



An
Bord
Pleanála

Inspector's Report ABP 316095-23

Development

(1) Demolition part of the existing lounge area (2) Construction of a lounge area and provide for apartment above (3) Refurbishment of existing apartment above the bar area and provide for an extension to the rear of the existing building to include a new staircase to serve the old and new apartments and all other associated site works including connection to existing services

Location

Pound Street, Rathmullan,
Letterkenny P.O., Co. Donegal

Planning Authority

Donegal Co. Council

Planning Authority Reg. Ref.

2251769

Applicant

Superior Quality Builders Ltd

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellants	William and Anna Deeny and others
Observer(s)	None
Date of Site Inspection	14 th August 2023
Inspector	Rosemarie McLaughlin

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1.0 Site Location and Description

- 1.1. The appeal site 0.017 ha is located in Rathmullan village, an attractive historical settlement on the Fanad peninsula, located on the western shore of Lough Swilly, c 24 km north-east of Letterkenny, Co. Donegal.
- 1.2. The appeal site consists of a public house, Mary Macs Bar, which is a two storey and a single storey building, both parts with pitch roofs fronting Pound Street to the east. The site is located close to the junction with Main Street which is the R247 coast road. The junction between Main Street and Pound Street to which the appeal site fronts, widens towards the coast road making the junction highly visible approaching from the northeast, south and east. At the junction, the south side of Main Street provides access to the beach and information about the area.
- 1.3. Single storey elements extend to the rear of the public house (west). The appeal site also fronts a narrow laneway to the north called Back Lane that links Pound Street to The Brae/Church Street and provides rear access to properties fronting Main Street. The western elevation abuts a garage fronting Back Lane in separate ownership and a large courtyard open space area associated with property in residential and commercial use to the south. The southern elevation adjoins the adjacent dwelling to the south.
- 1.4. While the appeal site fronts Pound Street, it forms part of a terrace of buildings consisting of commercial and residential uses fronting Main Street that turn the corner northwest onto Pound Street with the single storey end located on the northern section adjacent to Back Lane. On the opposite side of Back Lane to the north of the appeal site is a two storey dwelling. On the opposite side of Pound Street to the east is a shop with residential above that fronts both Main Street and Pound Street.
- 1.5. The floor plans illustrate the entire ground floor is public house with ancillary use and one small apartment at first floor level.
- 1.6. The pub frontage as illustrated on the submitted drawings of the existing front elevation on drawing no.8, is different to the elevation on drawing No.5 which represents the previous pub frontage. The frontage has been altered significantly with additions of a number timber panels and columns which result in the original

windows being recessed. The planners report also includes images of the previous pub front as shown on the application drawings as the exiting frontage.

- 1.7. Long seats are located on the public footpath against the public house and two large barrels with tabletops are on the footpath at the main entrance to the premises. There is no footpath on the opposite side of Pound Street to the east.

2.0 Proposed Development

- 2.1. Further information (FI) was sought and provided on 3rd February 2022. The FI submission amends the annotation of the second bedroom in each apartment to a “home office” but there is no change in the application particulars altering the application from 2 bedroom to one bedroom units. While the FI requested a reduction in the height, the submitted FI did not amend the dimensions or size of the proposed development as requested but focused on design elements around fenestration, additional sections and information about windows in other buildings in the vicinity. The orientation of windows on the rear of the proposed development were changed to be splayed to avoid overlooking. In summary this is an application for the following:

- Demolish single storey part of lounge bar:
- Construct modern two storey extension with texturized cladding, modern windows and a flat roof consisting of a rebuilt lounge at ground floor, staircase for access to apartments above accessed from Back Lane, and 1 No. new two bedroom apartment at first floor (63sqm). The two storey extension extends along the elevation of Back Lane and extends to the boundary to the west:
- The rebuilt ground floor element of the lounge is proposed to have a c 4 m wide opening of bi-folding glass doors onto the public pavement on the front elevation on Pound Street:
- Refurbish and extend existing apartment (providing a two bedroom apartment 67sqm) and providing 2 No. apartments in total at first floor: The FI drawings amended the second bedroom in each unit to Home study.
- The proposed two storey development is flat roof two storey structure which extends across Pound Street, Back Lane and the rear of the property:

- One private open space at 7.53 sqm for the new apartment is proposed at first floor level fronting Pound Street which is recessed behind the building line.
- No parking is proposed. A bin store for the entire development is proposed adjacent to Back Lane fronting Pound Street:
- Question 23 on the planning application form requires the applicant to state one of four following options for the use of dwelling, own use, sale, letting and holiday home. The applicants indicate letting.
- Associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission subject to 7 no. conditions. Of note, condition No. 2 requires details of external finishes and same to be agreed with the planning authority, condition No. 3 relates to waste management and condition No. 8 requires a contribution.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The first planning report is dated 6/12/22. A previous conservation report on a previous application that was withdrawn is referred to but is not available on the planning file. A previous planning application was withdrawn on foot of a further information request. The 3 no. third party observations are noted and responded to. The observations mainly related to parking, visual impact, loss of privacy, proposed materials, inadequate apartment standards, lack of passive surveillance, overbearing design and use of external patio.

