



An
Bord
Pleanála

Inspector's Report ABP-311319-21

Development

Retention of timber framed structure to support the covered beer garden located to the rear of licenced premises with roof coverings (b)
Retention of the recently constructed first floor level extension to the rear of the premises.

Location

" McHugh's Bar", Bridge Street,
Carrick on Shannon, Co Leitrim

Planning Authority

Leitrim County Council

Planning Authority Reg. Ref.

21129

Applicant(s)

Enda and Caroline Mc Hugh.

Type of Application

Permission to Retain.

Planning Authority Decision

Split Decision

Type of Appeal

First Party

Appellant(s)

Enda and Caroline McHugh.

Observer(s)

Gerard Kelly.

Date of Site Inspection

10th of March 2022.

Inspector

Stephanie Farrington

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.056ha, is located at Mc Hugh's Bar, Bridge Street, Carrick on Shannon. The site accommodates an existing licensed premises known as McHugh's Bar, a 3-storey terrace building with a stated floor area of 388.24sq.m.
- 1.2. Bridge Street is located within the town core of Carrick on Shannon and includes a mix of retail commercial and residential uses. The site is adjoined by a retail store to the north and a commercial and restaurant unit to the south. A residential scheme, known as the "Archway Apartments" adjoins the eastern boundary of the site. Access to the premises is provided from Bridge Street. A vehicular access archway provides access to the rear of the site.

2.0 Proposed Development

- 2.1. The proposed development, as described within the public notices, comprises of the following:
 - (a) Retention of the recently constructed timber framed structure to support the existing covered beer garden located to the rear of existing licenced premises with roof coverings consisting of single skin, corrugated clear polycarbonate sheeting material;
 - (b) Retention of the recently constructed first floor level extension to the rear of existing licenced premises comprising of a box steel frame with single skin corrugated metal roof sheeting, sides which are clad with timber sheeting and floor also comprising of timber sheeting and accessed via a timber stairway from the existing beer garden;
 - (c) Retention of the newly installed external bar with service/pouring taps located in the beer garden to the rear of existing licenced premises;
 - (d) Retention of the existing front façade of the existing licenced premises as constructed which consists of an exposed natural stone finish with red brick window surrounds.

The floor area to be retained measures c.96.5 sq.m. consisting of 90 sq.m. on the first floor and 6.5 sq.m. bar area.

3.0 Planning Authority Decision

3.1. Decision

Leitrim County Council issued a split decision in respect of the development.

A notification of decision to Grant permission to retain the following elements of the scheme was issued:

- (a) Timber framed structure over the existing beer garden and
- (c) external bar and pouring taps within the beer garden.

Permission was granted for this element of the proposal subject to 3 no. conditions.

Condition no. 2 of the permission related to revised plans for the roof covering of the beer garden to prevent overhang into adjoining premises and incorporation of a rainwater collection system.

Permission was Refused for the following elements of the proposal:

- (b) Retention of first floor level extension to the rear
- (d) Retention of the existing front façade as constructed.

Permission was refused in accordance with the following reasons and considerations:

1. Having regard to the Fire Safety Notice having been served on the first floor level extension, the structure is deemed to be a potentially dangerous structure within the meaning of Section 19 of the Fire Services Act. While it is not the function of the planning code to address Fire Safety and Building Regulation compliance matters, it is permission to use national fire safety design codes in assessing whether permitting the retention of works to a building, where it could endanger the health or safety of persons occupying or employed in the structure. As the development does not meet the minimum national fire safety standard at the time of assessing the planning application for retention, it constitutes a risk to the health and safety of any occupants/

patrons using this structure, and along with the nature and pattern of development, this element of the development would be considered contrary to proper planning and sustainable development of the area.

