design and materials palette which are of their time.
  - The development avoids the provision of a monolith and is in-keeping with the established terraced form of the town centre.
- Other design issues
  - Proposed relocation of amenity signage has been deemed to be acceptable by the Planning Authority.
  - Surface water is proposed to drain to the public network and this has been deemed to be acceptable by the Planning Authority.
- Poor quality of life
  - All units meet or exceed minimum internal layout requirements. Residents will have a high quality living environment.
- Lack of housing need
  - The principle of this development is consistent with the objectives of the core strategy and the wider planning context set by the RSES and NPF.
  - References to population decline within the development plan, referenced by the appellant, are 10 years out of date at this point.

- The appellant fails to recognise that planning policy seeks to revitalise town centre lands and encourage town centre living.
- The revitalisation of a town centre site is self-explanatory and is to be welcomed, as it will support and compliment other activities in the town.

6.2.2. The submission also outlines that some amendments to the development have been incorporated, in the form of the provision of private open space for both apartments and the provision of bin storage areas for both apartments. Additional drawing numbers PL17-199-03, PL17-199-02 have been provided.

### 6.3. Planning Authority Response

6.3.1. A submission was received on 16<sup>th</sup> July 2021, which outlines that the issues raised within the appeal were addressed during its evaluation of the proposed development. The Board is requested to uphold its decision to grant permission.

### 6.4. Further Responses

- 6.4.1. The appellant made a further submission on 6<sup>th</sup> August 2021 in response to the first party appeal submission, the contents of which can be summarised as follows: -
- Proposed amendments to the development are not adequate to address the main appellant concerns.
  - The applicant cannot rely on a previous grant of permission for redevelopment of the site as justification for the current substandard development.
  - Redevelopment of the site for residential purposes is only one way of delivering the jobs and activity that national planning policy seeks. Alternative uses such as employment or leisure would deliver more activity.
  - References to the NPF advocating for flexible application of planning standards are not appropriate to a protected structure. The redevelopment of this site needs to strike a balance between urban renewal and the protection of a local landmark.
  - The applicability of *Rebuilding Ireland* and the RSES to this development are questioned.
  - Section 16.3 of the Architectural Heritage Protection Guidelines is not applicable in this instance as substantial element of the building survives. If it did, the



building would first need to be removed from the RPS and no decision has been made.

- The development proposes demolition of the eastern elevation, including the ticket window and steps. This is contrary to good conservation practice. A damaged building requires flexibility in finding a new use but this does not mean that key surviving features should be demolished.
- The density of development on the site is unjustified. It is not appropriate to treat the replacement of the existing building with new housing as like-for-like. The site is overdeveloped when viewed in light of relevant policies.
- The development may be inaccessible to emergency vehicles.
- The applicant's references to the Urban Design Manual's design criteria and not appropriate to a protected structure building and a number of aspects of the justification are rebutted.
- Underprovision of parking is due to the site being overdeveloped. On-street parking is on the other side of the junction, which is itself a dangerous junction. The proposed set down is too small for the development and no provision has been made for elderly or disabled drivers.
- Regarding site selection / economic analysis issues, it is unthinkable that redevelopment could take place without consideration of alternative uses. The scheme is premature pending such analysis.
- It is incorrect of the applicant to state that emerging policies are not relevant. They are relevant, albeit they are to be given less weight than current policies.
- References to compliance with applicable planning standards do not ensure that a high quality living environment will be provided.
- The applicant has not adequately justified the need for additional housing. It is restated that there is little need for housing in Belturbet.

6.4.2. The Planning Authority also made a further submission on 13<sup>th</sup> August 2021, the contents of which can be summarised as follows: -

- The amendments proposed as part of the appeal response are minor and will serve to enhance the development.

- The proposed development, which is a redevelopment within the town core and which has access to public access will serve to enhance the area.
- The Board is requested to uphold its decision to grant permission.

## 6.5. Prescribed Bodies

6.5.1. The appeal was circulated to The Heritage Council and An Taisce. No responding submissions were received.

## 7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal in detail, the main planning issues in the assessment of the appeal are as follows:

- Principle of development;
- Built heritage;
- Residential amenity;
- Road safety and parking;
- Other issues;
- Appropriate assessment.

## 7.2. Principle of Development

7.2.1. The subject site is located within the Town Core of Belturbet, a Tier 3 'Medium Sized Town' as identified within the development plan's Core Strategy. The Core Strategy provides an allocation of planned population growth to Belturbet, over its lifetime.

7.2.2. The appellant has questioned the need for additional housing in Belturbet and also states that site selection / economic analysis should have been provided, to demonstrate that there were no other better-suited sites within the town, which could accommodate this residential development.