- 3.2.2. The planning report considers the principle of development as acceptable, and issues in the withdrawn application are addressed. Reference is made that the applicant has engaged in a course of informal meetings and telephone conversations. The development is considered a stark contrast to the traditional townscape and elements of the proposal remained unresolved and in particular the

height of the floor to ceiling floor folding doors at ground floor fails to sympathetically respect the horizontal alignment. The overall width of the proposal was considered to be out of proportion with the adjoining building especially when considered in context of a first floor development.

- 3.2.3. In relation to the assessment against the Apartment Guidelines, 63 sqm and 67 sqm is proposed for each of the two person apartments which was considered marginally lower than the 73 sqm four person two bed apartment, but a 2 bed three person apartment of 63 square metres is achieved on both apartments. The proposals was noted failed to comply with the relevant standards but consideration must be given to the historic existing building an town centre location and a degree of flexibility is required.
- 3.2.4. The planning report considered overall, the likely short term nature of the proposed accommodation and the likelihood that this will be holiday accommodation towards tourists the accommodation is considered acceptable, convenient, and accessible. The lack of private open space for one apartment was also considered acceptable having regard to the location close to the beach and the flexibility required for town centre developments.
- 3.2.5. Further information was sought in relation to the nearest habitable room windows.
- 3.2.6. In relation to traffic, the concerns of the objectors are noted and the request of the area engineer to provide off street parking but the planner was of the view that the limited scale of the site and the number of units proposed was acceptable in a town centre location and a parking management plan could be prepared which directs the occupiers of the tourist accommodation to the public car parking facilities.
- 3.2.7. EAA and AA issues were not considered to arise.
- 3.2.8. A planning report dated 22nd of February 2023 on foot of further information submitted considered that the overall height of the proposal has not been altered as the applicant has explained the constraints regarding the low floor to ceiling height prohibit any further reduction in height. [It may be noted there is no record of this is the planning file.] Elevation changes have been made and it was considered that while the design has improved, the scale and bulk will have undoubtedly have a significant visual impact along the street. Consideration has been given to the recent part 8 proposals for Rathullen published November 2022 which includes a new

community hub building on the corner of Pier Road. It is considered the proposed texturized brick material could be used on the subject site in order to help the proposal tie in with the wider regeneration proposals for Rathmullan.

- 3.2.9. In relation to residential amenity, the drawings submitted were acceptable. The planner has measured the midpoint of the bedroom in the adjoining property and believed there is only a marginal risk of overshadowing or loss of morning sun to that room. Considering the central location and the expectation that urban development leads to compact growth, this development was not considered to give rise to significant harm. It is noted that some bedrooms have been changed to office space, but the internal space standards have been considered in the earlier report in the context of being habitable bedrooms.

3.3. Other Technical Reports

- 3.3.1. Roads report dated 29th of November 2022 recommended area would be very congested at peak times and the applicant to provide proposals for additional parking.

- 3.3.2. Building control report dated 8th of November 2022.

3.4. Submission by Department of Housing Local Government and Heritage Development Applications Unit

- 3.5. The department noted the proposed development is within a zone of archaeological potential established around the historic town of Rathmullan. Submission recommended should there be any new groundworks associated with the development, that these would be archaeologically monitored and three conditions are recommended.

4.0 Planning History

- 4.1. PA Ref. 2152618- Withdrawn. Reference is made by Donegal Co. Council in their assessment on the current planning appeal to reports in this withdrawn application for three storey development to include apartments over public house.
- 4.2. A Part 8 (no reference available) Project Name: Rathmullan (community & heritage) regeneration project is referred to in the planning report. That development includes inter alia the construction of a new 3 storey modern community hub type building at

the junction of Kerrs Bay and Pier Road, Rathmullan. The drawings associated with that proposal are available on the Council website and sections are snipped into to Council planning assessment.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The County Donegal Development Plan 2018-2024 applies (DCDP). Of note the following summarised policies are applicable.
- 5.1.2. Rathmullan is designated as a Layer 3 settlement in the 'Rural Towns and Open Countryside' settlement Table 2A.3 as identified on Map 15.59. The core strategy recognises that Layer 3 settlements are a critical component of the County and provide an important and diverse resource for the county as a place to live; to express cultural identity; to establish and strengthen rural communities; to provide a unique quality of life; to provide a natural tourism product; for health, recreation and wellbeing; for its natural resource potential and; for providing economic opportunities directly related to rural areas.
- 5.1.3. Rathmullan is in an area designated a "Urban Area" on Map 6.2.1. and is designated as an Area of High Scenic Amenity (HSA) on map 7.1.1.
- 5.1.4. N-HP-7: Within areas of 'High Scenic Amenity' (HSA) and 'Moderate Scenic Amenity' (MSA) as identified on Map 7.1.1: 'Scenic Amenity', it is the policy to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.
- 5.1.5. TV-P-4: Within Town Centres or built up urban areas: Provide for distinctive buildings of a high architectural quality which contribute to a distinct sense of place and a quality public realm. Promote, visual interest through modulation and detailing of architectural elements
- 5.1.6. TV-P-6: Ensure proposals make efficient use of land.
- 5.1.7. Policies in relation to residential development are broadly provided in policies UB-P 1 to 29. The following summarised policies are the most relevant.