2. Having regard to the size, scale, design and first floor location of the extension and in consideration of the proximity of residential units adjacent the site, it is considered that the proposal negatively impacts on the residential amenities of the surrounding area primarily by virtue of the noise impact and such would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the location of the building within the Carrick on Shannon Architectural Conservation Area, the façade of the building as presented, inclusive of the awnings, flagpoles, protruding signage and particularly the external finishes which finishes were not the original intended finishes of the designers, is considered to be out of character with the streetscape and detrimental to Architectural Conservation Area in which the building is located. The retention of the façade as presented is therefore considered contrary to the policy framework outlined in the Carrick on Shannon Local Area Plan 2010-2019 and the Leitrim County Development Plan 2015-2021 which seeks to protect the external fabric of structures of heritage value in the Architectural Conservation Area, to protect and enhance the Architectural Conservation Area(s) and to conserve and enhance the character of the historic town core of Carrick on Shannon. The retention of the façade would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommends a split decision in accordance with the planning authority's decision. The following provides a summary of the key points made:

- EIAR – Not required on the basis of the limited nature and scale of the proposed development.

- AA Screening – Having regard to the nature of the proposed development, the distance of the site from nearest Natura site and connections to public services, the Planning Authority is satisfied that the project does not require to be progressed through to Stage II Appropriate Assessment.
- The application was submitted as a consequence of enforcement action undertaken by the Planning Authority E-21-017.
- The principle of roofing an existing beer garden is acceptable and may aid in reducing noise levels from the premises.
- Overhang from the roof extends into adjacent properties and no provision for disposal of rainwater has been provided. Revised design is required in this regard. The roof design should also be in accordance with HSE guidance for smoking areas.
- Having regard to the additional capacity that the first floor extension can accommodate, the elevated, exposed and open ended nature of structure, this element of the proposal should be refused on grounds of negative impact on adjoining residential properties.
- No issues arise with the retention of the extended bar located in the beer garden/smoking area. It will not result in increased capacity within the premises, additional noise concerns or impact on residential amenities.
- The existing façade of the building which comprises exposed stone finish with red brick window surround is out of character with the streetscape of the Architectural Conservation Area in which the property is located. Existing awnings, flag posts, signage and finishes are detrimental to the ACA and contrary to the policies and objectives of the County Development Plan and Carrick on Shannon Local Area Plan.
- No provision for additional car parking associated with the first floor extension has been made.
- Reference is made to the use of the access to the rear of the property by patrons of the premises. Condition no. 2 of P19.245 restricts the use of this premises to fire access only. Breach of this condition is a civil matter.

Additional correspondence from the A/SEP dated the 12th of August 2021 is attached to the file. This outlines that further to the preparation of the planning report on the 5th of August a query in relation to the structural stability of the 1st floor extension was raised by the Director of Services. This is unknown and a detailed structural engineer's report would be required in the instance that the Planning Authority was minded to grant permission for the development.

3.2.2. Other Technical Reports

- Enforcement Officer: Correspondence dated the 5th of August 2021 outlines that the application has arisen as a response to enforcement action under File E21/017. No comments are made.
- Chief Fire Officer: Report dated the 3rd of August 2021 outlines that a Fire Safety Notice has been served upon the first floor level extension which is deemed to be a potentially dangerous building. It is recommended that retention should not be granted.
- National Roads Design Office: No comment.
- Environmental Health Officer: Details of refuse storage and waste facilities to be provided.
- South Leitrim Area Office, Engineers Report: No objection subject to condition.
- Environment Department: Report dated 23rd of July 2021 outlines that a noise compliant has been made in respect of the premises and recommends a Noise Impact Assessment Report is submitted for consideration. Further points raised relate to details for discharge to public sewer, waste management details, details of extraction and ventilation units and lighting.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

5 no. submissions were made in respect of the application from the following.

- (1) Gerard Kelly Archway Apartments,
- (2) Gerard Kelly, Quidsworth, Bridge Street
- (3) Kazimiera Grzeskowiak, The Archways
- (4) Stephanie James owner of first floor apartment at The Archway
- (5) Patrick G O' Donoghue and Catherine O' Donoghue, owners of apartment at The Archways.

The following provides a summary of the relevant planning considerations:

- Impact on Residential amenity of adjoining properties - Noise levels, impact on light and privacy, overlooking of apartments in Archway Apartments.
- Visual Impact of Structure – The structure is unsightly and does not enhance the streetscape.
- The structure is built on a boundary wall
- The structure is excessive in scale
- Use of the fire exit as an entrance to the beer garden

4.0 Planning History

The following planning history relates to the premises.

