



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317199-23

<b>Development</b>	Construction of 5 apartments. Change of use of former auction house to 2 retail units and all associated and ancillary works.
<b>Location</b>	Scotch House, Pearse Street, Ballina, Co. Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	22597.
<b>Applicant(s)</b>	P.J. Hennigan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse permission.
<b>Type of Appeal</b>	First Party versus decision.
<b>Appellant(s)</b>	P.J. Hennigan.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	25 January 2024.
<b>Inspector</b>	Stephen Rhys Thomas.



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## **1.0 Site Location and Description**

- 1.1. The appeal site is located at the town centre of Ballina in County Mayo, along the northern side of Pearse Street. The Ballina Innovation Centre (former Barracks) is almost complete and is located to the rear of the site and comprises a number of newly renovated historic buildings and a large public plaza. The appeal site is typical of a town centre period commercial premises, three storeys in height and with numerous outbuildings to the rear. The rear of the site is accessed through an arched carriageway. The rear elevations of the adjacent buildings all face north west across the new Innovation Centre. Property along Tone Street to the south west of the site present rear elevations that look north east across the appeal site and the Innovation Centre too.
- 1.2. The area is characterised by well maintained commercial buildings for the most part. Some premises are less well maintained than others and upper floor vacancy is noticeable as viewed from the street below. A feature of Ballina town centre is the number of historic and modern laneways between buildings, these laneways are well used by pedestrians as short cuts between parking areas and the main street.

## **2.0 Proposed Development**

- 2.1. The proposed development of five apartments and commercial change of use, comprises the following detail:
  - The subdivision of first and second floor residence to Scotch House and construction of additional third floor roof level extensions to provide for:
  - A one bedroom apartment (no.1) at first floor level
  - A three bedroom duplex apartment (no.2) at second and third floor level with private external amenity spaces, including greenhouse to rear;
  - construction of a centrally positioned single storey extension at first floor level to provide for a two bedroom apartment (no.3);
  - construction of a two storey rear extension partially over auction house onto Maguire's Yard at first and second floor level to provide for two duplex two bedroom apartments (nos. 4 and 5);

- construction of two centrally positioned single storey extensions at second floor level to provide for a residents common room and a greenhouse;
- change of use of former auction house (83 sq.m) to the rear to a retail unit (retail A) with lane access
- a second retail unit (retail B) with provision for new entrance off Maguire's Yard;
- partial change of use of rear service area to existing ground floor retail unit (38 sq.m) to provide for a communal space and lobby area serving the proposed upper floor residences and existing office and a revised internal layout for the rear service area corridor (4 sq.m) serving the existing ground floor café;
- provision for ramped, stepped and gated public access laneway between Pearse Street and Maguire's Yard;
- provision of residents external amenity space at first, second and third floor levels,
- all associated signage and lighting and connections to local engineering services.

2.2. 24 items of Further Information were sought by the planning authority, a number of details were clarified including:

- The extent of the works proposed.
- Structural integrity, design and layout.
- Architectural Heritage and conservation.
- Traffic.
- Services.
- Ownership and construction phase.

2.3. The overall development remains the same as that initially proposed.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority refused permission for three reasons, that can be summarised as follows:

1. The development will open up a new pedestrian access to adjoining lands to the rear at Maguires Yard, this would impact upon the residential amenity of adjoining property and devalue same property.
2. Sufficient legal interest has not been demonstrated in order to allow for construction activity access from the rear of the site, this would injure amenities and devalue property in the vicinity.
3. Suitably detailed information concerning a Construction Traffic Management Plan has not been prepared, construction activity would likely result on traffic disruption to Pearse Street and lead to a traffic hazard.

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

#### **3.2.1. Planning Reports**

##### **First Report**

- 24 Items of further information requested.

##### **Second Report**

- Items of further information noted, outstanding issues include:
- Side views at various locations not submitted.
- Pedestrian access issues remain a concern.
- Greater clarity required with regard to 'shed' building retention.
- Access to the rear of the property remains an issue of concern.
- A legal right of way onto Maguires Yard to the rear has not been established.

The issues outlined above remain a concern, time for clarification of further information not available, and refusal of permission is recommended.

### 3.2.2. Other Technical Reports

Area Engineer – further information required.

Water Services – no objections.