- 5.1.8. UB-P-10: New residential development shall demonstrate that a housing density appropriate to its context is achieved and provide for a sustainable pattern of development whilst ensuring the highest quality residential environment.
- 5.1.9. UB-P-12: It is the policy 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.
- 5.1.10. UB-P-29: Holiday home development will be considered within the settlement framework areas without the application of a restriction where the applicant can demonstrate that the site is a brownfield site.
- 5.1.11. Policies BH-P-1 to 11 relate to built heritage. Of note and in summary:
- 5.1.12. BH-P-6: Ensure measures to extend, modify or materially alter the fabric of vernacular and/or historic buildings are sensitive to traditional construction methods and materials and do not have a detrimental impact on the character or appearance of a structure.
- 5.1.13. BH-P-8: Facilitate appropriate and high quality design solutions including considerations of scale, proportion, detailing and material specification for development proposals affecting vernacular and/or historic buildings in both urban and rural settings.
- 5.1.14. BH-P-9: Conserve and enhance the quality, character and distinctiveness of towns and streetscapes in the County, including street layouts, historic structures, building lines, traditional plot widths, signage and historical street furniture as well as the character of the area
- 5.1.15. BH-P-10: Ensure the retention of historic shop fronts and pub fronts as part of the streetscape of towns and villages.

5.2. Apartment Guidelines 2022

- 5.2.1. The relevant section to this appeal may be summarised below and are addressed in detail in the assessment.
- 5.2.2. Specific Planning Policy Requirement 3 - Minimum Apartment Floor Areas.

- 5.2.3. The Guidelines provide clarity in relation to certain three person units . In relation *“to social housing, or purpose built housing for older people it is considered necessary that these guidelines would also make provision for a two-bedroom apartment to accommodate 3 persons”*. *“3.6 Accordingly, planning authorities may also consider a two-bedroom apartment to accommodate 3 persons, with a minimum floor area of 63 square metres, in accordance with the standards set out in Quality Housing for Sustainable Communities (and reiterated here in Appendix 1). This type of unit may be particularly suited to certain social housing schemes such as sheltered housing. 3.7 While providing necessary variation in dwelling size, it would not be desirable that, if more generally permissible, this type of two-bedroom unit would displace the current two-bedroom four person apartment. Therefore, no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment”*.
- 5.2.4. Car parking, private amenity space, storage, cycle provision, room sizes and Communal Space standards are set out in the Guidelines. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, car parking provision, private amenity space and communal space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and location
- 5.2.5. Cycle Quantity requires a general minimum standard of 1 cycle storage space per bedroom shall be applied. Any deviation from these standards shall be at the discretion of the planning authority and shall be justified.
- 5.2.6. Storage should be additional to kitchen presses and bedroom furniture but may be partly provided in these rooms.
- 5.2.7. All applications for planning permission that include apartments, must submit a schedule that details the number and type of apartments and associated individual unit floor areas, as part of the planning application process (section 6.1).
- 5.2.8. Planning authorities are requested to *“practically and flexibly apply the general requirements of these guidelines in relation to refurbishment schemes, particularly in historic buildings, some urban townscapes and ‘over the shop’ type or other existing building conversion projects, where property owners must work with existing building fabric and dimensions.... “prioritise the objective of more effective usage of*

existing underutilised accommodation, including empty buildings and vacant upper floors commensurate with these building standards requirements. (section 6.9)

5.3. National Planning Framework 2040

- 5.3.1. National Policy Objective 3(a): Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- 5.3.2. National Policy Objective 18b: Develop a programme for ‘new homes in small towns and villages’ with local authorities, public infrastructure agencies such as Irish Water and local communities to provide serviced sites with appropriate infrastructure to attract people to build their own homes and live in small towns and villages.
- 5.3.3. National Policy Objective 35: 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.

5.4. Housing for All (2021)

- 5.4.1. This national plan aims to provide for 33,000 homes until 2030. The new housing is to be affordable, located appropriately, compliant with building standards and support climate action.

5.5. Natural Heritage Designations

The appeal site is not located within a European site. The Lough Swilly Special Area of Conservation (SAC) Site Code: 002287 is located c 35m south of the site where the qualifying interests are as follows:

- Estuaries [1130]
- Coastal lagoons [1150]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]
- *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410]
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]
- *Lutra lutra* (Otter) [1355]

This site is of conservation importance as it contains good examples of at least five habitats listed on Annex I of the E.U. Habitats Directive (estuaries, lagoons, Atlantic salt meadows, Molinia meadows, old oak woods) and supports a population of Otter. In addition, it is of high ornithological importance.