Appeal Site

- PA Ref: 19/245: Permission granted in September 2020 to retain alterations to the premises including a rear bar extension, new access gate and smoking area including roof canopy. The following conditions are of note:
 - Condition no.2 requires the omission of 2 no. retractable awnings from building facade.
 - Condition no. 6 of the permission relates to noise mitigation and monitoring at the premises.
- PA Ref: 21/3: Permission granted in December 2021 for internal alterations and change of use of existing first floor level from habitable accommodation to a restaurant.

In the vicinity of the site

- PA Ref: 20/227, ABP Ref:309726-21: Permission granted by An Bord Pleanála in August 2021 for the works including the retention of a beer garden to the rear of Flynn's public house, Main Street, Carrick on Shannon.

Condition no. 3 outlined:

(a) During the operational phase of the retained development, the noise level arising from the development, as measured at the nearest noise sensitive locations shall not exceed:

(i) An Leq, 1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Sunday inclusive.

(ii) An Leq, 15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

(b) Procedures for the purpose of determining compliance with these limits shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(c) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site.

Enforcement History

The planner's report notes the following history of enforcement proceedings on site.

- E-19-014 – On the 23rd of August 2019 a Warning Letter was issued in respect of the following – installation of awnings and construction of a rear extension.
- E-21-017 – On the 3rd of June 2021 an Enforcement Notice was served in respect of unauthorised works to the premises.

5.0 Policy Context

5.1. Development Plan

Leitrim County Development Plan 2015-2021

- *Architectural Conservation Areas (ACA's)*

The subject site is located within an Architectural Conservation Area (ACA) as identified on map 4.13 of the plan.

Section 4.9.6 of the CDP relates to Architectural Conservation Areas. This outlines that where appropriate the Council will encourage the retention and restoration of the external fabric of these buildings. Particular attention will be paid to the retention (and repair if necessary) of original natural slate roofs, chimneys, cast iron rainwater goods and railings, external renders, original timber sash windows and shop fronts (including the use of appropriate colours).

Objective 90 outlines that *“It is an objective of the Council to protect and enhance the areas identified as Architectural Conservation Areas”*.

- *Noise*

Section 5.5.6 of the Development Plan relates to noise and outlines that the Council will seek to ensure that new development does not cause an unacceptable increase in the noise levels affecting surrounding properties and that new development, in turn, will not suffer from unacceptably high-noise levels. Generally noise levels should not exceed 55dB (A) 1m outside the most exposed window of any residential unit.

Policy 108: *It is the policy of this Council to seek to achieve a healthy and comfortable environment that minimises unwanted noise. To achieve this, the Council will implement the EU Directive on Assessment and management of Environmental Noise.*

Carrick on Shannon Local Area Plan 2010-2019

- *Zoning*

The site is subject to a “Mixed-Use” zoning objective under the LAP, under which “pub” land uses are acceptable in principle. Section 2.02 of the plan states that

zones designated as “Mixed Use” have been identified in the core of the Town Centre within which a mix of residential and commercial activity takes place. The LAP outlines that: *“In determining the suitability of development within this zone regard shall be given to the environmental impact of the proposed development on neighbouring uses.”*

Objective 2.3a outlines that: *“It is an objective of the Council to seek the development of lands zoned ‘Mixed Use’ for commercial, cultural, residential, retail and related uses”.*

- *Architectural Conservation Area*

Section 2.11.01b of the LAP outlines that an Architectural Conservation Area has been identified for Carrick on Shannon which is centred around S. George’s Terrace, Bridge Street and Main Street. The extent of the ACA is identified within Map 5 of the LAP and illustrated within the attached presentation document.

The LAP outlines that the Council will seek the retention and restoration of the external fabric of buildings within this zone. Particular attention will be paid to the retention and repair (or, as a last resort, replacement with replicas of the originals) of details such as original natural slate roofs, chimneys, external renders, iron rainwater goods, original timber sash windows and shop fronts. New development within this zone will be required to reflect the massing, building lines and heights, roof pitches, proportions and finishes prevailing in the zone.

