



An
Bord
Pleanála

Inspector's Report

ABP-314766-22

Development	Demolition of 2 Dwellings and construction of a 4 and 5 storey development of 17 apartments and associated site works.
Location	Rosemount Lane, Letterkenny, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2251238
Applicant(s)	Millennium Unit Trust 105
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Observer(s)	Bridie Collins
Date of Site Inspection	2 nd February 2023.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site occupies an area of 0.08ha and is located at Rosemount Lane, in the centre of Letterkenny. It contains 2 derelict houses and a number of derelict outbuildings to the rear.
- 1.2. There is a vehicular access at the east end of the site, which provides access to the rear of the site and which also provides service access to commercial units along Main Street.
- 1.3. Rosemount Lane is a narrow lane that connects Main Street and Pearse Road. It has a mixed character, containing older/traditional buildings toward its eastern end and newer/taller buildings toward its western end, where it is functionally connected to Main Street. The subject site is at the interface of the different character areas and is visually connected to the contemporary Ros Ard apartment complex which abuts the site to the west.
- 1.4. Rosemount Lane has a single lane width in the area of the site and is designated as a one-way route from the point of access to the Ros Ard complex, restricting vehicular access to Main Street. It widens slightly to the east, in the area of Pearse Road.

2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises demolition of 2 No. unoccupied houses and other derelict buildings and the construction of a four storey and part-five storey development of 17 No. apartments over lower ground floor parking and ancillary accommodation, together with associated siteworks.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused permission on 8th September 2022, for 6 No. reasons.

1. *It is considered that the provision of 17 apartments on a constrained site would constitute an overdevelopment of the site and would result in an excessive density that is out of scale and beyond the capacity of the site. As such, the proposed development would seriously injure the existing character, as well as the visual and residential amenities of the area, contrary to the proper planning and sustainable development of the area, and contrary to Policy UB-P-10 of the County Donegal Development Plan 2018-2024 (as varied).*
2. *It is considered that the proposed development, by virtue of its scale, height, bulk and mass, and poor juxtaposition with the adjoining low rise town houses, would result in an overly dominant and visually incongruous development which fails to respect the predominant low rise pattern of development in the area, contrary to Policies LK-TC-P-12, LK-TC-P-16 & LK-TC-P-18 of the County Donegal Development Plan 2018-2024, (as varied) and would set an undesirable precedent for further such development in the area, contrary to the proper planning and sustainable development of the area*
3. *Having regard to the proposed demolition of two traditional townhouses along Rosemount Lane, and their replacement with a predominantly commercial scaled apartment block with poor levels of natural surveillance at ground floor level, the proposal fails to respect the character and appearance of the existing and historic street context, fails to support or strengthen Rosemount Lane as an importance laneway and identified key linkage between Main Street and Pearse Road (as identified in the Urban Design Framework for Letterkenny (Map 12. County Donegal Development Plan 2018-2024, (as varied)) and contrary to Policy LK-TC-P15 (Protection/Enhancement of Key Linkages) and the emerging Letterkenny 2040 Regeneration Plan.*
4. *Having regard to the scale, height and density of the proposed development, on a constrained backland and infill site and its proximity to the adjoining properties (particularly No 7, 9, 10, 11 Rosemount Lane), it is considered that the proposed development would result in an unacceptable and detrimental impact to the residential amenities of the adjoining properties by way of overlooking, loss of privacy and potential overshadowing. The proposed development would, therefore seriously injure the amenities of these residents contrary to Policy UB-P-12 of the*

County Donegal Development Plan 2018-2024 (as varied) and would be contrary to the proper planning and sustainable development of the area.

5. *Having regard to the unjustified and undocumented demolition of existing traditional townhouses along Rosemount Lane, the proposal would result in the unnecessary loss of historic dwelling stock, the scale and form of which are considered to make a positive contribution to the character and visual appearance of this historic streetscape, contrary to Policy BH-P-4 of the County Donegal Development Plan 2018-2024 (as varied).*
6. *Having regard to the extent of substandard accommodation in the proposed development, by reason of substandard apartment sizes, bedroom sizes, insufficient aggregate floor areas for kitchen, dining and living areas, and lack of sufficient storage space for the majority of apartments, the proposal fails to provides an acceptable level of residential accommodation in accordance with the Governments national apartment guidelines titled 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, DoHP&LG, March 2018' & Policy UB-P-7 of the County Donegal Development Plan 2018-2024 (as varied).*

3.2. Planning Authority Reports

- 3.2.1. A Planning Report dated 7th September 2022 has been provided, which reflects the Planning Authority's decision to refuse permission. The first report states that the principle of a high-density residential development on the site is supported but a number of areas of concern are identified, with reference to built heritage, urban grain, scale, design and density, unit size and internal layout, residential amenity, access and fire safety. The report recommends that permission should be refused for 6 No. reasons, which are consistent with the Planning Authority's reasons for refusal.
- 3.2.2. The report also includes an advice note to the applicant (which was appended to the decision) advising that a further application for development should have regard to the character and scale of development on Rosemount Lane and its function as a linkage between Main Street and Pearse Road. The applicant is also advised of a requirement to clarify the status of 5 Rosemount Lane, which was omitted from the plans and appeared to have been demolished.