BMD Architect – no objections to proposal, other than clarity regarding pedestrian access.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

- 3.4.1. Seven submissions received, summarised as follows: loss of privacy due to overlooking, loss of natural light, not enough car parking, structural integrity queries, bin storage, no consultation with tenants, health and safety concerns, height and design out of context with the area.

## 4.0 Planning History

- 4.1. Appeal site:

None.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Mayo County Development Plan 2022-2028 includes Objective SSO 13 that states: The land use zoning provisions of the existing town and environs development plans for Ballina, Castlebar and Westport shall continue to be implemented on an interim basis until such time as local area plans are adopted for these towns, whilst also having regard to any draft local area plan, and subject to compliance with the provisions of the Mayo County Development Plan, including the Core Strategy population/housing targets.

5.1.2. The subject site is zoned C1 - Commercial Town Centre under the Ballina and Environs Development Plan 2009-2015, Map 6A refers.

5.1.3. The site is located within the Pearse Street Architectural Conservation Area.

Relevant sections of the development plan include:

TVHP 6 To promote innovation in architectural design that delivers buildings of a high quality that positively contribute to the built environment and local streetscape.

Volume 2 Development Management Standards

4.16 Apartments

5.2 Retail / Commercial Development

Table 7 Car Parking Standards

7.12.4 Dual Parking

## **5.2. Natural Heritage Designations**

5.2.1. The River Moy SAC (site code 002298) is located 160 metres to the south east of the site.

## **5.3. EIA Screening**

5.3.1. The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required, see Appendix 1.



## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A First-Party Appeal was submitted to An Bord Pleanála on the 29<sup>th</sup> of May 2023 by the Applicant opposing the Planning Authority's decision, the grounds of appeal can be summarised as follows:

- There are no residential properties in the adjoining properties or in the vicinity. The proposed development has been designed to bring residential use back in to the town centre and will bring value to adjacent property through more active use. National policy encourages town centre development for residential uses and increasing pedestrian permeability, Government's Town Centre First Policy Document refers. In addition, the development aligns with local planning policy, policy objectives of the LAP are highlighted.
- Access arrangements at construction stage can be agreed with relevant parties, access to the public area to the rear (barracks) is open to public use.
- A Preliminary Construction Traffic Management Plan was prepared in accordance with the requirements of the Traffic Signs Manual and the Construction Site Traffic Management Plan Guidance. It is usual for detailed requirements to be agreed at compliance stage.

6.1.2. In addition to the grounds of appeal, the applicant raises issues and dissatisfaction about the planning application process, that include:

- Lack of pre-planning meetings.
- Further information inaccuracies concerning communications between applicant and planning authority regarding pedestrian access design acceptability.
- Future Expansion Zone and Innovation Quarter plans not fully known.

### **6.2. Planning Authority Response**

None.

### **6.3. Observations**

None.

## **7.0 Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Pedestrian Access
- Legal Interest
- Construction Phase
- Other Matters
- Appropriate Assessment

### **7.2. Principle of Development**

- 7.2.1. The Mayo County Development Plan 2022-2028 includes Objective SSO 13 that states: The land use zoning provisions of the existing town and environs development plans for Ballina, Castlebar and Westport shall continue to be implemented on an interim basis until such time as local area plans are adopted for these towns, whilst also having regard to any draft local area plan, and subject to compliance with the provisions of the Mayo County Development Plan, including the Core Strategy population/housing targets. The appeal site is located in the town centre of Ballina on lands that are subject to zoning objective C1 – Commercial Town Centre in the previous plan. The Ballina Town and Environs Development Plan 2009-2015 is now expired. The Draft Ballina Local Area Plan 2024-2030 was on public display between Tuesday 19th December 2023 to Thursday 8th February 2024 and I note that the site remains within the Town Centre zoning.
- 7.2.2. The proposed residential and commercial uses, are permitted in principle on lands zoned town centre. The planning authority and observers to the planning application have not raised any concerns about the uses proposed by the applicant. I am satisfied that the principle of the development proposed is acceptable and in accordance with the zoning objective for these lands at the town centre of Ballina.