- Policy 11.3c of the LAP outlines that: *“It is the policy of the Council to seek the protection of the external fabric of structures of heritage value in the Architectural Conservation Area”.*
- Objective 11.4a outlines that: *“It is an objective of the Council to protect and enhance the Architectural Conservation Area as identified on Map No. 5”.*

Development Management Standards

Development Management Standards are set out within Section 3 of the Local Area Plan. The following standards are of relevance to the proposal:

- *Noise*

Section 3.01.13 relates to Noise. This outlines that the Council will seek to ensure that new development does not cause an unacceptable increase in the noise levels affecting surrounding properties. Noise standards appropriate for the receiving environment shall be applied when assessing any application for development, where noise may be an issue. The Council recognises that received noise standards for various types of properties, including residential properties, in Town Centre locations will be different to those where the property is in a peri-urban, suburban or rural location, and the standards applied will be appropriate for the location and established ambient noise levels.

- *Shop Front Design Standards*

Section 3.03.06 of the LAP outlines that the traditional Irish Shopfront is simple and uncluttered. It is stated that the Council requires a high standard of shopfront design and advertising. Existing traditional shopfronts should be retained where possible, especially in the town centre.

The LAP outlines that signs and advertising of excessive size or number or projecting above the parapet/ eaves height or outside the bulk of the building are unacceptable. Projecting brand signs, of whatever type or design, are unacceptable.

- *Advertising and Signage*

Section 3.05 of the LAP outlines that Advertising in the Architectural Conservation Area will be limited to the advertising of premises on which the advertisement is mounted.

As advertising is an accepted part of commercial and shopping activity, appropriate levels and types of it will generally be allowed on commercial buildings and shops. Control will be exercised to prevent clutter in any location and to limit the size and number of signs on any building.

In terms of the Design of Advertising, the LAP outlines that the Council will seek to avoid a proliferation of advertisements in the town. Proposals for signs and advertising structures should:

- be in scale and harmony with the surrounding environment;
- not interfere with the safety and free flow of pedestrian and vehicular traffic;

- not obscure traffic signs;
- not impair the amenities of the area;
- not interfere with windows or other features of a building façade; and
- not project or obtrude, in whole or part, above the eaves of the building or skyline.

5.2. Natural Heritage Designations

The appeal site is not located within or adjacent any designated sites.

5.3. EIA Screening

Having regard to the nature and scale of the proposed development, the nature of the receiving environment, a serviced urban location, and the proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal has been submitted on behalf of the applicants Enda and Caroline McHugh. The appeal relates to the elements of the proposal which were refused by Leitrim County Council namely (a) the first floor extension and (b) works to the building façade. The appeal does not relate to the elements of the application which were granted by the Planning Authority. The following provides a summary of the applicants response to each of the reasons for refusal.

- Reason no. 1: The structure can be modified to meet the Fire Officer's requirements.
- Reason no. 2: The Planning Authority's 2nd reason for refusal primarily relates to noise impact on the residential amenity of the surrounding area and this

can be controlled by the applicant. In this regard the applicant proposes to maintain noise levels within the following thresholds:

- An Leq, 1h value of 55 dB(A) during the period of 0800 to 2200 hours from Monday to Sunday inclusive.
 - An Leq, 15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.
 - At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.
- The appeal furthermore outlines that no external speakers or amplification will be installed.
 - Reason no. 3: The 3rd reason for refusal relates to modifications to the street façade. Reference is made to exposed stone facades in other towns in ACAs throughout Ireland and within Carrick on Shannon. The applicant makes a case that stone facades are not at variance with the ACA designation.
 - The appeal outlines that there are a high proportion of PVC windows in the ACA area (Bridge Street and Main Street). As part of the refurbishment of the existing property it is stated that 6 PVC upper floor windows on the property were replaced with traditional sash windows.
 - It is stated that the Council policy on hanging signs as detailed within the LAP (3.03.06, 3.05.01) is that these are acceptable once the number is not excessive. The existing signage pre-dates the ACA designation. Reference is made to hanging flags and signage elsewhere within the ACA area.
 - The elements of the application for which retention was granted were not deemed contrary to the ACA designation. The hanging and shop front signage are considered exempted development.
 - The applicant is happy to remove the awnings.
 - The Board is requested to grant permission for the development.

