



An
Bord
Pleanála

Inspector's Report

ABP-315130-22

Development	Revision of layout of houses to provide 2 apartments and 1 townhouse further to planning ref 20/217. Changes include retention of previous works.
Location	Governey Square, Carlow, Co. Carlow
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	21519
Applicant(s)	Paul O'Brien
Type of Application	Retention and Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Sudhir Srinivasan & Sujana Sudhir
Observer(s)	None
Date of Site Inspection	20 th November 2023
Inspector	Catherine Dillon

1.0 Site Location and Description

- 1.1. The subject site is located within Carlow town centre in Governey Square, bounded by the River Barrow on its western boundary. It is occupied by an end of terrace two storey vacant building, with an existing floor area of 225m², on the corner of Barrow Mews and Wellington Bridge. There is evidence of window opes having been boarded/blocked up, in the rear elevation at ground and first floor level, and at first floor level on the frontage of the subject building. There is a partially complete single and first floor extension to the rear of the property. The building is visible from the west of the river and the bridge on the approach into the town centre.
- 1.2. No. 20 Governey Square, a two storey dwelling adjoins the subject site to the south west and is stepped back from the frontage of the appeal premises. This property has a window at first floor level overlooking the site.
- 1.3. Barrow Lodge a two-storey detached dwelling is immediately to the north east of the subject site. An access off Barrow Mews provides a pedestrian entrance to the rear of Barrow Lodge and the subject property. A boundary wall (c.1.8m high) separates the rear southern boundary of Barrow Lodge and the subject site. Barrow Lodge is set back between c.3 and 5m from this boundary wall and has windows at ground and first floor level along its southern elevation facing the rear of the subject site.
- 1.4. The subject site has a stated area of 0.0204 hectares and is generally flat. There is a flood defence wall along the western boundary of the site.

2.0 Proposed Development

The development is for retention and planning permission to provide two apartments and one town house, further to planning permission reference 20/217. The existing building would be subdivided into 2 buildings, to accommodate two apartments (No.19), and a town house (No.18). The development was amended during the course of consideration by the Planning Authority which included the removal of an external staircase and alterations to windows. The development as amended, is under consideration and comprises the following:

2.1. Retention of rear ground & first rear floor extensions (Rear of No.19):

Permission is sought to retain a single and first floor extension to the rear of the subject building closest to No. 20 Governey Square to the south west. The single storey rear extension projects 5.3m beyond the main rear building line and has a height of 2.7m.

The first floor extension projects 2m beyond the main rear wall of No.19 for a width of 4m. It is set in from the neighbouring property (No.20) by 2.1m. A private amenity area is indicated between this extension and the boundary of the adjacent property for the proposed first floor apartment. A window serving a bedroom overlooking this amenity area is proposed on the south elevation of the extension. There are no windows proposed on the north or west (rear) elevation to this extension.

Both extensions to be retained have flat roofs with a combined floor area stated as 42m².

A single storey structure which extended to the western (rear) boundary wall of the subject property has been demolished.

2.2. Conversion of property to two apartments (No.19)

The building to be converted to apartments adjoins No.20 Governey Square.

Ground floor apartment:

This apartment would have two bedrooms with all accommodation on the ground floor with a total floor area of 67.9 m². A private open space area of 27.5m² would be provided at ground floor level to the rear.

First and second floor apartment:

This would also be a two-bedroom apartment with 2 bedrooms on the first floor and a kitchen/dining/living room area on the second floor with an overall floor area of 72.89m². The private amenity space/balcony area at first floor level would have an area of 5.88m². A timber fence screen is indicated on the drawings to enclose this amenity area.

A bin storage area is indicated in the rear garden of the ground floor apartment.

2.3. Townhouse (No.18):

The townhouse would comprise three bedrooms on the first and second floors of the building with access to a rear garden area. The drawings indicate the bedrooms at first floor level would have obscure glass with sash windows hinged on the east side. A single storey rear extension is proposed to serve a w.c. and utility room stepped in from the northern boundary between 3 and 3.5m.