7.2.3. I am satisfied that the proposed development is in accordance with the zoning objective and development plan core strategy and is also in accordance with the thrust of National Policy Objectives 6 and 11 of the NPF, which together seek to encourage more people and activity within town centres.

### 7.3. Built heritage

- 7.3.1. The subject building is a Protected Structure under the development plan, RPS No. CV44018. The Building is also identified on the National Inventory of Architectural Heritage (Reg. No. 40307010). The NIAH appraisal describes the building thus: -
- 'A large building situated at a strategic corner of Holborn Hill and Deanery Street, the former Palais Cinema occupies a prominent site in the urban landscape. Its delightful curved gable front is typical of cinemas of its time and makes an eye-catching contrast to the predominantly rectilinear facades found elsewhere in the town.'*
- 7.3.2. It was evident at the time of my inspection that the building has been significantly damaged, which according to the applicant is due to a fire which occurred in 2018. I note that the AHIA submitted with the application also states that the rear portion of the building has been damaged beyond repair.
- 7.3.3. The development seeks to retain the front façade of the existing building, with all other surviving elements demolished and replaced by the proposed housing. The front façade would act as the point of entry to 2 No. apartment units.
- 7.3.4. The Architectural Heritage Impact Assessment submitted with the application states that the applicant has attempted to reduce the impact of the proposed works by retaining the form, materials and character of the structure as much as possible and that the main architectural features of the building are on the front façade. I note that the Planning Authority accepted the findings of the AHIA.
- 7.3.5. The appellant states that the proposed development is contrary to good conservation practice and that it is unjustified, with reference to the Architectural Heritage Protection Guidelines. The appellant further asserts that there are substantial surviving elements, including the former ticket window and the external steps, which ought to be retained, since they are part of the building's history and form part of its fabric.
- 7.3.6. The appellant cites Sections 6.8.5 and 6.8.17 of the Architectural Heritage Protection Guidelines, which together deal with extensions to the rear of protected structures and façade retention, and which is considered to be pertinent to the appeal. On the other hand, the applicant cites Section 16.3 as being pertinent, where it deals with rebuilding after total loss.

- 7.3.7. I have given consideration to advice of the Guidelines, together with the information provided to me as part of the appeal, and I consider that Section 16.4 is pertinent to this appeal. This section provides detailed guidance in respect of partial loss of a protected structure. It states that in such circumstances: -
- ‘A judgement will need to be formed by the planning authority as to what constituted the special interest of the structure and to what extent that special interest has been compromised by the damage... The assessment will need to consider the type and extent of the damage and the importance of the damaged portion to the quality of the whole.’*
- 7.3.8. The RPS record for the existing building does not provide additional details regarding the features of special interest but the NIAH appraisal describes the building in detail, in particular its front façade. Having visited the site and having considered both the RPS and NIAH records I am satisfied that the front façade is the building’s primary feature of architectural interest.
- 7.3.9. I note the appellant’s submission that the external steps and ticket window are important parts of the building’s character and fabric. The applicant states that the rear part of the building, which contains the steps and ticket window, is damaged beyond repair and has provided photographs which demonstrate that the building has been effectively destroyed internally. I also note the applicant states that a submission has been made to the Planning Authority, to have the building removed from the RPS, as part of public consultation on the emerging development plan 2022-2028.
- 7.3.10. In view of the extent of fire damage to the building and the fact that the proposed redevelopment would secure retention and restoration of the primary feature of architectural interest, I conclude that the applicant’s approach to the retention of built heritage on the site accords with the recommendations of the Architectural Heritage Protection Guidelines and is, on balance, acceptable.
- 7.3.11. I consider the contemporary design of the development, which incorporates large window openings, a mixed materials palette and stepped ridge lines, is appropriate. The contemporary design and treatment are of their time and are, in my view, a complimentary addition to the retained front façade and one which will allow the feature of architectural interest to retain its prominence.

#### 7.4. Residential Amenity

- 7.4.1. The development includes 2 No. 1-bed apartments and 5 No. 2-bed houses. No housing quality assessment was provided with the application, to outline internal layout performance in relation to the minimum requirements of the 2020 apartment guidelines and the development plan, but I have nevertheless given consideration to the layout of each unit.