6.2. Planning Authority Response

Leitrim County Council provided a response to the first party appeal. The following provides a summary of the points raised:

- Reason for Refusal no.1: At the time of assessing the planning application and in light of the Fire Safety Notice served on the first floor extension the structure was deemed to be a potentially dangerous structure and a risk to health and safety. It is noted that the applicant's appeal outlines that the structure can be modified to meet fire safety requirements and the applicants are in discussion with the Local Authority Fire Officer in this regard.
- Reason for Refusal no. 2: The applicant's response to the 2nd reason for refusal is noted. Reference is made to the proposed noise mitigation measures, however, notwithstanding this, the Planning Authority remain of the opinion that the first floor extension structure would have a detrimental impact on the amenities of adjoining residential properties in particular by noise emanating from the structure.
- Reference is made to the point raised within the appeal which states that no concerns relating to noise were raised by the Planning Authority in respect of the elements of permission granted including the external bar within the permitted beer garden area. The Planning Authority are of the view that the roof covering in the permitted beer garden would not be considered to generate additional noise. The proposed roof in the beer garden may aid in reducing noise levels.
- No provision for additional car parking has been made for the proposed first floor extension.
- Reason for Refusal no. 3: The Planning Authority remain of the opinion that the façade of the structure is out of character with the streetscape and is detrimental to the Architectural Conservation Area in which the building is located. The building consists of random rubble stone which is not reflective of existing stone buildings within the town. The building is completely out of character with its surrounds.

- The front façade of the building is cluttered, and removal of the flagpoles/flags and projecting signage would enhance the appearance of the structure. Reference is made to the guidance set out within Section 5.4.5 “Shopfront Design Standards” in the Leitrim County Development Plan 2015-2021 in this regard. The reference to the existence of the signage/flags being in place for 7 years is noted however this does not regularise the works. The flags have been removed and replaced in recent times and the projecting advertising signs were subject to enforcement action (Reference E-21-017).
- The changes made to the façade of the building, inclusive of awnings, flagpoles, signage and particularly the external finish are detrimental to the character and rhythm of the Architectural Conservation Area in which the building is located. The façade is contrary to the policies and objectives of the Leitrim County Development Plan and the Carrick on Shannon Local Area Plan.
- The external bar and roof covering of the beer garden are located to the rear of the premises and out of sight. These elements of the proposal were not deemed as being contrary to the ACA designation in this regard.
- The Planning Authority recommends that the decision to refuse permission for the first floor extension and façade works is upheld.

6.3. Observations

An observation from Gerard Kelly has been received in relation to the appeal. The following points are raised:

- Observer is owner of 2 no. apartments within The Archways Apartment Complex adjacent to Mc Hugh’s Bar.
- The unauthorised structure overlooks a bedroom in both apartment units. The design and proximity of the structure is impacting on occupants’ enjoyment of their homes and right to privacy.
- Light emitting from the structure is resulting in a nuisance.
- Noise levels over the summer months were intolerable. The proposed noise mitigation measures will not adequately address the serious problem.

- The authorisation of the structure would impact on ability to let the apartments in the future and rent levels.
- The first floor extension at 90sq.m. is a considerable extension. The premises already has the benefit of a large open garden at ground level.
- It would be unreasonable and at odds with planning law to permit such an elevated, exposed and open ended structure in the middle of the town centre adjacent to commercial and residential units.
- The observation outlines that the owners appear to be serving drinks from a tap located on the first floor extension rather than just allowing patrons to consume drink on part of the premises. It is not clear if the applicant's licence permits this.
- Renovations have been made to the premises including the fitting of concrete stairs.

7.0 **Assessment**

7.1. In my opinion, the main issues for consideration in this case include:

- Principle of Development
- Impact on Residential Amenity
- Impact on Architectural Conservation Area
- Other Issues
- Appropriate Assessment

Each of these issues is addressed in turn below.