- 2.4. The accommodation on the second floor to all the units, would be served by four dormer windows to the frontage of the building and roof lights to the rear.
- 2.5. A covering letter was submitted with the planning application referring to the previous ecological and flood risk assessment report submitted with P.A Ref: 20/217.
- 2.6. A shadow analysis was submitted following a further information request.
- 2.7. A Land Registry document was submitted regarding the entrance to the side of the appeal premises indicating it as a 'right of way'. (No map attached).

3.0 **Planning Authority Decision**

3.1. **Decision**

On 20th October 2022, Carlow County Council granted planning permission for the proposed development, following a further information request, subject to 12 conditions. Of relevance to this appeal are the following conditions:

Condition 2 (a) - Authorises the revisions to the scheme as previously approved under the parent planning permission PL20/217.

Condition 3 - Prior to commencement full plan and elevational details of all proposed window treatments/design and the private space feature on the first floor level at the rear elevation of the proposed development shall be submitted to the Planning Authority for written agreement.

Condition 4(a) - The applicant shall ensure that the structural integrity of the existing rear boundary wall of the site is not compromised during construction works. The wall shall be repaired/reinforced as necessary with the cost of same borne in full by the applicant.

4(b) - Within one month from the date of the permission the applicant should consult with the Carlow Municipal District Engineer and the Transportation Section (Carlow County Council). Following such consultation, an assessment shall be made and reinforcement works, if necessary, shall be agreed in writing with the Planning Authority.

Condition 5: The 'back drain' from the River Barrow passing under the application site including the shore and any connections to it from the property shall be plugged to ensure there is no flow path for flooding in the event of high river events. Full details in relation to same shall be agreed in writing with the Planning Authority prior to commencement of development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planner's report (dated 23/2/22), considered the development acceptable for a town centre location, noted it was an increase from 2 to 3 units on the site from the previous permission, and overlooking of neighbouring properties was a concern. The agent's covering letter referred to the previous Natura impact Statement (NIS) and Flood Risk Assessment (FRA) submitted with PL Ref: 20/217. Further information was requested on the following:

1. Submit information as to whether a remedial NIS is required.
2. Address issues regarding overlooking from windows, balcony and open space provision.
3. Floor plans for the proposed development to be in compliance with Sustainable Urban Housing Guidelines for Apartments.
4. Queried anomaly on the drawings regarding a door and window.
5. Requested a Shadow Impact Analysis assessment on neighbouring properties.
6. Clarify works for retention and permission.
7. Respond to third party submission.

3.2.2. The second planner's report (dated 20/10/2022) considered the amendments proposed in the current application to that granted in PL20/217 would not result in any significant impact to the River Barrow & River Nore Special Area of Conservation (SAC), and a remedial NIS was therefore ruled out at screening stage. The floor areas for the units were in compliance with the 'Sustainable Urban Housing: Design Standards for New Apartments 2020' and the Shadow Impact Analysis report indicated there would be no significant impact on adjoining properties. It was concluded subject to a number of conditions regarding the fenestration treatment, the development would not seriously injure the amenities of the area or property in the vicinity of the site.

3.2.3. Other Technical Reports

Senior Executive Engineer: Report dated 4/2/2022: No objection subject to conditions. It was noted off street and on streetcar parking is available within a reasonable distance of the development. Any deficit between established demand and proposed demand can be addressed via a development contribution. Any opening required in any adjacent public road/footpath will require the applicant to submit a Road Opening Licence application in compliance with Guidelines to the Planning Authority for approval.