##### Apartments

- 7.4.2. The 1-bed apartments each have a stated area of 56sqm. I am satisfied that the overall size of the units and the internal layout meets or exceeds the minimum requirements of the apartment guidelines.
- 7.4.3. Private open spaces for apartments are identified as being provided to the front and rear of the building, at ground floor level to the front and at first floor level to the rear. The ground floor amenity space will in practice provide no privacy for the future occupiers, unless it is enclosed to a high level but I consider such an approach would be inappropriate as it would have an undue visual impact. I am also concerned that the rear-projecting balcony at first floor level would have an undue impact on the view and setting of the retained front façade of the protected structure. Section 3.39 of the apartment guidelines provides flexibility in respect of private open requirements, for refurbishment schemes and urban infill schemes on sites up to 0.25ha. I consider there that the circumstances of this development call for such flexibility and, in view of the proximity of the site to the town centre and other public open space and recreational facilities, I consider it is reasonable to allow for the non-provision of balconies for the proposed apartments. This can be controlled by condition.

##### Houses

- 7.4.4. The 2-bed houses have stated areas of 74sqm (2-storey houses) and 71sqm (bungalows) and the applicant states that each has been designed in conjunction with guidance contained within the *Quality Housing for Sustainable Communities* guidelines. Objective HO2 of the development plan requires new housing proposals to comply with these guidelines.

- 7.4.5. Having reviewed the floor plan drawings, I note that the houses each accord with the target space provision and room sizes for 2-bed houses.
- 7.4.6. Private open spaces are provided to the rear of each of the houses, ranging in size between 6.3sqm and 12.9sqm. The garden sizes are each very small and are likely to provide functional storage space rather than recreational usage, however; similar to the apartment component, I consider there that the circumstances of this development call for flexibility and, in view of the proximity of the site to the town centre and other public open space and recreational facilities, the proposed open spaces are acceptable. I note that the Planning Authority did not object to this aspect of the development.

#### Daylight/sunlight

- 7.4.7. The development plan does not contain any specific policy requirement in respect of access to daylight and sunlight within proposed housing.
- 7.4.8. Section 3.2 of the *Urban Development and Building Heights Guidelines for Planning Authorities* (DHPLG, 2018) states that, when considering building heights, appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's *'Site Layout Planning for Daylight and Sunlight'* (2nd edition, 2011) or BS 8206-2: 2008 – *'Lighting for Buildings – Part 2: Code of Practice for Daylighting'*. The Guidelines go on to state that: -
- 'Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives.'*
- 7.4.9. Section 6.6 of the apartment guidelines also state that planning authorities should have regard to these BRE or BS standards.
- 7.4.10. I note that an updated British Standard (BS EN 17037:2018 *'Daylight in Buildings'*), was published in May 2019, to replace the 2008 BS, but this updated guidance does not have a material bearing on the outcome of the assessment and the relevant

guidance documents remain those referred to in the *Urban Development and Building Heights Guidelines*.

- 7.4.11. In relation to the BRE 209 guidance, with reference to BS8206 – Part 2, sets out minimum values for average daylight factor (ADF) that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms, or where a room has a dual purpose the higher ADF value is recommended. ADF is the ratio of the light level inside a structure to the light level outside of structure, expressed as a percentage. Section 2.1.14 outlines that non-daylit internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well-daylit living room. The guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout, although it states that where a room serves a dual purpose the higher ADF value should be applied. The BRE guidance is intended to be applied flexibly, and is only one consideration in apartment/house design. For apartments, or higher density urban schemes, an ADF of 1.5% is considered to be a reasonable target where compensatory design features such as balconies, aspect, outlook, etc. are factored in. In this instance, as the scheme is not particularly dense and of lower heights, an ADF of 2% is considered to be a reasonable target.
- 7.4.12. No daylight and sunlight assessment report was submitted with the application, so I have not been able to confirm that the relevant standards within both the BRE and BS guidance have been achieved. Notwithstanding, I have given consideration to the issue of sunlight and daylight within proposed apartments, in the context of guidance contained within both the BRE and BS guidance.
- 7.4.13. The apartment units contain combined kitchen/living/dining areas, which are at the front of the building. There is substantial glazing provided on the front elevation of both units and both also contain secondary glazing, on the south-west elevation. The bedroom for both units is on the south elevation and both are provided with substantial glazing.
- 7.4.14. The 2-storey houses contain front-facing living rooms and rear-facing kitchens, whilst the bungalows contain front-facing combined kitchen/living/dining areas. Each of

these rooms is provided with substantial glazing. The bedrooms for each of the houses are south-facing.

7.4.15. Notwithstanding empirical evidence to support compliance with the BRE/BS recommended targets, having regard to the level of separation between the development and adjacent buildings, together with the proposal's limited height and the orientation of units, I am satisfied that all units will receive adequate daylight and sunlight levels.