The Lough Swilly Special Protection Area SPA Site code 004075 is also located 35 m south of the appeal site with an extensive list of qualifying interests. The site supports a wide diversity of wintering waterfowl for which it is the most important site in the north-west. It is of international importance because total numbers exceed 20,000 birds and it also has internationally important populations of *Cygnus cygnus*, *Anser anser* and *Anser albifrons flavirostris*. In addition, there are at least 18 species which occur in numbers of national importance. The site also supports regionally important numbers of *Pluvialis apricaria* and *Limosa lapponica*.

The following Natura 2000 sites are also within a c 15km of the appeal site:

- Mulroy Bay SAC Site Code:002159 c 10 km
- Horn Head to Fanad Head SPA Site Code:004194 c 10 km
- Ballyhoorisky Point to Fanad Head SAC Site Code:001975 c 13 km
- Leannan River SAC Site Code:002176 c 9.5 km
- Lough Fern SPA Site Code:004060 c 12 km
- Ballyarr Woods SAC Site Code:000116 c 13 km
- North Inishowen Coast SAC Site Code:002012 c 11.5km

5.6. EIA Screening

- 5.6.1. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom, it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal has been received from William and Anna Deeny and Ruth Deeney and Fiachra McLaughlin, the owners and occupiers of a premises on Main Street and may be summarised as follows:

- The permission granted by the council includes 2 apartments with an office in each apartment that may be used as a bedroom providing 2 no. two bedroom units.
- The height of the flat roof building extends to the chimney of the original pitched roof two storey building and is not in keeping with the surrounding buildings. The third story of the new build has potential for extra bedrooms.
- The development will block out daylight to the apartment above the shop. The balcony on the new apartment is directly overlooking the sitting room of the apartment across the road above the shop, invading the privacy of the occupants. The extra-large picture window also invades the privacy of the apartment above the shop.
- There is insufficient parking for businesses in the immediate facility and for residents who have difficulty parking at or near their homes. Pound Street cannot have parking on both sides of the road and regularly people park on the footpath. The holiday season brings a major increase in traffic. Resident cars have been damaged from double parking. Delivery drivers to the shop have great difficulty and the store doors are regularly blocked by cars. The entrance door to the apartment above the shop is often blocked by cars and the front door is completely blocked which is a fire exit.
- Development in the village is supported but the apartment above the lounge is not in keeping with the village streetscape. The two apartments with two bedrooms and each would result in potentially 6 extra residential parking spaces on a congested street. Photographs are included of parking on Pound Street.

6.2. **Applicant Response**

None.

6.3. **Planning Authority Response**

- The council wishes to rely on the previous reports and in addition would like to emphasise the relevance of the development in the context of the government Town Centre First policy which aims to create town centres that function as viable, vibrant and attractive locations.
- The government's Housing For All strategy identifies various pathways to addressing its objectives including making more efficient use of existing stock within towns and villages.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. I consider the main issues that arise in this assessment relate to the following:

- Principal of development
- Residential standards of proposed apartments
- Impact on residential amenity in vicinity
- Visual impact
- Traffic
- Appropriate Assessment

7.2. **Principal of development**

- 7.2.1. The principle of an improved residential unit and a new additional residential unit within an existing settlement is acceptable, subject to the relevant policies relating to the quality of the accommodation for future occupants, the visual and heritage impact, an assessment of the impact on neighbouring properties and application of relevant policies.
- 7.2.2. The planning authority assessment refers to the use being for holiday lets or short lets which has influenced their decision in allowing standards in the Apartment Guidelines to be breached. While pre application communication between the applicant, the planning authority and the Regeneration Section of the Council is referred to in the planning assessment, no details are provided on the planning file. It is noted on the application form that pre consultation has taken place by emails.
- 7.2.3. The application form includes that the two units will be let rather than owner occupied, for sale, or for holiday use. I will assess the application for two residential apartments which may be occupied as normal lettings and which may become the long term homes of occupants therein and not as holiday accommodation as in the planning assessment. The planning authority also consider the proposed units as acceptable 2 bed 3 person units. No schedule of accommodation was provided as is required in the Guidelines and it may be noted that no more than 10% of the total number of units may comprise this category of two-bedroom three-person apartment per the Guidelines.

7.3. Residential standards of proposed apartments

- 7.3.1. The two proposed apartments fail to meet several of the provisions of the Apartment Guidelines. As the site is less than 0.25 ha, the Guidelines allow flexibility in reducing or eliminating standards such as private open space, parking, storage etc. in certain cases. I will address the applicable relevant standards against each of the apartments below and I also have regard to the small size of the site and the location in an existing built up area.
- 7.3.2. **Refurbished apartment No.1**
- 7.3.3. The site consists of an existing public house with one apartment c 41 sqm (scaled of drawings, as not provided) which under the Apartment Guidelines would be considered a studio apartment in size. Access to the existing residential unit is from

the public house and does not contain a WC/bathroom. Having regard to the existing position over a public house, a larger apartment is acceptable in principle.