The rear wall of the property is part of the Flood Relief Scheme (FRS) and cannot be compromised as a result of the works. It is recommended that the wall is suitably reinforced/strengthened to the height of the 100 year flood for the full width of the property during the renovation to ensure mitigation of the flood risk from the River Barrow. The 'back drain' from the River Barrow passes under this property and it may be connected to the River Barrow. The flow through this drain was blocked as part of the Flood Relief Scheme, and it is recommended that the shore and any connections to it from the property are plugged to ensure there is no flow path for flooding in the event of high river.

Transportation Dept: No response.

Water Services Dept: Report dated 12/1/2022: No objection subject to conditions.

Carlow Fire Authority: Report dated 17/1/2022: No objection subject to conditions.

Environment Section: Report dated 9/2/2022: No objection subject to conditions.

Further email dated 30/9/2022: No comment to make on Further Information response.

3.3. Prescribed Bodies

Irish Water: Report dated 15/1/222 No objection subject to a condition.

Waterways Ireland: Report dated 10/1/22: No objection, advised in the event of a planning permission being granted a condition be included for the applicant to consult with Waterways Ireland on any potential impact on the navigation of the river to the rear of the site.

Dept. of Housing, Local Government & Heritage: No response.

3.4. Third Party Observations

A submission was received from the appellant, living in Barrow Lodge to the north of the subject site, on a number of grounds not included within the grounds of appeal which were as follows:

- Loss of privacy and overlooking, particularly from balcony and external staircase,
- Windows should be fixed/hinged so as not to open out and overlook their property,
- 3 apartments is an overdevelopment of the site,
- Drawings lack detail, dimensions and specifications,
- Side lane is owned by Barrow Lodge with developer only having right of access and should only be used for bin removal not during construction works,
- No services should extend through the side lane in the ownership of Barrow Lodge, and
- Inadequate parking and access.

4.0 Planning History

4.1. **P.A Ref: 20/217:** Planning permission was granted on 13/04/2021 to convert an existing derelict building at Governey Square (former Pharmacy) to two, 2 bedroom houses and all associated site works, subject to 17 conditions. This application was accompanied by an Natura Impact Statement (NIS) and Flood Risk Assessment (FRA). Of relevance are the following conditions:

Condition 3a &b- required the structural integrity of the rear boundary wall to be repaired or reinforced if necessary, and further inspection to be carried out after the demolition works in consultation with the Local Authority.

Condition 4- works to be carried out in accordance with the mitigation measures specified in the Flood Risk Assessment.

Condition 6- Construction control measures to be carried out as outlined in the Natura Impact Assessment & Construction Environmental Management Plan.

4.2. Enforcement

4.2.1. **P.A Ref: UD-21-83:** Warning Letter issued on 4/11/2021 for non-compliance of Condition 1 of PL21/217, whereby on-going construction site works had departed from the plans and particulars of PL21/217.

5.0 Policy Context

5.1. Development Plan

5.1.1. Carlow County Development Plan (CDP) 2022-2028

Zoning:

The subject site is zoned town centre and is within the core retail area with the zoning objective 'To protect the vitality and vibrancy of the town centre and provide for town centre activities.' Carlow town is a 'Key town' within the settlement hierarchy of the County. There are no protected or scenic views along this stretch of the River Barrow identified in the CDP.

Core Strategy Policies CS P1-P5: Seek to support the continued growth of the town with at least 30% of new homes delivered within the existing built-up footprint.

Chapter 9: Landscape & Green Infrastructure, of relevance are policies LA.P1, LA.P5, LA.P6 & LA.P11.

Chapter 10: Natural & Built Heritage, of relevance are policies NH.P1-NH.P6

Chapter 16 contains Development Management Standards, Sections 16.8 Residential Development, 16.8.1 Design standards for new apartments including floor areas, storage and private open space standards, 16.8.5 Residential Amenity, 16.14.2 Protected habitats, and 16.14.3 Archaeology.

The site lies within Flood Zone A & B. However, the site lies within an area which has benefitted from defences to flooding, which consists of concrete flood walls constructed in the Carlow Flood Relief Scheme. For highly vulnerable development in such locations a justification test is required.