3.2.3. Other Technical Reports

A **Regeneration Team** report dated 25th August 2022 has been provided, which advises that Rosemount Lane is identified as a key link between Main Street and newer retail areas of the town to the east and that it is envisaged that the lane would develop a form of shared surface that provides enhanced pedestrian ownership alongside retention of vehicular access. Regarding the proposed development, the report considers the proposal to represent overdevelopment, based on the following concerns: -

- The existing houses on the site positively address Rosemount Lane as a result of their historic street level and front door access. Their demolition and replacement with the form and scale of development proposed results in the loss of this positive contribution and jeopardises the delivery of the Letterkenny 2040 vision for the strategic connection.
- The proposed presentation at street level is contrary to the Letterkenny 2040 vision to create an active, living, safe and vibrant street and replicates and extends existing inactive frontage to the west along Rosemount Lane.

The report recommends that the existing houses should be retained on the site or replaced with development of a similar scale and form, together with access by means of a shared surface street and with backland development of a suitable scale.

A **Building Control** report dated 9th August 2022 has been provided, which recommends conditions as part of a grant of permission.

A **Chief Fire Officer** report dated 9th August 2022 has been provided, which identifies non-compliance with Building Regulations in respect of fire service access and means of escape.

The Planning Report indicates that the **Roads Department** and **Roads Design** were also consulted on the application but did not make a submission.

3.3. Prescribed Bodies

- 3.3.1. The Planning Report indicates that Irish Water was consulted on the application but did not make a submission.

3.3.2. The Department of Housing, Local Government and Heritage (DAU - National Monuments) made a submission on 17th August 2022, advising that the site is located in the zone of archaeological potential around Letterkenny, Monument No. DG053-042--- and that a requirement for archaeological monitoring should be included as a condition if permission is granted.

3.4. **Third Party Observations**

3.4.1. A number of third-party submissions were received, the issues raised within which can be summarised as follows: -

- Scale, height and design,
- Overdevelopment,
- Inappropriate demolition,
- Residential amenity,
- Overshadowing,
- Loss of privacy,
- Foul drainage,
- Road safety, traffic and parking,
- Structural damage to adjacent property,
- Site ownership,

4.0 **Planning History**

4.1. I did not encounter any recent planning records pertaining to the site.

5.0 **Policy Context**

5.1. **Donegal County Development Plan 2018-2024**

5.1.1. Chapter 2A of the development plan contains the Core Strategy. Letterkenny is identified as a Layer 1 settlement, the only such settlement in County Donegal, and is stated to provide a broad range of services across the sectors including

employment, education, health, cultural services, community services, entertainment and many more. Table 2A.6 contains the Core Strategy Table, identifying population and housing growth allocations for the various settlements in the county, over the plan period, and identifying housing land requirements, to accommodate this growth. The table sets out a requirement for 116.4ha of residentially zoned land in Letterkenny, to cater for a population growth allocation of 4,190 no. persons to 2024. This equates to 1,552 housing units, based on an occupancy of 2.7 persons/household.

5.1.2. Part C of the development plan contains objectives and policies for the towns within the county, including Letterkenny. It also includes land-use zoning maps for each of the towns, with Map 12.1B relating to Letterkenny.

5.1.3. The subject site is identified on the zoning map as falling within the Town Centre boundary and is subject to the 'Commercial' zoning, with an objective '*To reserve land predominantly for commercial use.*' Regarding residential areas within the Town Centre, Section 12.2.1.1 of Part C states: -

'Residential development is dispersed throughout the town centre area in residential pockets, one-off houses apartments and above the shop, development. In particular there are two succinct residential areas within the town centre commercial core, namely Rosemount Lane and Fortwell. These residential pockets are integral to the character and energy of the town centre area. Collectively such residential development contributes significantly to the vitality and vibrancy of the town and emphasises the need to promote residential development within the town centre.'

5.1.4. Relevant policies and objectives include: -

CS-O-4: To support the growth of Letterkenny and its metropolitan area as driver of population and economic growth in the County and to make appropriate provision for approximately 4,200 additional persons by 2024.

CS-P-1: It is the policy of the Council that proposals for development in Letterkenny shall be considered in the light of all relevant material planning considerations, relevant policies of the County Development Plan including Part C, Chapter 12, 'Objectives and Policies of Letterkenny' and other regional and national guidance/policy, relevant environmental designations and particularly Map 12.1B (Land Use Zoning) and Map 12.1A (Urban Design Framework).

CS-P-5: It is the policy of the Council to guide development of towns in a sequential manner, outwards from the core area in order to maximise the utility of existing and future infrastructure provision, promote the achievement of sustainability, avoid 'leap-frogging' to more remote areas and to make better use of under-utilised land. This policy shall not apply to small scale business enterprises (excluding retail development) of circa 1 to 5 employees. Retail development on an out-of-centre site will be considered only in exceptional circumstances where the applicant can demonstrate and the planning authority is satisfied that there are no sites or potential sites either within the centre or on the edge of the centre that are (a) suitable, (b) available and (c) viable.

CS-P-6: It is a policy of the Council to ensure that developments in urban areas give effect to the 12 Design Criteria set out in the publication Urban Design Manual – A Best Practice Guide (DoEHLG, 2009)

UB-O-2: To deliver new urban residential development in towns in a sequential manner, outwards from the core making best use of infrastructure, land resources and assisting in regeneration of existing towns.

UB-O-4: To promote quality urban design in new residential development and ensure that it is integrated with existing urban development in a manner to provide for positive places and spaces to contribute to overall social cohesion and quality of life.