- 7.3.4. The proposed extended apartment has a floor area of 67 sqm. The proposed floor area of bedroom 1 is 16.5 sqm and is an irregular shaped room with a splayed north facing window redesigned in FI as angled away from the main section of the adjacent private courtyard. This bedroom complies with the Apartment Guidelines, but the quality of the daylight is reduced from the initial application. Bedroom 2 at 9.5 sqm has been amended to an office use in the FI drawing but is not referenced as such in the written particulars. The window to that room has also been reconfigured and set back into the building, which is immediately adjacent to the elevation of the staircase, significantly reducing the quality of the daylight to that room. The Planning Authority did not seek to have the issue of the second bedroom addressed in the FI request and accepted the apartments as a 2 bed 3 person unit. The assessment of the FI by the Planning Authority considers the application as for a 2 bedroom unit. I consider the area of bedroom no. 2 as only being capable of being a single room with a poor quality of natural light or as an office as indicated on the drawings.
- 7.3.5. No private amenity space or communal space is provided. No parking, and no cycle provision is made for this apartment.
- 7.3.6. The combined living/kitchen/dining is 28sqm and is in accordance with the Apartment Guidelines for a one bedroom (23sqm) and 2 bed 3 persons (28sqm) but is short of a 2 bedroom 4 person unit (30sqm). A 3 sqm wardrobe is provided in bedroom 1 and a 0.75 sqm press in the hall.
- 7.3.7. In relation to parking, which I will deal with below, I do not consider that this is required for this refurbished apartment.
- 7.3.8. As this is an existing apartment that currently that does not comply with the standards associated with a new apartments, I am satisfied that the refurbishment and extension at first floor to the rear of the apartment into a one bed room unit as shown on the FI drawings is satisfactory having regards to the Apartment guidelines where the objective is to practically and flexibly apply the guidelines in 'over the shop' type of development. The applicants are not however constrained to work with existing building fabric and dimensions as referenced in the Guidelines, and they are extending the existing apartment to the rear, building at first floor directly to the

irregular shaped site boundary. While the Apartment Guidelines are not all met, the quality of the existing apartment by the proposed development would in my opinion be an improvement in terms of space and circulation for the occupants.

7.3.9. While the reduced standards would be considered acceptable for the proposed occupants, an issue arises as to the impact of the apartment on the adjacent private open space and this is addressed below.

7.3.10. **New Apartment No.2**

7.3.11. This apartment is a new build and accordingly while the overall area of the site is constrained, I consider that it is appropriate to seek to meet more closely the Apartment Guidelines standards for the future occupants. An amenity open space is provided recessed into the first floor which is connected to the living area and is in accordance with the required area standard.

7.3.12. The proposed apartment has a floor area of 63 sqm which is significantly lower than a 2 bed 2 person apartment at a minimum of 73 sqm and is the minimum size for a 2 bed 3 person unit (63sqm) and exceeds a one bed unit (45sqm). The proposed floor area of bedroom 1 is 11.4 sqm with daylight provided from the setback amenity space, 2.85m from the front east elevation. The size of the bedroom complies with the Apartment Guidelines, but I note the floor area includes a wardrobe of 1.35 sqm which appears to form part of the storage provision and therefore the room is reduced 10.05 sqm which is below the standard.

7.3.13. Bedroom 2, at 8.8 sqm has been amended to an office use in the FI drawing but as above, is not referenced in the written particulars. The window to that room overlooks Back Lane to the north. The Planning Authority did not seek to have the issue of this second bedroom addressed in the FI request and accepted the apartment as a 2 bed 3 person unit. The room is broadly triangular in shape with the widest section being 2.88 m reducing down to c 0.6 m. The floor width does not meet the Guidelines (2.1m for single and 2.8m for a double) across the room. The storage shown on the initial application in this room totals 2.45 sqm thus reducing the room size to 6.35 sqm and below any bedroom standard, if that storage is for the overall apartment. I consider the storage in the western side of the room as inaccessible. I consider the area and configuration of bedroom no.2 as only being capable as an office as indicated on the FI drawings.