7.2. **Principle of Development**

7.2.1. The proposed development relates to works carried out to an existing licensed premises. The subject site is located within Carrick on Shannon town centre and is zoned for mixed-use purposes. I note that pub land uses are permissible under this zoning objective, and as such, I am satisfied that the development to be retained is acceptable in principle at this location, subject to its compliance with all other relevant planning policies and development management standards.

7.3. Impact on Residential Amenity

7.3.1. In considering the impact of the proposal on residential amenity I note that a split decision was issued by Leitrim County Council wherein permission was granted to retain the timber framed structure and external bar and refused for the 1st floor extension. I consider these elements of the proposal separately in terms of their potential impact on residential amenity as follows.

- Retention of timber framed structure to cover beer garden and external bar

7.3.2. Having visited the site and having regard to the site's mixed-use land use zoning objective, and the existing, established use on the site, I consider that the provision of the timber framed structure and external bar would not seriously injure the residential amenities of the area or of property in the vicinity. The principle of a beer garden is established at this location (as permitted under PA Ref 19-245). I do not consider that the provision of a bar within the beer garden would result in impacts on adjoining residential areas over and above that of the permitted development. I consider that the provision of an enclosure for the beer garden would enhance the residential amenity of the adjacent properties.

7.3.3. I refer to the requirements of Condition no. 2 of Leitrim County Council's notification of decision to grant permission for the development which relates to the omission of the overhang from the adjacent premises and consider the requirements of this condition to be applicable in the instance of a grant permission.

- Retention of first floor extension

7.3.4. Leitrim County Council's second reason for refusal outlines that having regard to the size, scale, design and first floor location of the extension and in consideration of the proximity of residential units adjacent the site, the first floor extension impacts on the residential amenity of adjoining residential development. Particular concerns are raised in relation to the noise impact of the first floor extension within the planning authority's reason for refusal.

7.3.5. In responding to the 2nd reason for refusal the applicant outlines that the development can be operated within the following noise levels:

- An Leq, 1h value of 55 dB(A) during the period of 0800 to 2200 hours from Monday to Sunday inclusive.

- An Leq, 15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.
- At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- 7.3.6. The observation on the first party appeal raises concern in relation to the impact of the proposed first floor extension on the residential amenity of the apartment complex which adjoins the eastern boundary of the site at the Archway's. Concerns relating to impact on privacy, overlooking, light spillage and noise impact are raised within the observation. The observer states that the development would impact on his ability to let apartments within the complex and the proposed noise mitigation measures will not adequately address the serious problem.
- 7.3.7. In my opinion, the key issue in this case is the potential for noise and disturbance impacts on the neighbouring residential properties. Having regard to the distance of the proposal from adjacent residential development (c.50m), I do not envisage significant impact on residential amenity as a result of overlooking, impact on privacy and light spillage.
- 7.3.8. In terms of noise impact, I refer to the guidance set out within the Leitrim County Development Plan which outlines that noise standards for various types of properties, including residential properties in Town Centre locations will be different to those where the property is in a peri-urban, suburban or rural location, and the standards applied will be appropriate for the location and established ambient noise levels. I note that the appeal site is located in the town centre which comprises a mix of uses and the established use of the property, and as such, would not have the same expectations of noise and activity as a primarily residential zone.
- 7.3.9. I also note that there is an existing beer garden in operation at the premises (as permitted under PA Ref: 19-245). A noise assessment was submitted in conjunction with this application prepared by AV Acoustics. Noise monitoring was carried out in the vicinity of the Archway Apartment complex within the noise assessment which identifies that the baseline noise environment is defined by music from the premises and patrons within the smoking area.
- 7.3.10. Condition no 6 of PA Ref: 19-245 relates to noise monitoring and mitigation measures. The condition sets out restrictions on noise generating activities within the

beer garden and smoking area and outlines that noise emissions at closest noise sensitive receptors shall not exceed the following noise levels:

- Day time 07.00 to 19:00 - 55dBA (LAeq 15 min)
- Evening time: 19:00 to 23:00 - 50dBA (LAeq 15 min)
- Night time: 23:00 to 07:00 - 45dBA (LAeq 15 min)

7.3.11. I refer to the report on file from the Environment Department in Leitrim County Council on the current application which identifies the requirement for a Noise Mitigation Plan to inform the development. The appeal outlines that the first floor extension can be operated within certain noise limits including 55dBA during the period of 0800 to 2200 hours and 45dBA at any other time at nearest noise sensitive receptors. However, no noise assessment is submitted in support of the appeal to demonstrate that such noise levels would or could be adhered to.