UB-O-9: To encourage regeneration and renewal of town centres through reuse of vacant and derelict properties for the purposes of providing new residential development.

UB-P-2: It is a policy of the Council that, within Letterkenny and Layer 2A, applications for residential development will be assessed in the light of all relevant material planning considerations including residential land use zonings, the availability of infrastructure, relevant policies of the County Development Plan including Part C and other regional and national guidance/policy and relevant environmental designations.

UB-P-6: It is a policy of the Council to encourage and support proposals for new residential development that will result in the regeneration and/or renewal of town centre areas or areas of vacancy and/or dereliction subject to the policies all other

relevant policies of this plan including Part C, relevant national/regional guidance, relevant environmental designation and in the context of the proper planning and sustainable development of the area.

UB-P-10: It is a policy of the Council that proposals for new residential development shall demonstrate that a housing density appropriate to its context is achieved, and provides for a sustainable pattern of development whilst ensuring the highest quality residential environment. Lower density ranges may be required having regard to the density and spatial pattern of development on lands that abutt the site. In addition, housing densities will be considered in the light of all other relevant objectives and policies of this Plan, including the objectives and policies set out in Chapter 2A, Core Strategy.

UB-P-12: It is the policy of the Council both to protect the residential amenity of existing residential units and to promote design concepts for new housing that ensures the establishment of reasonable levels of residential amenity.

UB-P-13: Multiple residential developments shall, in general: (a) On greenfield sites, include a minimum of 15% of the overall site area reserved as public amenity area; (b) In other cases, such as large infill sites or brown field sites include a minimum of 10% of the overall site area reserved as public amenity area; or

(c) On lands characterised by a large private or institutional building/s set in substantial open lands, include a minimum of 20% of the overall site area reserved as public amenity area; in accordance with and subject to the guidance set out in the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (2009) and the requirements set out below –

The provision of public amenity open space within new residential developments shall:

- i. Be conveniently located within the development, and designed as an integral part of the overall layout acting as a natural focal point that contributes to the visual enhancement of the development, and
- ii. Be of a high quality design, providing for multi-functional uses, through the use of hard and soft landscaping techniques including equipped formal play areas, informal greens, furniture, paved and planted amenity areas, and

- iii. Provide adequate lighting and signage, and highly accessible linkages with the surrounding public footpath network and other designated amenity areas, and
- iv. Include a programme of maintenance.

UB-P-23: It is a policy of the Council that, where appropriate, new residential developments shall provide for adequate off-street car parking to facilitate the development in accordance with the standards set out in Part B, Appendix 3, Development and Technical Standards.

5.2. Letterkenny Plan and Local Transport Plan 2023-2029

- 5.2.1. The Letterkenny Plan and Local Transport Plan 2023-2029 is currently at the draft stage and I note from the Planning Authority's website that public consultation on the draft plan closed on 17th February 2023.

5.1. National Planning Framework

- 5.1.1. The National Planning Framework provides an overarching policy and planning framework for the social, economic and cultural development of the country. The NPF sets out 75 no. National Policy Objectives including the following:

NPO3c: Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.

NPO 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.

NPO11: 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.

NPO 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

NPO35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2. **Northern and Western Regional Assembly Regional Spatial and Economic Strategy 2020-2032**

5.2.1. The RSES reflects the NPF objectives in relation to compact urban development and highlights that the health of villages and towns in the Region can be significantly influenced through the delivery of new housing by utilising existing buildings, brownfield/infill sites or otherwise.

5.3. **Section 28 Ministerial Guidelines**

5.3.1. Having considered the nature of the proposal, the receiving environment and the documentation on file, I am of the opinion that the directly relevant S28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas;
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities;
- Design Manual for Urban Roads and Streets; and
- Urban Development and Building Heights Guidelines.

5.4. **Natural Heritage Designations**

5.4.1. The site is not located within or adjacent to any designated European site, the closest such site being Lough Swilly SAC (Site Code 002287), which is c.1.4km east.

5.5. EIA Screening

5.5.1. The proposed development falls within the category 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.

5.5.2. The proposed development comprises demolition of 2 No. unoccupied houses and other derelict buildings and the construction of a four storey and part-five storey development of 17 No. apartments. 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 nature and scale of the proposed development, which is a smallscale residential development on serviced lands in an urban area, it is considered that there is no real likelihood of significant effects on the environment. 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 was lodged on the applicant's behalf by Manahan Planners. The appeal document is lengthy and, in addition to the grounds of appeal, includes a summary of compliance with relevant planning policies and a summary of and response to the Planning Authority's assessment of the application. The grounds of appeal can be summarised as follows: -

- Refusal reason No. 1
 - It is not accepted that the site is so constrained that the proposal results in overdevelopment. The site is large for a town centre development and is less than 50m from Main Street. Constraints are the two long-term vacant and derelict houses and outbuildings to the rear, the apartment building abutting the site to the north and housing to the south-east.
 - The development will remove an eyesore and will allow for high density development, of similar height and scale to the adjoining apartment building.