**7.4.16. Road Safety and Parking**

7.4.17. The development incorporates no on-site parking, instead relying on adjacent public parking areas. At the additional information stage, the proposed site layout was amended to incorporate a setdown area adjacent to Morrissey Park.

7.4.18. The Planning Authority's Municipal District Engineer's report expressed the view that there is ample on-street parking in the area and that parking is not considered to be an issue in the area. This view is reflected within the Planning Report, which considered the non-provision of parking to be acceptable, in view of the site's location and proximity to public parking.

7.4.19. The appellant states that the non-provision of parking on the site is an indicator of overdevelopment and also states that the use of on-street parking presents road safety issues.

7.4.20. The subject site is constrained and the provision of any parking element will require the omission of at least one unit, whilst compliance with the development plan standard of 2 spaces per house (10 total) and 1 space per apartment and an additional visitor space (3 total) will require the omission of multiple units. In view of the site's central location and the availability of parking in close proximity to the site, I do not object to the provision of no parking spaces within the site. The achievement of a critical mass within town centres is promoted by National Policy Objectives 6 and 11 of the NPF and the proposed development contributes toward achievement of these objectives. I note in this regard that the Municipal District Engineer states that there is ample street parking in the area, including a car park at Morrissey Park.

7.4.21. I agree with the appellant that there is a potential road safety issue, in view of the arrangement of junctions at the south-east corner of the site. Pedestrians are likely



to have to cross the road in order to get to adjacent parking areas and there is limited visibility in the direction of Holborn Hill (south-west). Should the Board decide to grant permission, I would recommend that a condition be attached requiring that a pedestrian crossing should be provided adjacent to the south-east corner of the site. Such an arrangement would ensure there is a safe walking route to the site, from the adjacent parking areas to the north-east.

7.4.22. Regarding the proposed set down spaces, these should be laid out and identified as set down spaces, rather than parking spaces. This can be controlled by condition.

## **7.5. Other Issues**

7.5.1. The appellant objects to proposed relocation of amenity signage to the area adjacent to the south-east corner of the site, which currently contains a memorial plaque. I agree that the relocation of signage to this area would have an unacceptable impact on the setting of this memorial. However I note from the site layout drawing identifies this as a possible location. I would recommend that should the Board grant permission, a condition be attached requiring that the location of relocated signage should be agreed with the Planning Authority.

7.5.2. Regarding foul water, I note that Irish Water requested that the applicant should submit a pre-connection enquiry, to determine the feasibility of connection to the public water/wastewater infrastructure, however; the Planning Authority did not act on this request. I am cognisant that Irish Water did not object to the development and there is nothing within the appeal documents to suggest that a connection to the public network cannot be provided. In view of these considerations, I consider it would be unjustified to refuse permission on the basis of foul water capacity.

7.5.3. Surface water is proposed to connect to the public network and a connection to the network is identified adjacent to the north-east corner of the site. I note that the existing building occupied a similar footprint to that of the proposed development. In these circumstances, the extent of surface water run-off from the proposed development is likely to be of a similar level. I would recommend a condition be attached requiring that SuDS should be incorporated, should the Board decide to grant permission.

7.5.4. The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media made a submission on the application, requesting that a condition should be attached

requiring that archaeological monitoring should be undertaken as part of the construction phase. This can be controlled by condition.

## 7.6. **Appropriate Assessment**

### Appropriate Assessment Screening

#### *Compliance with Article 6(3) of the Habitats Directive*

- 7.6.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

#### *Background on the Application*

- 7.6.2. A screening report for Appropriate Assessment was not submitted with the application. Therefore, this screening assessment has been carried out de-novo.

#### *Screening for Appropriate Assessment- Test of likely significant effects*

- 7.6.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

- 7.6.4. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

#### *Brief description of the development*

The development is summarised at Section 2 of this Report. In summary, permission is sought for partial demolition, conversion and extension of an community centre and protected structure, to provide 7 units (2 No. apartments and 5 No. houses), on a site of 0.063ha. The site is served by the public water and foul water networks. Foul drainage is proposed to drain to the public network. Surface water is stated as draining via the public drain.

- 7.6.5. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, I consider the following impact mechanisms require examination:

Construction phase

- Disturbance of species of conservation interest within a European site due to disturbance associated with construction activities (noise, vibration, lighting, etc).
- Impact on water quality within a European site arising from discharges from the site during construction work.

*Submissions and Observations*

7.6.6. The submissions from the applicant and the Planning Authority are summarised as Section 6 of this Report. No submissions were received from prescribed bodies or third parties.

*European Sites*

The development site is not located in or immediately adjacent to a European site. The closest European site is the Lough Oughter and Associated Lough SAC (Site Code 000007), which lies approx. 125m north. A summary of the European site is set out below.