5.1.2. **Joint Spatial Plan for the Greater Carlow - Graiguecullen Urban Area 2012-2018 (as extended)**

5.2. **Section 8- Natural, Archaeological & Architectural Heritage**

The site is located within the zone of archaeological potential for Carlow Town.

5.3. **Section 10- Urban Design & Built Form**

Policies DBF 13-15- Encourage extensions and alterations to buildings, subject to the scale, bulk and appearance and they do not adversely affect the privacy, sunlight or daylight to habitable rooms.

Policy ECP 27: Quantity of open space provision for individual dwellings.

5.4. **Natural Heritage Designations**

The site bounds the River Barrow & River Nore SAC (site code: 002162) to the rear.

5.5. **EIA Screening**

Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required. Refer to

Appendix 1 completed Forms 1 (EIA Pre-Screening) & 2 (EIA Preliminary Examination) attached to this report.

6.0 The Appeal

6.1. Grounds of Appeal

Grounds of Appeal are submitted on behalf of the appellant in Barrow Lodge, of which the main points can be summarised as follows:

- The planning authority did not consider the concerns raised by the appellant regarding loss of privacy/overlooking and overshadowing/loss of light.
- As the site adjoins the River Barrow, key European Legislation & Conservation reports were missing in the submission, namely Natura Impact Statement & Flood Risk Assessment.
- Unauthorised works were carried out to that initially granted in PL20/217 which were ignored by the planning authority.
- Developer manipulated the retention planning process to achieve what they had initially planned in 2019.
- The alterations made to the proposal are not minor changes.

6.1.1. Oral Hearing Request

The appellant requested that an oral hearing be held in respect of this appeal. The Board considered the request and in accordance with Section 134 (3) of the Planning and Development Act, 2000, (as amended), it was concluded that the appeal can be dealt with adequately through written procedures and there was sufficient information on the file to reach a conclusion on the matters arising. The Notification of decision to refuse the oral hearing request was issued to all parties.

6.2. Applicant Response

None

6.3. **Planning Authority Response**

Having reviewed the appeal documentation, the Planning Authority has no further comment and is satisfied that the position of the Planning Authority is addressed in the two planning reports.

6.4. **Observations**

None

7.0 **Assessment**

7.1.1. I have read the entire contents of the file, including technical reports and submissions from prescribed bodies, visited the subject site and its surroundings, had particular regard to the issues raised in the grounds of appeal, noted the planning authority's request for additional information and the applicant's response to same. I therefore consider the main issues in this appeal to be as follows:

- Development Plan policy and context,
- Residential amenity,
- Visual amenity (new issue),
- Unauthorised works,
- Flooding, and
- Appropriate Assessment.

7.2. **Development Plan Policy and Context**

7.2.1. This is a town centre site and the core strategy in the Carlow County Development Plan (CDP) seeks to promote the growth of Carlow town centre and provide new homes within the existing built-up footprint of the town. As such the refurbishment of this vacant building to provide residential accommodation aligns with CDP policy. The Plan emphasises the need to respect privacy, residential amenity and good general design principles particularly in relation to residential alterations and extensions. Therefore, the key issue in determining the current appeal is whether or not the proposal in this instance, which seeks to alter and adapt the building to

provide 3 units, can be carried out in a manner that it will not have a detrimental impact on the surrounding residential amenities and the character of the wider area.

7.2.2. The principle of the conversion of the subject property into 2 town houses has been established by virtue of that granted in P.A Ref: 20/217. I therefore consider the issues to be considered in this appeal are the impact of the changes in the current proposal on the neighbouring residential amenity to that granted planning permission previously. The main changes include; the extensions to be retained and completed are different to that previously permitted in terms of their size and height; the fenestration has been changed and the number of units increased from 2 to 3.