- Refusal reason No. 2
 - The development is not overly dominant or visually incongruous. The development will be read as an extension of the adjoining apartment building.
 - Developments of increased height on Rosemount Lane have considered acceptable in the past, for example Reg. Ref. 06/80084 (extended under Reg. Ref. 12/80025) at 10 Rosemount Lane.
 - The development will provide housing in the town centre, naturally promoting modal shift away from the private car.
- Refusal reason No. 3
 - The houses on the site provide little contribution to the function of the town centre and they have a negative visual impact. The backland part of the site has also been a location for anti-social behaviour.
 - Retention of the houses will not result in enhanced passive surveillance.
 - The development incorporates adequate opportunities for passive surveillance of the Lane.
 - With reference to the Letterkenny 2040 document, this is a draft, non-statutory document.
- Refusal reason no. 4
 - Nos. 9 and 11 Rosemount Lane do not adjoin the site, No. 10 Rosemount Lane is across the street and No. 7 Rosemount Lane adjoins the site.
 - Some level of overlooking is inevitable in a town centre location and can be overcome by design revision, should the Board consider it necessary.
- Refusal reason No. 5
 - The houses on the site have been vacant for some time and provide little contribution to the function of the town centre and they have a negative visual impact. The backland part of the site has also been a location for anti-social behaviour.
 - A survey of the existing condition of the buildings could have been provided, had same been requested through a request for AI.

- Retention of the buildings will make the sit unviable for development at a density envisaged by national, regional and local planning policies.
- Refusal reason No. 6
 - It is accepted that some units fall below certain parameters of the Apartment Guidelines but there should be some tolerance, given the urban infill nature of the site.
 - Apartment standards within SDZs or BTR schemes are less onerous, in order to facilitate high density development.
- Other issues
 - In response to queries regarding site ownership, it is stated that the applicant has sufficient interest to lodge the application.
 - The vehicular entrance is 6.2m wide and is wide enough for vehicles to enter and exit.
 - Refuse bins will be stored within the site and will not impact retail units using the lane for storage and collection arrangements. A waste management plan can be submitted by way of condition, if required.

6.2. Planning Authority Response

6.2.1. The Planning Authority made a submission on the appeal on 3rd November 2022, the contents of which can be summarised as follows: -

- Concerns with the proposal relate to the scale and density proposed, heritage impact and impacts on residential amenity of adjacent residential occupiers. The character and appearance of the street, retention of active street frontages and appropriately scaled development are critical factors for the safe functioning of this link street.
- The proposed demolition has not been adequately justified and it is not accepted that describing a property as an 'eye sore' acts as an invitation to allow for its demolition.
- The status of No. 5 Rosemount Lane has not been clarified by the application.

- Regarding non-compliance with certain parameters of the Apartment Guidelines, the extent of non-compliance and sub-standard accommodation results in an overall unacceptable development.
- The Board is requested to uphold the decision to refuse permission.

6.3. Observations

6.3.1. An observation has been received from Mrs Bridie Collins, the contents of which can be summarised as follows: -

- The Board should seek to preserve the existing buildings on the site as they are representative of the character of the area.
 - Nos. 9 and 11 Rosemount Lane are listed on the NIAH and Record of Protected Structures.
- The existence of a 5-6 storey apartment building adjacent does not constitute a reason for granting this development. The development proposed represents overdevelopment of the site.
- The development will overlook and overshadow and reduce privacy levels for adjacent property, contrary to objective UB-P-12 of the development plan.
- The impact of the development on structural integrity of adjacent buildings is unclear.
- It is questioned whether existing services can accommodate the development.
- Letterkenny is poorly served by public transport and this development, which incorporates inadequate parking, will contribute to this problem and result in a poor residential environment for future occupiers and will impact on residents in the area.
- Access to the site is via a narrow one-way lane that is unsuited to additional traffic and is used by pedestrians. Additional traffic will increase the risk of accidents as there is no footpath.
- Consideration should be given to the Letterkenny 2040 document.

- The development will contribute to an issue of lack of natural surveillance and will not lead to a safe and desirable link between Pearse Road and Main Street.
- References by the applicant to anti-social behaviour incidents within the site are disputed.
- Non-provision of communal open space is contrary to objective UB-P-10 of the development plan.

6.4. **Prescribed Bodies**

6.4.1. The appeal was circulated to The Heritage Council and An Taisce but no responding submissions were received.

7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the appeal in detail, I consider the main planning issues to be considered are:

- Principle of development;
- Demolition;
- Design, scale, building height and residential amenity;
- Impact on neighbouring property;
- Access and parking; and
- Appropriate assessment.

7.2. **Principle of Development**

7.2.1. Letterkenny is identified by the county development plan as a Layer 1 settlement, the only such settlement in County Donegal and the development plan Core Strategy allocates a substantial proportion of planned housing growth for the county to Letterkenny over the plan period.

7.2.2. The site lies within the town centre boundary and is subject to the Commercial zoning. The development plan does not contain any prescribed list of uses that are permissible or impermissible under zonings and, in this context, I have given consideration to the development strategy for Letterkenny, contained in Part C of the

development plan, which outlines the importance of residential uses at Rosemount Lane to the vitality and vibrancy of the town centre.

- 7.2.3. I have also given consideration to the National Planning Framework, the thrust of which promotes 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 (NPO11).
- 7.2.4. The proposed development will contribute to delivery of the Core Strategy, is consistent with the development strategy for Letterkenny and is supported by NPO11 of the NPF. I thus conclude that it is acceptable in principle, subject to compliance with other relevant policies and objectives. Consideration is given to these other relevant factors below.