<b>European Site (code)</b>	<b>List of Qualifying interest /Special conservation Interest</b>	<b>Distance from proposed development (Km)</b>	<b>Connections (source, pathway receptor)</b>
Lough Oughter and Associated Lough SAC (Site Code 000007)	Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation, Bog woodland, Otter.	c. 125m	Overground (weak)

*Construction phase impacts*

7.6.7. Regarding potential disturbance of qualifying interests within the SAC, Otter, the potential for such impacts is low, given the level of built form and human activity in this part of the town. Otter in the area are likely to already experience and be habituated to a degree of disturbance associated with human activity in the area. The proposed development also does not require specialist construction methods. I am satisfied that the potential for likely significant effects on Otter within the SAC can be excluded.

7.6.8. Regarding potential discharges, I would also consider the risk is low, in light of the smallscale nature of the development and the c.125m separation distance between the site and the European sites, which includes intervening lands which act as a buffer and built form which will act as a barrier. Any such potential discharge from the site is likely to be smallscale and I consider the likelihood of any such discharge being transferred to the European site is low. Indeed, in the event that a discharge from the site was transferred to the European sites, the quantity is unlikely to be of such a scale that significant effects would arise. I am satisfied that the potential for likely significant effects on qualifying interests within the European sites can be excluded.

#### *Mitigation measures*

7.6.9. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

#### *Screening Determination*

7.6.10. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site No. 00007, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8.0 Recommendation**

8.1. I recommend that permission for the proposed development be granted, subject to conditions as set out below.

## **9.0 Reasons and Considerations**

9.1. Having regard to the 'Town Core' zoning which applies to the site under the Cavan County Development Plan 2014-2020, under which residential development is permissible, together with the nature and scale of the proposed development and the pattern of development in the vicinity, it is considered that, subject to compliance with

the conditions below, the proposed development would be in keeping with the character of the area, would not seriously injure the amenities of the area or the amenities of properties in the vicinity and would secure retention of the protected structure building's primary feature of architectural interest and would therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further information submitted on 22<sup>nd</sup> April 2021 and as part of the first party appeal submission to An Bord Pleanala dated 21<sup>st</sup> July 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Prior to commencement of development a construction and demolition plan shall be submitted, which shall include measures to ensure protection of the retained front façade during the construction stage, for the written agreement of the Planning Authority. The development shall thereafter be carried out in accordance with such agreement.</p> <p><b>Reason:</b> In order to provide for protection of the retained element of the Protected Structure during the construction phase.</p>
3.	<p>Private open space areas for the 2 No. proposed apartment units, as shown on site layout drawing PL-17-199 03 shall be omitted from the development.</p> <p><b>Reason:</b> In order to protect the setting of the retained element of the Protected Structure</p>

4.	<p>Boundary treatments for private open spaces to the rear of proposed houses shall be agreed with the Planning Authority</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
5.	<p>Details of materials for the proposed development shall be agreed with the Planning Authority and shall include timber or other high quality material for the retained front façade of the Protected Structure</p> <p>Reason: In the interest of visual amenity and to protect the character of the retained element of the Protected Structure</p>
6.	<p>Prior to the commencement of development the applicant shall submit and agree proposals for a pedestrian crossing adjacent to the south-east corner of the site and any such proposal shall incorporate DMURS principles</p> <p><b>Reason:</b> In the interests of road and pedestrian safety.</p>
7.	<p>The proposed setdown area shall be appropriately marked and identified, in accordance with proposals which shall be agreed with the Planning Authority.</p> <p><b>Reason:</b> in order to avoid the setdown spaces being used as long-term parking spaces.</p>
8.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p>

	<p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
9.	<p>Prior to commencement of development the applicant shall agree with the Planning Authority proposals for relocation of existing signage to the south (front) of the existing building.</p> <p><b>Reason:</b> In the interest of visual amenity and in order to provide for protection of the retained element of the Protected Structure</p>
10.	<p>Water supply and drainage arrangements, which shall include SuDS measures, shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
11.	<p>A naming and numbering scheme for the development shall be submitted and agreed with the Planning Authority prior to occupation of the dwelling.</p> <p><b>Reason:</b> In the interest of clarity.</p>
12.	<p>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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
13.	<p>Prior to the commencement of any house in the development as permitted, the applicant or any person with an in interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house unit), pursuant to Section 47 of the</p>

	<p>Planning and Development Act, 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p><b>Reason:</b> To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
14.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
15.	<p>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</p>



	<p>referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> 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.</p>
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.Barry O'Donnell  
Planning Inspector

XX October 2021