- 7.3.14. The combined living/kitchen/dining is 21.5 sqm and therefore is not in accordance with the Apartment Guidelines for a one bedroom (23sqm), 2 bed 3 persons (28sqm) or a 2 bedroom 4 person unit (30sqm). A variation of up to 5% is allowed subject to the overall compliance with the overall apartment floor areas which is not met.
- 7.3.15. In addition to the 1.35sqm bedroom wardrobe in bedroom 1, a 1.2 sqm press is proposed in the bathroom. The proposed storage in the FI does not meet the standards for any size apartment or studio.
- 7.3.16. Overall, apartment No.2 has the benefit of a private amenity space but fails to meet the minimum standard for the living area, has a shortfall of storage and if the wardrobe is counted as the storage, then bedroom no.1 fails to meet the minimum area standard for a double room. The second bedroom is altered to an office in the FI.
- 7.3.17. Parking is addressed below, and I consider in accordance with the Guidelines and the location that parking does not have to be provided. However, in the absence of parking and having regard to the Apartment Guidelines, there is no provision for cycle storage on the site for the either apartment which is not acceptable.
- 7.3.18. While having regard to the size of the site at less than 0.25 ha and the irregular shape of the site in a town location, on balance I do not consider that the residential quality of the accommodation as proposed as acceptable. The proposed development is not a case where just minor variations of the standards occur but significant and cumulative reductions in standards occur for residential amenity for persons intending to live in apartments within towns and villages. The proposed extension over the ground floor and extensions to rear provides an opportunity to provide close to the required standards. I consider that the proposed upper floor layout into the two units is an overdevelopment of the site, resulting in poor quality residential amenity for the future residents.
- 7.3.19. There is nothing in the planning application submission that indicates that these apartments will be used as holiday accommodation where an application of the standards may be considered differently and the application from specifically did not indicate that they would be holiday accommodation. Apartment No.2 could be amended somewhat by way of condition where the kitchen/living/dining was increased in size, bedroom 1 increased in size by the bathroom and storage being

provided in the area of the second bedroom/home office or the scheme could be reconfigured into one larger apartment. However, the layout as proposed raised serious issues of building the second floor directly onto the adjacent open space as addressed below.

- 7.3.20. I also have serious concerns about the adequacy of the daylight into the bedroom owing to the recess of 2.85m from the front elevation as the private open space is roofed. There is no section through the open space section illustrating the varying roof levels but the proposed private open space is covered, only allowing a light source into the room from a distance. This again could be amended by way of condition where the open space is reconfigured, however as the amending conditions would be so significant, and would not be subject to third party rights, I consider that the application should be refused. I am also mindful that while the second bedrooms in each unit have been annotated as home offices, the planning authority consider the apartments as 2 bedroom 3 persons and I consider the overall residential amenity would be significantly substandard for that size of unit and which are restricted in the guidelines.

7.4. Visual Impact – New issue

- 7.4.1. The site is within an area of 'High Scenic Amenity' and the Development Plan confirms that Rathmullan has been designated at national level as an 'Historic Town' for general protection. I also consider that Rathmullan performs an important tourism function due to its attractive landscape and heritage. A building in the location of the current public house is identified in the Cassini 6 inch and 25 inch historical maps. There are several objectives in the CDP as outlined above in relation to respecting the style, architectural detailing etc. in areas such as the appeal site characterised by traditional and vernacular streetscapes.
- 7.4.2. The current building is typical of the townscape in mass, roof profile and form and the proposed design is a flat roof structure representing a contemporary design. The principle of a modern building not imitating historical styles and placing the extension clearly in the current time is acceptable if it complements the original structure in terms of scale, materials and detailing and complies with relevant CDP policies.
- 7.4.3. It may be noted at this point in the assessment, that the proposed textured facades on the extension are also proposed on the lower sections of the public house, below

the traditional windows in an attempt to integrate the new extension by combining materials on the old and new elements. It has not been raised in the appeal, and may be considered a New Issue, but the public house frontage has been altered significantly from its former simpler pub frontage as illustrated on the submitted drawings of the existing front elevation (Drawing No.8) by the addition of numerous timber panels and vertical columns and this is illustrated in Drawing No.5 . As the Board will consider this appeal de novo, I do not consider that the alterations as evident on site, integrate with the proposed contemporary extension in any way. The proposed extension reads as if it has been designed against the previous simpler façade and I believe this is reiterated by the fact that the previous elevation is also submitted with the planning application drawings. The CGIs illustrate the new frontage without the street furniture. The simple pub front has been transformed into a visual clutter that obscures the proportions and vernacular layout of the façade and does not integrate with the proposed modern development visually.

- 7.4.4. As the pub frontage is within the ownership and control of the applicant, it would be reasonable in any future grant of permission or application to require the pub frontage to be amended or by way of condition to revert to the more simplified frontage which in turn would read much more appropriately with the proposed modern extension. This would also be consistent with policy BH-P-10 in relation to pub fronts.
- 7.4.5. The planning assessment refers to a part 8 development with a modern building. Given the distance between the sites, I do not consider that this is particularly relevant to the specific appeal.
- 7.4.6. At issue is the impact of the proposal on this visible location on the terrace that turns the corner to/from Main Street. From the Main Street looking northeast from the coast, the extension is on the established building and is considered an acceptable contemporary proposal. The proposed solid to void ratio is at odds with the existing public house and pattern of development on this side of the street as one would expect when not imitating the vernacular. The base of the upper floor main elevation proposed openings in the FI are proximate with the levels of the upper floor window cills. The proposed 4m wide by 3m high folding doors reads a shop front and I consider the proposed front elevation on the extension as reading as a completely new modern building that is acceptable in principle, subject to conditions regarding

materials and amending the detailing of the public house. I do not consider the ground floor opening should open onto the street for reasons of residential amenity in the vicinity and this is addressed below.