7.3. **Demolition**

- 7.3.1. The proposal involves demolition of 2 No. unoccupied houses and other derelict buildings on the site. The buildings are not identified as protected structures and are not identified on the National Inventory of Architectural Heritage (NIAH). Numbers 9 (Ref. 40504076) and 11 Rosemount Lane (Ref. 40504075) are identified on the NIAH and Rosemount House, which lies further south, is a Protected Structure and is also identified on the NIAH (RPS/NIAH Ref. No. 40504072).
- 7.3.2. Reason No. 5 of the Planning Authority's decision states that the proposal would result in the unnecessary loss of historic dwelling stock, the scale and form of which were considered to make a positive contribution to the character and visual appearance of the street.
- 7.3.3. In appealing the Planning Authority's decision, the applicant argues that the houses have been vacant for some time, provide little contribution to the function of the town centre and have a negative visual impact. They also submit that a survey of the existing condition of the buildings could have been provided, had the Planning Authority provided an opportunity to do so.
- 7.3.4. The observer submits that the existing buildings on the site should be preserved as they are representative of the character of the area.

- 7.3.5. I noted on my visit to the site that Rosemount Lane has a mixed character, containing older/traditional buildings toward its eastern end and newer/taller buildings toward its western end, where it is functionally connected to Main Street. The subject site is at the interface of the different character areas and is visually connected to the contemporary Ros Ard apartment complex which abuts the site to the west.
- 7.3.6. Regarding the outbuildings to the site, they are to the rear of the site and are of no architectural value. I do not object to their proposed demolition as part of the development.
- 7.3.7. Regarding the derelict houses, whilst I acknowledge that they are reflective of the simple form and character of the older buildings elsewhere on the Lane and contribute to its character, I am cognisant that they are not Protected Structures and the surrounding area is not designated as an Architectural Conservation Area. Further, I have considered the emerging Letterkenny Plan and Local Transport Plan 2023-2029 and note that there is no proposal to designate Rosemount Lane as an Architectural Conservation Area (there is a proposed ACA, the Cathedral Quarter, west of Main Street) and it is not proposed to designate the houses as Protected Structures. In view of this, I consider it would be unjustified to object to the development on the basis of the loss of the 2 No. houses on the site.

7.4. Design, Scale, Building Height and Residential Amenity

Design, Scale and Building Height

- 7.4.1. The proposed development has a contemporary part 5-storey/part 4-storey design over basement design, presenting as a 5-storey over basement building at its western end and stepping down to a 4-storey over basement height at its eastern end and to the rear. It abuts the Ros Ard apartment complex, which is a part 4-storey, part 3-storey over basement development.
- 7.4.2. Regarding residential density, I would advise the Board that although the application form states that the site measures 0.857ha, it appears to measure c.0.08ha. On this basis, the proposed density is c.180 units/hectare.
- 7.4.3. The Planning Authority's refusal reasons contain a number of references to the proposed design, scale and building height. Condition No. 1 refers to

overdevelopment of the site, condition No. 2 refers to visual incongruity and condition No. 3 refers to a failure of the development to respect the character and appearance of the existing and historic street context.

- 7.4.4. The observer similarly expresses concern that the development results in overdevelopment and also that it fails to provide for natural surveillance of the adjacent street, with the result that it fails to provide a safe and desirable link between Pearse Road and Main Street.
- 7.4.5. In appealing the decision, the appellant argues that the proposal does not result in overdevelopment and is a development of similar height and scale to the adjoining Ros Ard apartment building. They further submit that the development is not dominant or visually incongruous and addresses the current negative visual impact of the derelict buildings on the site.
- 7.4.6. The principal of a tall building is established in this area of Rosemount Lane and is consistent with the *Urban Development and Building Heights Guidelines (2018)*, which states that it is Government policy that building heights must be generally increased in appropriate urban locations and that there is a presumption in favour of buildings of increased height in town/city cores and in urban locations with good public transport accessibility. In this context I see no reason to object to the construction of a taller building on the site, but I have concerns with a number of aspects of the proposal.
- 7.4.7. The exact relationship of the proposed development to the Ros Ard building is unclear (no contextual elevation drawing was provided with the application) but drawing No. AP-107 indicates that the tallest element of the proposal is of a similar height to the tallest part of the Ros Ard development and is certainly taller than the 3-storey over basement element which it would abut. I consider this approach is inappropriate and undermines the urban legibility of the street, resulting in a form and scale of development that fails to integrate with its surrounding context, contrary to the requirements of the Building Height Guidelines.
- 7.4.8. I further consider the proposed massing and building height on the east (front) elevation represents an abrupt transition in scale from the lower building heights to the east, which includes Nos. 9 and 11 Rosemount Lane, which as I have previously outlined, are identified on the NIAH.