7.3.12. On an overall basis, I share the concerns of the planning authority in relation to noise impact of the first floor extension, in particular having regard to the elevated and open nature of the structure. The first party appeal outlines that no concerns relating to noise were raised by the Planning Authority in respect of the elements of permission granted including the external bar within the permitted beer garden area. However, I do not consider that the provision of a roof covering over the permitted beer garden would generate additional noise. On the contrary, I consider that this would aid in reducing noise levels.

7.3.13. In conclusion, having regard to the scale of the first floor extension, its elevated, exposed and open nature and its location relative to adjacent residential development I am opinion that the first floor extension structure would impact on the amenities of adjoining residential properties on the basis of noise emanating from the structure. I recommend that permission is refused to retain this element of the proposal on this basis.

7.4. Impact on Architectural Conservation Area

7.4.1. The appeal site is located within the Carrick on Shannon Architectural Conservation Area as defined within the Carrick on Shannon Local Area Plan and the Leitrim County Development Plan. The extent of the Conservation Area is identified within the attached presentation document. The policies and objectives of the Carrick on

Shannon LAP and Leitrim County Development Plan seek to protect and enhance the Architectural Conservation Area (Objective 90 of the LCDP, Policy 11.3c and Objective 11.4a of the Carrick on Shannon LAP).

- 7.4.2. The proposal seeks retention of the existing front façade of the existing licenced premises as constructed which consists of an exposed natural stone finish with red brick window surrounds. Drawing no. 03 “Front, Rear and Side Elevations” illustrate works undertaken to the front façade of the building. The finish on the building is described as an exposed natural stone finish with red brick window surrounds.
- 7.4.3. Leitrim County Council’s 3rd reason for refusal outlines that the works undertaken to the façade of the building including materials and signage impact on the character and setting of the Carrick on Shannon Architectural Conservation Area.
- 7.4.4. The first party appeal outlines that the stone finish of the building is in accordance with the existing pattern of development within the area. Reference is made to the use of stone materials in other buildings in the vicinity of the site within the Carrick on Shannon ACA and within other Architectural Conservation Areas throughout the country. It is furthermore stated that improvement works undertaken to the building including the replacement of uPVC windows with timber sash windows.
- 7.4.5. On-site inspection, I consider that the building finish is at variance with the façade of existing buildings within the ACA. As illustrated within the attached presentation document and the photographs attached within the planner’s report which informs the decision of the planning authority the existing building façade does not reflect that of the original building. In this regard I do not consider that the works carried out to the façade either protect or enhance the character of the ACA. I consider the existing finish to be contrary to Objective 90 of the Leitrim County Development Plan and Objective 11.4c of the Carrick on Shannon LAP which seek to protect the external fabric of structures of heritage value in the Architectural Conservation Area and Policy 11.3c of the Carrick on Shannon LAP which seeks *“to protect and enhance the Architectural Conservation Area(s) and to conserve and enhance the character of the historic town core of Carrick on Shannon”*.
- 7.4.6. The façade of the building includes awnings, flagpoles, protruding signage which in my view result in a cluttered façade and detract from the visual amenity of the building. I note that these are not illustrated within the application drawings or

specifically identified within the public notice. However, the façade signage is specially referred to within the planning authority's 3rd reason for refusal and addressed by the applicant within the 1st party appeal.

- 7.4.7. Guidance for shopfront design as set out within section 3.03.06 of the Carrick on Shannon LAP outlines that the traditional Irish Shopfront is simple and uncluttered. The LAP seeks to prevent clutter in signage on building facades. I consider that the signage as currently presented is cluttered and detracts from the character and setting of the ACA.
- 7.4.8. The appeal outlines that the existing signage on the building façade has been in place for more than 7 years and therefore exempt from enforcement proceedings. However, in this regard I would highlight that the length of time does not authorise the signage. Enforcement proceedings are covered by separate legislative requirements and does not overrule the requirement for planning permission.
- 7.4.9. The observation on the appeal raises concern in relation to the visual impact of the proposed first floor extension on the streetscape of Carrick on Shannon. However, on-site inspection I note that the structure is not visible from the surrounding street context. Having regard to the design and location of the extension to the rear of the appeal site, I have no concerns relating to the impact of the structure on the streetscape in this context.