- 7.4.7. In relation to the visual impact approaching the coast from northeast of Pound Street, the bulk and massing along Black Lane will be a very significant change with a significant visual impact. I consider that owing to the angle of Pound Street and that the lane is parallel to rear of Main Street, that the visual impact of this large 2 storey elevation across the side of the site is substantially mitigated to an acceptable level. I also consider that Pound Street is a secondary street within the settlement and has capacity to integrate a modern building into the street frontage without any impact on any of the significant historic buildings in the wider area.

7.5. Impact on residential amenity in vicinity

- 7.5.1. Issues have been raised in the appeal and the planning assessment about impact on residential amenity in the vicinity. This part of the village demonstrates residential and commercial uses side by side and over the shop, which is very positive and should be protected. In terms of the appeal grounds, the shop opposite the appeal site has residential use at upper floor. I do not consider that opposing first floor windows on opposite sides of the wide junction at Pound Street will be a significant issue in terms of privacy. I note the proposed size of the window serving apartment No.2 and the amenity open space but in an urban situation this is not like direct overlooking to a rear open space and is acceptable.
- 7.5.2. I do not consider that the private amenity space could be used by the public house or an additional apartment could be placed on the upper floor without planning permission.
- 7.5.3. A more significant level of impact occurs to the private amenity courtyard directly to the rear of the pub (west) which is associated with the properties to the south of the pub. At present, only the two storey section of the public house has windows overlooking the open space, one serving the apartment and one serving the existing stairs and both these windows are set back c 3.5 m from the irregular boundary line overlooking the courtyard.
- 7.5.4. The courtyard will be transformed from having a single storey element at the boundary(c. 2.8m wall) to having a two storey development c 5.7m (scaled of

drawings) all along the eastern boundary of the courtyard as well as the existing two storey rear of the properties to the south. The submitted drawings illustrate a house directly adjacent to the pub which is attached to the butchers with house above. On inspection, they read as one property at the rear. While there are no submissions from these neighbours, it is important to protect future occupants of adjoining property and to maintain a reasonable standard of amenity open space to protect the future viability of the adjacent property. In this regard, I consider that the two storey element c 5.7m high all along the boundary of the appeal site with the amenity open space of the adjacent courtyard as overbearing, notwithstanding the mixed uses in this area.

- 7.5.5. The applicants have amended the windows so that they are oblique for the residents of the proposed apartments which reduces the overlooking of the courtyard, but this does not address the physical impact of having a flat roof two storey structure on the boundary of an amenity open space. I do not consider the proposed extension at the location of the boundary with the neighbouring private amenity open space as acceptable in that it would be overbearing and cause serious injury to that amenity open space and accordingly should be refused and a redesign considered.
- 7.5.6. The planning assessment considered the impact of the two storey extension will have a minimal impact on daylight to the windows in the adjacent property to which I concur, however I consider that there will be an impact on the courtyard in relation to sunlight from the new high wall along the eastern boundary which is not acceptable given the orientation, use and layout of that space. I would consider that any application for such development in a very tight space would be assisted by daylight and sunlight assessment.
- 7.5.7. A window exists on the house on the opposite side of Back Lane to which I do not consider will be impacted by any significant overlooking. In terms of loss of daylight, it presents as a dual aspect room and accordingly the development is considered acceptable in relation to that building.
- 7.5.8. In relation to the proposed large opening on the ground floor in the new lounge section, the glass doors fold back to allow this section to be open to the street. I note there are tables and seats on the footpath. I consider that if the folding doors were opened fully, the noise levels from the public house would be unacceptable to this

largely residential area that has mixed commercial uses. It would not be acceptable for the residential amenity above, opposite, adjacent or to the house north of Back Lane. I also consider that as there are seats and tables outside, that cumulatively, it could encourage patrons onto the street where there is a footpath of limited width and would not be acceptable to pedestrians.

7.6. Traffic

- 7.6.1. No parking is proposed. It is reasonable to assume that if two apartments are developed, that some residents will have cars. I note the view of the planning assessment that only one additional apartment is proposed but also note that the planning assessment considered that this is for two No.2 bedrooms apartments while the current unit is more a studio accessed from the public house. The 2016 census indicates that c 86.3% of households had access to at least one car in Co. Donegal. Rathmullan is a small settlement with a local link bus service to Letterkenny/Fanad head, three times a day, with additional evening buses on Friday and Saturday. The traffic section of the Council sought additional information seeking parking to be provided. Rathmullan is a busy tourist town at certain times of the year and the appeal site which is very close to the beach, the shop and the public house on the site and is an area of parking demand. There is no footpath on the opposite side of the road along the side of the shop. The appellants raise the issue of ongoing difficulties with damage to cars and access to their residential accommodation being blocked by cars on the road which are accepted. I also note parking on the Back Lane which could also potentially block access to the proposed apartments.
- 7.7. The Apartment Guidelines allow for no parking in certain circumstances and allow for flexibility on certain sites. The appeal site has 100 percent site coverage and as such there is no possibility of providing parking without reducing the footprint of the public house. I consider in achieving the residential elements, the site cannot accommodate off street parking but that residents would be able to get parking within the wider area of Rathmullan. While this is not optimum, the benefit of residential use over the public house is considered positive for the village and the inconvenience of parking away from the site is a reasonable compromise. However, there is no provision for cycle storage which when taken in conjunction with no parking provision is not considered an acceptable or reasonable for residents therein