7.2.3. There requires to be a balance between catering for a reasonable expectation to extend and alter the building and bring it back into use by providing quality living accommodation and any consequential impact on the wider residential amenities of the area. In conclusion therefore, any determination as to whether or not the proposed development is contrary to development plan policy needs to be explored in more detail under separate headings relating to amenity issues below.

7.3. Residential amenity

7.3.1. The appellant has raised issues regarding overlooking, loss of privacy and overshadowing/loss of light as a result of the changes made from that which was granted in P.A Ref: 20/217. These issues will be assessed in turn.

Overlooking and loss of privacy

7.3.2. The appellant owns the adjoining property Barrow Lodge to the north of the subject site. Barrow Lodge has windows serving a kitchen/dining room on the ground floor and bedrooms on the first floor set back between 3-5m from the shared boundary. No. 20 Governey Square to the south of the site has a window at first floor level on its north elevation overlooking the subject premises. I will assess the impact of the proposed town house (No.18) and the 2 apartments (No.19) on the residential amenity of the adjoining properties.

No.18 – proposed town house

7.3.3. It is proposed to insert two windows at first floor level in obscure glass with a hinged sash opening on the east side of the town house to serve a bedroom. Whilst I agree this would overcome direct overlooking of the property to the north (Barrow Lodge), I

consider it is an unsatisfactory living environment to have obscure glass serving a bedroom for the future occupiers of the town house. I note the internal arrangement for the town house granted in P.A Ref: 20/217 (closest to Barrow Lodge), had obscure glass in the ensuite & w.c windows in the rear elevation at first and second floor level.

7.3.4. It is therefore recommended that should the Board decide to permit the development the internal arrangements for this town house are amended with the ensuite bathrooms relocated to the rear at first floor level and the windows be maintained in obscure glass. This would provide a better layout for the future occupiers of the development and remove any loss of privacy to the occupiers of Barrow Lodge. The third bedroom at second floor level would have 2 rooflights in the rear elevation and 2 dormer windows to the front. Again, I would recommend the internal arrangement to this floor is amended and the ensuite bathroom placed to the rear and the rear rooflights be in obscure glass to prevent any loss of privacy to Barrow Lodge.

7.3.5. The subject site and Barrow Lodge are both in an urban setting, and the proximity, orientation and layout of Barrow Lodge has an impact on the future development of the subject site. However, given the separation distances and the height of the shared boundary rear wall, the single storey extension to the rear of No. 18 would not impact on the privacy to Barrow Lodge.

No. 19- two apartments

7.3.6. I do not consider the ground floor extension to the rear of this building would impact on the privacy of the adjoining properties, as the windows would face west towards the river. The first floor extension to property No.19, following a further information amendment, would have a window on the southern elevation serving a bedroom. This window would overlook the private amenity space for the first floor apartment which would be enclosed by a timber screen. It is important that this amenity space is screened to prevent overlooking and maintain the privacy of the neighbouring properties. This can be addressed by way of condition.

7.3.7. I noted the dwelling immediately to the south west of the subject site (No.20) has a window in the western elevation and is partially separated from the subject site by a low wall and timber fence above a single storey extension. I note the CDP in Section 16.8.11 for 'new apartments' requires private open space to be accessible from the

main living area in the form of balconies and terraces. The balcony area for the proposed first floor apartment would be overlooked by a bedroom and a doorway off the stairs. Whilst I appreciate these criteria are for new apartments, I consider the proposed arrangement is not ideal for the future occupiers of this apartment. Nevertheless, subject to a screen being erected around the balcony area I do not consider it would result in overlooking to the neighbouring properties. I would however be concerned that it could result in an element of noise and disturbance to the occupiers of No.20 Governey Square which has a bedroom window adjacent to the balcony area. However, given the town centre location of the site, I consider this would not be significant and is not an out of character feature in a town setting.