- 7.4.9. In this town centre location and with reference to the built heritage context, in order to achieve a successful transition in height, it is my view that building heights should step down away from Main Street, as has been achieved at the Ros Ard development, in order to provide for a transition in building height. In this context, I consider the proposed development should have a similar maximum height to the 3-storey over basement element of the abutting Ros Ard building, with a further stepped down element at its eastern end.
- 7.4.10. I also share the Planning Authority's concerns that the development does not provide an active frontage onto Rosemount Lane. The Planning Authority's Regeneration Team provided detailed comments on the proposal, in the context of the Letterkenny 2040 Regeneration Strategy, advising that Rosemount Lane is identified within the Strategy as a key link between Main Street and newer retail areas of the town to the east. The submission also expresses the view that the proposed street level layout is contrary to the vision of the Strategy, which seeks to create an active, living, safe and vibrant street.
- 7.4.11. The ground level floor (identified on the floor plan drawings as the basement floor) contains a bin store, a lift/stairwell and vehicular access adjacent to Rosemount Lane.
- 7.4.12. I acknowledge, as the applicant points out, that the Regeneration Strategy is a draft, non-statutory document but it provides a framework for regeneration and improvement of the town centre and includes a concept proposal for Rosemount Lane and I have thus considered it as part of my assessment. The concept proposal for Rosemount Lane identifies the importance of the Lane to pedestrian way-finding and proposes improvements as follows: -
- 'The concept proposes for the development of high quality public realm enhancements to encourage through movement with improved pedestrian and vehicle access, re-imagining the space as a safe, obvious and desirable link between Pearse Road and Main Street.*
- Front doors to the street, already provides a level of natural surveillance and activity, which can be complemented with streetscape improvements to facilitate and encourage walking and cycling.'*

- 7.4.13. This Regeneration Strategy approach is consistent with the Urban Design Manual (criterion No. 7) which promotes activity on streets by creating active frontages with front doors directly serving the street.
- 7.4.14. In proposing inactive uses across the entire road frontage of the site, I am concerned that the development extends a pattern of inactive uses at ground floor level at this end of the Lane and would undermine the overarching intention of the Regeneration Strategy, to provide a high-quality public realm in this area as a means of promoting pedestrian permeability between Main Street and Pearse Road.
- 7.4.15. I would also note that the form and layout of the rear part of the development sees apartments across all floors provided with balconies that overlook residential properties to the east, in particular 7, 9 and 11 Rosemount Lane and Rosemount House. As is discussed in the 'Residential Amenity' section of my report, each of the affected adjacent houses is in residential use and the level of overlooking would be significant.

Residential Amenity

- 7.4.16. Reason No. 6 of the Planning Authority's refusal states that the development provides substandard accommodation, with reference to apartment sizes, bedroom sizes, aggregate living areas and dedicated storage space, and fails to provide an acceptable level of residential accommodation.
- 7.4.17. In appealing the decision, the applicant accepts that there are non-compliances with the apartment guidelines, but argues that there should be some tolerance, given the urban infill nature of the site and the need to facilitate high density development.
- 7.4.18. The development contains 1 No. 1-bed and 16 No. 2-bed units. Drawing No. AP-106 P01 identifies the proposed unit types and sizes, identifying 10 No. individual unit types. I note from this drawing that for the 2-bed units, there are 7 No. 4-person units (41% of total units) and 9 No. 3-bed units (53% of total units). The drawing identifies all of the 2-bed units as 4-person units but in the case of the 9 units above, they fail to achieve the 73sqm minimum floor area for such an apartment and I have thus assessed them on the basis of 2-bed, 3-person units.
- 7.4.19. Section 3.7 of the 2022 Apartment Guidelines states that no more than 10% of the total number of units in any private residential development may comprise 2-bed, 3-

person units. The development does not accord with this requirement but the Board will note that the requirement is not a Specific Planning Policy Requirement (SPPR) of the Guidelines so it has some flexibility as to the acceptability of the proposed unit mix.

7.4.20. Regarding the internal layout of units, having considered the floor plan drawings, there are a number of non-compliances with the 2022 Apartment Guidelines as follows: -

- The living/dining room width for unit types A, B, E, F, H, I and J does not achieve the minimum required 3.6m.
- The combined kitchen/living/dining room area for unit types A, B, C, D, E, H, I and J does not achieve the minimum required aggregate floor area of 23sqm for a 1-bed unit, 28sqm for a 2-bed, 3-person unit and 30sqm for a 2-bed, 4-person unit.
- The bedroom area for the 1-bed unit type J does not achieve the minimum required 11.4sqm.
- The bedroom width for 2-bed unit type C does not achieve the minimum required 2.8m,
- Dedicated storage space for unit types A, B, C, D, E, F, G, H and I does not achieve the minimum 5/6sqm required for a 2-bed, 3-person or 4-person unit.
- The 1-bed unit type J is a single aspect, north facing unit.

7.4.21. I acknowledge that the apartment guidelines promotes flexibility in relation to proposed urban infill schemes on sites of up to 0.25ha but I have concerns in relation to the number and nature of non-compliances arising with the proposal. Taken individually it could be argued that some are minor but, with particular reference to the number of 2-bed, 3-person units incorporated and the number of units that fail to provide an adequate living areas for residents, it is my view that taken cumulatively, these non-compliances are indicators of overdevelopment of the site.

7.4.22. The aforementioned non-compliances can be addressed but this requires reconsideration of the layout (and will likely involve omission of units) and I do not consider it appropriate to control such substantial redesign via condition.