and as above, I consider that permission should be refused. The ground floor of the public house would appear to have capacity for a cycle store in a redesign.

8.0 Appropriate Assessment Screening

- 8.1. The appeal site is not located in or adjoining a European site. The site is c 35 m from Lough Swilly Special Area of Conservation Site Code: 002287 and the Lough Swilly Special Protection Area SPA Site code 004075. The proposed development is located within an existing development footprint that is served by mains water and sewage where additional space is proposed within the existing footprint.
- 8.2. Owing to the proximity to the SAC, I have had regard to the following; The appeal site does not contain any qualifying interests of the SAC nor any Annex I habitat and does not contain any supporting habitat for the qualifying interests of the SPA. No direct effects such as habitat loss or fragmentation are likely to occur, no indirect effects such as habitat degradation are likely to occur as a result of the proposed works.

The seawall and coast road provides a physical barrier between the project area and the SAC, thus minimising the danger of sediment from construction works. The construction associated with the development will be a temporary and due to the built nature of the surrounding environs, potential disturbance from construction of the developments will not be significant.

The following Natura 2000 sites are also within a c 15km of the appeal site which are considered not to have any pathway:

- Mulroy Bay SAC 002159 c 10 km No direct hydrological link to subject site, no avenue of connectivity
- Horn Head to Fanad Head SPA 004194c 10 km No direct hydrological link to subject site, no avenue of connectivity
- Ballyhoorisky Point to Fanad Head SAC 001975 c 13km No direct hydrological link to subject site, no avenue of connectivity
- Leannan River SAC 002176 c9.5 km No direct hydrological link to subject site, no avenue of connectivity

- Lough Fern SPA 004060 c 12km no direct hydrological link to subject site, no avenue of connectivity
- Ballyarr Woods SAC 000116 c 13 km No direct hydrological link to subject site, no avenue of connectivity
- North Inishowen Coast SAC 002012 c 11.5km No direct hydrological link to subject site, no avenue of connectivity

8.3. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment as a built up urban area and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

9.0 Recommendation

- 9.1. I recommend that permission be refused. Should the Board disagree with the above assessment, I would recommend design conditions regarding a revised elevation of the public house and the folding doors to the refurbished lounge to be amended.
- 9.2. It may be noted condition No.3 has not been raised in the appeal and may be considered a new issue that the Board may wish to circulate or could be included as a note having regard to the substantive issues below.

10.0 Reasons and Considerations

1. Notwithstanding the location of the site within an existing built up settlement, the design of the proposed development, and in particular the proposed new apartment, by reason of its inadequate room sizes, inadequate storage, inadequate levels of natural daylight and lack of any cycle storage provision where no off street parking is proposed, would conflict with the standards recommended in the "Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities" published by the Department of Housing, Local Government and Heritage in December 2022, and as such, would constitute an inappropriate form of development. The proposed

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

2. The proposed development by reason of its design, scale, site coverage and in particular the two storey high development along the eastern boundary of the adjacent private amenity open space associated with the neighbouring property to the south, would constitute overdevelopment of a small site, which would be overbearing to the adjoining property, would likely cause an unacceptable reduction in sunlight to the amenity open space and would seriously injure the residential amenities of property in the vicinity.
3. Alterations have occurred to the front of the public house with the introduction of protruding vertical columns (causing the original windows to be recessed on this vernacular property), timber panels, and ground floor signage. The submitted elevation drawings show the previous simpler elevation that existed on the site as well as the current elevation. The existing façade on the public house does not integrate visually with the proposed contemporary modern two storey extension which would be considered acceptable alongside a more similar elevation to that shown in the submitted planning application drawing No.5. The amendments that have taken place to the front of the public house are also not considered to be consistent with Policy BH-P-10 in the County Donegal Development Plan 2018-2024 which seeks to ensure the retention of historic pub fronts as part of the streetscape of towns and villages. It is considered that the proposed contemporary extension would not integrate with the existing public house frontage in this highly visible location and would interfere negatively with the character of the townscape which is designated as an area of High Scenic Amenity, contrary to planning policies NH-P-7 and BH-P-6 in the County Donegal Development Plan 2018- 2024, and would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Rosemarie McLaughlin
Planning Inspector

30th August 2023