- 7.3.8. In the event the Board consider a grant of planning permission I would recommend the following amendments: the rearrangement of the internal layout for the town house with bathroom windows being positioned to the rear of the property, the screening around the amenity space for the first floor apartment being a minimum height of 1.8m high, and that it is conditioned that revised plans are submitted showing these modifications prior to the commencement of development for the written agreement of the planning authority. The front dormer windows are acceptable and would not result in a loss of privacy to the neighbouring properties.

Overshadowing/loss of light

- 7.3.9. A shadow analysis was submitted by the applicant, in response to the further information request, which includes Barrow Lodge and the subject building. I note from the analysis that Barrow Lodge's rear yard area would be in shadow during the winter months (September through to December) and in the evening in the summer months which is not unreasonable given the site's orientation, the height of the adjacent buildings, boundary wall and other structures in the yard. I consider that the extensions in this instance would have a marginal impact on the levels of overshadowing already experienced to the rear of Barrow Lodge, due to the height and separation distances of both properties and the first floor rear extension. Furthermore, the river being immediately to the west of Barrow Lodge provides an open expanse area to this property which provides a balance against this urban location and the reasonable expectation of the applicant to be permitted to expand the existing property. I therefore conclude the impact of the development on Barrow

Lodge would be negligible in terms of overshadowing and would therefore be acceptable.

- 7.3.10. The property to the south of the appeal site (No.20 Governey Square) will receive the same sunlight to the bedroom window at first floor level as existed before, prior to the first floor extension being constructed. There may be some loss of evening light to this window with the installation of an extended screen area around the proposed amenity area. It is therefore recommended any screening to this amenity area is in the form of opaque glazing rather than timber.
- 7.3.11. Overall, I do not consider that there will be any significant loss of residential amenity to the neighbouring properties. While the proposed development will be visible from the two adjacent properties north and south of the appeal site, I do not consider that the residential amenity value of said properties will be compromised to the extent such that depreciation of properties would occur as a result.

7.4. Visual amenity (new issue)

- 7.4.1. There are no protected views along this stretch of the River Barrow identified within the CDP. The property is visible both from the bridge on the approach into the town and the river to the west. Whilst the refurbishment of this building would enhance the overall appearance of the existing building, I consider a pitched roof over the first floor extension would make a positive contribution to the building when viewed from both the bridge and the river. I therefore recommend in the event of planning permission being granted a pitched roof is placed on the first floor rear extension.

7.5. Unauthorised works

- 7.5.1. The third party has raised concerns about the current application being used to regularise the unauthorised works. I noted on my site visit the former single storey rear extension had been demolished and replaced with a smaller rear extension and a first floor extension had been constructed, which forms part of the appeal development for retention. From reading the planner's report a warning letter was issued by the planning authority regarding the unauthorised works. I would remind the Board that enforcement issues are not a matter for the board, however in the event of planning permission being granted the unauthorised works would be regularised.

7.6. Flooding

- 7.6.1. The River Barrow is adjacent to the western boundary of the site and the site is located within the Carlow Flood Relief Scheme. The site falls within Flood Zone A and B. The primary potential flood risk to the development site can be attributed to an extreme fluvial flood event in the River Barrow and a secondary residual flood risk can be attributed to a potential failure of the urban drainage/water supply infrastructure located in the vicinity of the site, or a potential blockage of Wellington Bridge located downstream of the site. The site also falls within a flood defended area and benefits from a certified OPW flood defence scheme with a 1 in 100 year standard of protection.
- 7.6.2. The Planning System and Flood Risk Management Guidelines 2009, state development in this zone should be avoided and/or only considered in exceptional circumstances, such as in city and town centres, and where the Justification Test has been applied. Residential development is classified within the aforementioned guidelines as a 'Highly vulnerable development' within a flood zone. The appellant has highlighted that a flood report was not submitted with the current planning application. Although each planning application is considered on their own merits, a site-specific flood risk assessment and Justification test were submitted with the previous planning application (P.A Ref: 20/217) to which the proposed development refers, which I have read.
- 7.6.3. I have applied the Justification test as outlined in the Flood Risk Management Guidelines to the current development. The site is located within Carlow Town within an established core urban settlement and is zoned Town Centre, where residential development is permitted. The building exists albeit in a derelict condition, and the conversion of the building would promote the regeneration of this area of the town. Furthermore, the principle of 2 townhouses has been established by virtue of planning permission reference P.A Ref: 20/217. The proposed extensions to the rear of the building are small and the overall increase in floor area to that previously granted permission is not significant. The development as proposed is entirely within the boundary of the site, and I do not therefore consider it would result in an adverse impact to the existing hydrological regime of the area or to increase flood risk elsewhere.