- 7.4.23. Both the Apartment Guidelines and Building Heights Guidelines require consideration to be given to the issue of access to daylight and sunlight within proposed apartment development. No sunlight and daylight assessment was submitted with the application so I have not been able to confirm performance in relation to applicable standards such as the Building Research Establishment's '*Site Layout Planning for Daylight and Sunlight*' or the British Standard. Should the Board be minded to grant permission, I would recommend that the issue be clarified as a New Issue, prior to a decision being made.
- 7.4.24. Externally, there is a requirement for 108sqm of communal open space under the apartment guidelines and a requirement for 10% of the overall site area to be provided as public open space under policy UB-P-13 of the development plan. The proposal does not provide any communal or public open space.
- 7.4.25. The Planning Authority's report states that the absence of public space is acceptable in view of the proximity of the site to Market Square, which was at the time of the report progressing through the Local Authority Part VIII process for redevelopment. Regarding communal open space, the Planning Authority states that this could be addressed by the provision of external space at roof level.
- 7.4.26. I agree with the Planning Authority that in this location it is acceptable that no public open space is provided and I note the Planning Authority's comments that Market Square, which is within 200m of the site, is to be redeveloped. Available information regarding the project¹ states that the redeveloped space will provide a flexible, multi-user space incorporating a plaza with creative spaces for sitting, gathering, markets and events.
- 7.4.27. Regarding communal open space, the provision of a terrace/garden at roof level will require reconsideration of the roof profile, which comprises a series of A-roof profiles. I see no reason to object to the provision of a rooftop terrace/garden, subject to appropriate design and safeguarding proposals being incorporated, in particular to protect neighbouring gardens from overlooking. Should the Board be minded to grant permission, they may wish to clarify the issue further with the applicant as a New Issue.

¹ <https://www.donegalcoco.ie/services/planning/market%20sq%20letterkenny-architectural%20competition/>

Conclusion

- 7.4.28. The proposed height and massing of the development are excessive and fail to integrate with or take adequate cognisance of the surrounding context. The development also fails to provide for active usage at ground floor level of the Rosemount Lane frontage, extending a pattern on inactive uses at road level that is likely to jeopardise the successful delivery of the Letterkenny 2040 Regeneration Strategy, which identifies Rosemount Lane as a key link between Main Street and newer retail areas of the town to the east.
- 7.4.29. The development also fails to comply with the requirements of the 2022 Apartment Guidelines, in respect of the internal layout and overall size of a large number of the proposed units.
- 7.4.30. Taken together, it is my considered opinion that the proposed development comprises overdevelopment of the site, contrary to objective UB-O-4 and policies UB-P-10 and UB-P-12 of the development plan, and I recommend that permission be refused on this basis.

7.5. Impact on Neighbouring Property

- 7.5.1. There are a number of residential properties on Rosemount Lane, including apartment units and traditional housing. In particular, Nos. 7, 9 and 11 Rosemount Lane which adjoin the site to the east are in residential use.
- 7.5.2. Refusal reason No. 4 of the Planning Authority's decision states that the development would result in an unacceptable and detrimental impact to the residential amenities of the adjoining properties by way of overlooking, loss of privacy and potential overshadowing.
- 7.5.3. The observer also expresses concern that the development will overlook and overshadow and reduce privacy levels for adjacent property.
- 7.5.4. In appealing the Planning Authority's decision, the applicant argues that some level of overlooking is inevitable in a town centre location and that should the Board have concerns in this regard, design revisions can be incorporated to reduce the extent of overlooking.
- 7.5.5. Regarding overlooking, as I have previously outlined, the form and layout of the rear part of the development sees apartments across all floors provided with balconies

that directly overlook residential properties to the east. In view of the number of units that overlook, I consider the development would have a significant impact on the residential amenity of neighbouring residential properties.

- 7.5.6. I note the applicant's comment regarding revision to the proposed layout but I do not consider the issue can be addressed by minor design alterations and I do not consider it would be inappropriate to control wholesale redesign via condition.
- 7.5.7. Regarding overshadowing, as the development lies west of Nos. 7, 9 and 11 Rosemount Lane there is likely to be a shadow cast in the direction of the rear of the houses and the gardens in evening times.
- 7.5.8. For the garden areas, I am satisfied that they will continue to receive adequate sunlight in accordance with the recommendations of the BRE guidance document *Site Layout Planning for Daylight and Sunlight*, which recommends that gardens should receive at least 2 hours of sunlight over 50% of the garden area on 21st March. I would also advise the Board that there are no windows on the west elevation of No. 7 Rosemount Lane.
- 7.5.9. For the internal areas, the extent of shadow is unclear and no daylight and sunlight assessment was submitted with the application so I have not been able to assess the extent and acceptability or otherwise of overshadowing. As I am recommending that permission be refused on other substantive grounds I have not considered the issue further. Should the Board be minded to grant permission, I would recommend that the issue be clarified prior to a decision being made.

7.6. Access and Parking

- 7.6.1. Access to the development is provided at the eastern end of the building, via a c.7m wide access that leads to a controlled access to the basement level car park. 8 No. parking spaces are provided within the basement.
- 7.6.2. The observer expresses concern that Rosemount Lane is unsuited to additional traffic and that there is a risk of accidents as there is no footpath.
- 7.6.3. The Planning Report indicates that both the Roads Department and Roads Design team were consulted on the application but did not make a submission.
- 7.6.4. Rosemount Lane is a side street that narrows in width toward its west end and which incorporates narrow, at-grade footpaths on both sides of the road in the area of the

site. The site layout drawing identifies that the road width measures c.4m wide in the area of the site access and that it reduces to c.2.4m wide at the junction with Main Street. I noted on my visit to the site that road signage at the point of access to the adjoining Ros Ard development identifies that there is no vehicular access to Main Street from Rosemount Lane, so traffic from the development will be required to route eastward to the junction with Pearse Road.