7.5. **Other Issues**

Fire Safety

- 7.5.1. The issue of fire safety was raised within Leitrim County Council's first reason for refusal. I note that fire safety concerns are covered by separate legislative requirements. The appeal outlines that consultation has been have been undertaken with the Fire Officer in LCC and amendments can be made to ensure the extension complies with fire safety requirements.

7.6. **Appropriate Assessment**

- 7.6.1. Given the nature and scale of the development, the public wastewater infrastructure serving the site and its location relative to Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the development would be

likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend a split decision to:

GRANT permission for the retention of the following elements of the proposal:

(a) Retention of the recently constructed timber framed structure to support the existing covered beer garden located to the rear of existing licenced premises with roof coverings consisting of single skin, corrugated clear polycarbonate sheeting material;

(c) Retention of the newly installed external bar with service/pouring taps located in the beer garden to the rear of existing licenced premises;

For the reasons and considerations marked (1) hereunder and the conditions set out below.

REFUSE permission for the retention of the following elements of the development in accordance with the reasons and conditions marked (2)

(b) Retention of the recently constructed first floor level extension to the rear of existing licenced premises comprising of a box steel frame with single skin corrugated metal roof sheeting, sides which are clad with timber sheeting and floor also comprising of timber sheeting and accessed via a timber stairway from the existing beer garden;

(d) Retention of the existing front façade of the existing licenced premises as constructed which consists of an exposed natural stone finish with red brick window surrounds.

9.0 Reasons and Considerations

Reasons and Considerations (1)

Having regard to the site's mixed-use land use zoning objective, within which a mix of residential and commercial activity takes place, and the existing, established use

on the site, it is considered that, subject to compliance with the conditions set out below, the retained development would not seriously injure the residential amenities of the area or of property in the vicinity. The retained development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Reasons and Considerations (2)

1. Having regard to the size, scale, design and location of the extension it is considered that the first floor extension negatively impacts on the residential amenities of the surrounding area primarily by virtue of the noise impact and as such would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the building within the Carrick on Shannon Architectural Conservation Area, the façade of the building as presented, inclusive of external finishes, awnings, flagpoles, protruding signage, is considered to be out of character with the streetscape and detrimental to Architectural Conservation Area in which the building is located. The retention of the façade as presented is therefore considered contrary to Policy 11.3c and Objective 11.4a of the Carrick on Shannon Local Area Plan 2010-2019 and Objective 90 of the Leitrim County Development Plan 2015-2021 which seek to protect the external fabric of structures of heritage value in the Architectural Conservation Area, to protect and enhance the Architectural Conservation Area(s) and to conserve and enhance the character of the historic town core of Carrick on Shannon. The retention of the façade would therefore be contrary to the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be retained in accordance with the plans and particulars lodged with the application, 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
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	<p>prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Within 4 weeks of the date of the final grant of permission, the developer shall submit revised plans for written agreement of the Planning Authority detailing the following:</p> <p>(a) revised plans for the roof covering of the beer garden/smoking area which illustrate the removal of the overhang of adjoining premises/properties.</p> <p>(b) provision of a suitable rainwater collection system which ensures all rainwater is collected and disposed of within the site.</p> <p>Within 8 weeks of the revised plans for the roof covering being agreed under Condition no 2a, the revised roof and rainwater collection system shall be installed, and the Planning Authority notified in writing.</p> <p>Reason: To prevent interface with adjoining properties and to ensure proper disposal of rainwater.</p>
3.	<p>Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on 14/09/2020 under Pl. Reg. Ref. no. P-19-245, and any agreements entered into thereunder.</p> <p>Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.</p>

Stephanie Farrington
Senior Planning Inspector

15th of March 2022