- 7.6.4. The ground floor level of the existing property on site is between 0.171m and 0.659m below the 1 in 100 year flood, and 1 in 1000 year flood zone. In the previous application it was recommended the proposed development incorporates appropriate flood resistance and flood resilience measures in order to reduce flood risk to a sustainable level. In addition, it was recommended that the development as proposed implemented an evacuation plan for future occupiers. The development as proposed is vulnerable to flooding on the ground floor only, and the incorporation and implementation of flood resilience/resistance measures and a flood evacuation plan will protect future occupiers of the development. I am satisfied the development meets the Justification test outlined in the Flood Risk Management Guidelines.
- 7.6.5. I also note both the environment section and the district engineer had no objections to the current development on flooding grounds subject to conditions. The district engineer recommended a condition be attached that the rear wall be suitably reinforced/strengthened to the height of the 1 to 100 year flood event for the full width of the property during the renovation works, and the 'back drain' from the River Barrow which was plugged during the FRS be blocked to ensure there is no flow path for flooding in the event of a high river.
- 7.6.6. Waterways Ireland advised in the event of planning permission being granted a condition be included for the applicant to consult with Waterways Ireland on any potential impact on the navigation of the River Barrow. I would recommend in the event of planning permission being granted this is addressed by way of condition.

7.7. Appropriate Assessment

- 7.7.1. The subject site adjoins the River Barrow & River Nore SAC (site code: 002162), and is separated from the River Barrow by the flood defence wall along the western boundary of the site. I noted works have been carried out at the site that includes the demolition of an existing single storey rear extension which abutted the river wall which has been replaced by a smaller rear extension, and a first floor rear extension has been constructed. Wastewater is connecting to the main municipal sewer using the existing wastewater connection on site and surface water drainage connects to soakaways within the site. The water supply for the site will connect to the public mains. The subject site is therefore a fully serviced site.

- 7.7.2. The demolition of the single storey rear extension formed part of planning application Ref: PL20/217 which was accompanied by a Natura Impact Statement (NIS) that included a Construction Environmental Management Plan (CEMP), to protect the SAC during construction and operation works. Notwithstanding, the reference to 'mitigation' measures in the NIS, I have examined the CEMP document and I do not consider that they are mitigation measures for the purposes of appropriate assessment, and would have been provided in any event, as 'best practice' construction measures and not specifically to avoid significant effects on a European site. Nevertheless, condition 6 of the previous permission (Ref: PL. 20/217) required the construction control measures as outlined in the NIS and the CEMP to be implemented in full.
- 7.7.3. The Third Party has noted an NIS was not submitted with the current development. I am satisfied there is sufficient information available to allow the Board to carry out a complete and precise assessment of all aspects of the project. I consider that there would be no significant risk of negative impact, either alone or in combination with other plans and projects, to the integrity of the River Barrow and River Nore SAC as there is an existing rear flood defence wall in place between the site and the SAC, where no works are proposed. As the demolition works formed part of the previous permission there would be no additional effects from the retention permission. The 'back drain' referred to in the Senior Executive Engineer's report was blocked as part of the Flood Relief scheme thereby blocking any hydrological link between the property and the SAC.
- 7.7.4. I consider that the particular characteristics of the project for which permission is being sought in the current application, including its location on a fully serviced site are such that it would not be likely to have a significant effect on any Natura 2000 site, either individually or in combination with other projects. This exclusion can be made in view of the objective information set out in the application and this report. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the qualifying interests of the River Barrow & River Nore SAC (site code: 002170) or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and

submission of a NIS) is not therefore required. In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harming effects of the project on any European Sites