- 7.6.5. There are a number of site accesses along Rosemount Lane and, the proposed development will not, in my view, have a significant effect on traffic flows. Visibility sightlines from the site access are not identified on the site layout drawing but appear to me to be of the order of 33m eastward and 45m westward, which I consider are adequate in the context of the low levels of traffic experienced at this end of the Lane. In view of this, I am satisfied that the development will not give rise to a risk of accidents.
- 7.6.6. Regarding the footpath network on Rosemount Lane, it is not within the applicant's control to provide any meaningful improvement to the network and I note that the proposed development is set back from the Lane, such that the existing footpath configuration can be retained.
- 7.6.7. Regarding parking, Table 6, Appendix 3 of the development plan stipulates that parking should be provided at a rate of 1.25 spaces per 1-bed unit and 1.5 spaces per 2-bed unit, giving rise to a requirement for 37.25 spaces.
- 7.6.8. However, the thrust of national planning policy is that parking standards in urban areas should be based on performance criteria and I note, in this respect, that Section 4.21 of the apartment guidelines states that in intermediate urban locations consideration should be given to reduced car parking provision.
- 7.6.9. A parking ratio of 0.47 spaces per unit for the development is low but is, on balance, acceptable, in this town centre location, in accordance with Section 4.21 of the apartment guidelines. In reaching this conclusion, in addition to the town centre location, I also note that the site is within walking distance of the Atlantic Technological University, University Hospital and Letterkenny Bus Station.
- 7.6.10. In circumstances where car parking is provided at a reduced rate, it is important that adequate bicycle storage facilities are provided. The apartment guidelines requires that 1 space should be provided per unit, with an additional 1 visitor space per 2

units. The proposed development generates a requirement for 25.5 spaces. The development does not incorporate any identified bicycle parking area and, further, it appears to me that provision of same is likely to require the omission of car parking spaces. Should the Board be minded to grant permission, they may wish to clarify the issue of bicycle parking in order to confirm the impact on the overall layout.

7.7. **Appropriate Assessment**

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

- 7.7.1. 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

- 7.7.2. A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening assessment has been carried de-novo.

Screening for Appropriate Assessment- Test of likely significant effects

- 7.7.3. 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).

- 7.7.4. 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

- 7.7.5. The development is described at Section 2 of this Report. In summary, permission is sought for demolition of 2 No. unoccupied houses and other derelict buildings and the construction of a four storey and part-five storey development of 17 No. apartments over lower ground floor parking and ancillary accommodation, together with associated siteworks. Foul and surface water are proposed to drain to the public network, via connection on Rosemount Lane.

- 7.7.6. The site is located at Rosemount Lane, in the centre of Letterkenny.

Submissions and Observations

7.7.7. The submissions from the appellant and applicant are summarised as Section 6 of my Report.

European Sites

7.7.8. The subject site is not located within or adjacent to any designated European site, the closest such site being Lough Swilly SAC (Site Code 002287), which is c.1.4km east. Lough Swilly SPA (Site Code 004075) lies further east along the River Swilly and encroaches to within c.2.3km of the site.

7.7.9. There are a number of other European sites within a 15km search zone of the site but in view of the nature and scale of the development proposed and the locational context of the site, I am satisfied that there is no real likelihood of significant effects arising for European sites other than those in close proximity to the site.

7.7.10. Summaries of Lough Swilly SAC and SPA are contained in the table below.

European Site (code)	List of Qualifying interest /Special conservation Interest
Lough Swilly SAC (Site Code 002287)	Estuaries, Coastal lagoons, Atlantic salt meadows, Molinia meadows on calcareous, peaty or clayey-silt-laden soils, Old sessile oak woods with Ilex and Blechnum in the British Isles, Otter
Lough Swilly SPA (Site Code 004075)	Great Crested Grebe, Grey Heron, Whooper Swan, Greylag Goose, Shelduck, Wigeon, Teal, Mallard, Shoveler, Scaup, Goldeneye, Red-breasted Merganser, Coot, Oystercatcher, Knot, Dunlin, Curlew, Redshank, Greenshank, Black-headed Gull, Common Gull, Sandwich Tern, Common Tern, Greenland White-fronted Goose, Wetland and Waterbirds

Evaluation of Effects

7.7.11. The proposed development comprises an urban infill/regeneration development in the town centre area of Letterkenny. The site currently contains 2 derelict houses and a number of derelict outbuildings.

7.7.12. In view of the separation distance to Lough Swilly SAC and SPA, together with the scale of development proposed and the site's town centre location, I am satisfied that no Appropriate Assessment issues arise, and I am satisfied that the development would not be likely to have a significant effect individually or in combination with other plans or projects on the European sites.

Screening Determination

7.7.13. 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 Nos. 002287 or 004075, 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 refused, for the following reasons and considerations below.

9.0 Reasons and Considerations

The proposed development by reason of its height, massing and internal layout, constitutes overdevelopment of the subject site, failing to integrate with its surrounding built context and also failing to provide an adequate level of residential amenity for future occupiers. The development would also, by reason of the number of east-facing balconies incorporated across all above-ground floors, result in a high degree of direct overlooking of residential property to the east in particular Nos. 7, 9 and 11 Rosemount Lane. The proposed development would be inconsistent with the relevant provisions of the Donegal County Development Plan 2018-2024, including objective UB-O-4 (promotion of quality urban design) and policies UB-P-10 (high quality residential environment) and UB-P-12 (protection of residential amenity), would seriously injure the amenities of the area and property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

Barry O'Donnell
Planning Inspector

6th April 2023.