8.0 Recommendation

8.1. I recommend that planning permission be granted for the proposed development.

9.0 Reasons and Considerations

Having regard to the land use zoning of the site in the current Development Plan for the area, to the nature and scale of the development, and the pattern of development in the vicinity, it is considered that, on balance subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, on 22 nd December 2021 and as amended by the further plans and particulars received by the Planning Authority on 23 rd September 2022, 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 within 1 month of the date of this permission and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
2.	The development shall comply with the conditions of the parent permission (PL20/217) unless the conditions set out hereunder specify otherwise.

	<p>Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.</p>
3.	<p>The proposed development shall be amended as follows:</p> <p>(a) The internal arrangement of the town house (No.18) shall be amended to ensure any windows at first or second floor level in the rear elevation are bathroom/w.c only and shall be in manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of the glass is not acceptable.</p> <p>(b) The amenity area for the first floor flat (No.19) shall be screened and shall be 1.8 metres high and shall be in opaque or frosted glass.</p> <p>(c) Revised drawings of the first floor rear extension to include a pitched roof.</p> <p>Revised drawings including full plan and elevations showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority within 1 month of the date of this permission and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>Details of the material, colours and textures to all the external finishes to the development shall be submitted to, and agreed in writing with, the planning authority within 1 month of the date of this permission and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>No additional development shall take place above roof level, including lift enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential and visual amenities of the area.</p>

6.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.</p> <p>Reason: In the interest of public health</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
9.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
10.	<p>The applicant shall consult with Waterways Ireland on any potential impact on the navigation of the river to the rear of the site.</p> <p>Reason: In the interest of orderly development.</p>
11.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
12.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction</p>

	<p>practice for the development, including noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
13.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Catherine Dillon
 Planning Inspector
 16th February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	315130-22		
Proposed Development Summary	Revision of layout of houses to provide 2 apartments and 1 townhouse further to planning ref 20/217. Changes include retention of previous works.		
Development Address	Governey Square, Carlow, County Carlow		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Part 2 Class 10(b), Schedule 5 Part 2	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Part 2 – Schedule 5 Class 10 (b) (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the	Proceed to Q.4

		case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.).		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: Catherine Dillon

Date: 16/2/2024

FORM 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315130-22	
Proposed Development Summary	Revision of layout of houses to provide 2 apartments and 1 townhouse further to planning ref 20/217. Changes include retention of previous works.	
Development Address	Govermey Square, Carlow, Co.Carlow	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p>	<p>The proposed development includes the conversion of an existing vacant premises into 3 residential units (stated area 0.024ha) and is within an area zoned town centre in the Carlow County Development Plan 2022-2028.</p>	No
<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is to connect to existing public services.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>This proposal is for 3 residential units on 0.024 ha and is well below the threshold of 10ha as per Class 10(b)(iv) of Schedule 5 of Part 2 of the Planning and Development Regulations 2001 (as amended).</p>	No
<p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>Please refer to the Planning History Section of this Report. No significant cumulative considerations.</p>	No
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly</p>	<p>Residential Development on serviced site on zoned lands. A FRA has been carried out and the Justification Test has been passed.</p>	No

<p>impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>Having regard to the nature and scale of the proposed development it is considered that the issues arising from the proximity to the River Barrow & River Nore SAC can be adequately dealt with under the Habitats Directive (Appropriate Assessment) as there is no likelihood of other significant effects on the environment.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>No</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>No</p>

Inspector: Catherine Dillon

Date: 16th February 2024

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)