7.2.3. The site is located within the Pearse Street Architectural Conservation Area (ACA) and some observers highlight that the development could impact the historic and architectural heritage of the area. The applicant has prepared a large amount of material to support the application and matters have been further refined by the planning authority in the course of the application process. I have examined the site and Pearse Street presents an attractive streetscape at ground level, punctuated by fine civic and commercial buildings that are protected in their own right on the Record of Protected Structures. The subject building is not picked out for special designation as a protected structure but it does form an important element of the ACA and in my view this is not affected by the development as proposed. This is because most of the development happens set back and behind the roofline to Pearse Street. Clearly, a large part of the development will be on view from the new Innovation Centre to the north. But the rear elevations of many town centres are haphazard, sometimes untidy and present the working and service side of a street. I am satisfied that the Pearse Street Architectural Conservation Area (ACA) will not be adversely impacted upon and that the new face to the Innovation Centre is a positive improvement to the townscape at this location.

### **7.3. Pedestrian Access**

- 7.3.1. The planning authority are concerned that the provision of a new pedestrian access between Pearse Street and the rear of the property, lands at Maguires Yard would impact upon residential amenity and depreciate their value. Residential amenity and property values form the basis for the first reason for refusal. The applicant explains that there are no residential properties in the adjoining properties or in the vicinity. In addition, the proposed development has been designed to bring residential use back in to the town centre and will bring value to adjacent property through more active use. Lastly, the applicant argues that national policy encourages town centre development for residential uses and increasing pedestrian permeability, Government's Town Centre First Policy Document refers and the development aligns with local planning policy, policy objectives of the LAP all highlighted.
- 7.3.2. From my observations of the site and its surrounds, I note that pedestrian cut throughs from the main street to side streets and car parking areas are very common in Ballina town centre. Some pedestrian laneways are straight with a clear and direct view to the other end whilst other laneways are curved or dog legged. In my view

each laneway seems to be well used and safe, some have active frontages along their length and some do not. I am satisfied that a pedestrian laneway through this site is a sensible option and provides a planning gain that links Pearse Street with the new Innovation Centre beyond. In addition, a new retail frontage to the Innovation Centre lands would add an active frontage at this corner location in a new and large public open space. The applicant has argued that there are no residential units in the immediate vicinity and there will be no impact to amenity or property values. The applicant references numerous national and development plan policies and objectives that support the enlivenment of the town centre and I agree that this type of proposal is supportive of town centre improvement. I am satisfied that a pedestrian laneway, that is well supervised and overlooked such as that proposed, would be a positive feature in the streetscape. In my mind such a feature would not impact on residential amenity or devalue property in the vicinity. The laneway will provide a safe means of access between one public place and another, increase the public realm in a safe manner and encourage sustainable forms of transport in terms of walking and cycling. Pedestrian laneways are a common feature within the town centre of Ballina and the proposed development of a new laneway is not out place and supports the identify and usability of this urban location.

#### **7.4. Legal Interest**

- 7.4.1. The second reason for refusal issued by the planning authority refers to a lack of information regarding access to the rear of the site for construction purposes. It is stated that insufficient legal interest has been demonstrated and the inability to freely access the site would injure the amenities or depreciate property values. The applicant points out that access arrangements at construction stage can be agreed with relevant parties, and that access to the public area to the rear (old barracks) is open to public use.
- 7.4.2. I note that the applicant prepared a response to a further information request regarding construction and maintenance access rights. Their submission refers to sufficient legal access to the site and confirms up to date registry maps and folio numbers. The applicant explains that the portion of the site that remains with the Registry of Deeds may take time to clear and the Registry of Deeds registration has been submitted instead. The planning authority did not accept the explanation and refused permission.

7.4.3. The applicant indicates that they have complete legal entitlements to make a planning application and carry out works within the site boundary and that access to the rear of the site is through public land. Issues to do with legal title to land and rights of way or easements, stand outside the planning process and are not matters that can be solved with any element contained within the Planning and Development Act 2000 as amended. The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not entitled solely by reason of a permission to carry out any development. Commonly, a grant of permission is subject to the provisions of section 34(13) of the Act, referred to above. In other words, the developer must be certain under civil law that he/she has all rights in the land to execute the grant of permission. I have seen enough information on the file to demonstrate that the applicant has the relevant rights to lodge an application and carry out development, it is not for me or the Board to forensically investigate issues that are better examined in another forum if that is necessary. As such there are no grounds for the Board to refuse permission in this instance.

7.4.4. I am satisfied that the development as proposed falls within the boundaries of the site and any other forms of consent with regard to access across public land for construction purposes and pedestrian access falls to be agreed with the relevant parties when and if construction begins and the development is complete.

## **7.5. Construction Phase**

7.5.1. The third and final reason for refusal refers to the lack of detail in terms of a comprehensive Construction Traffic Management Plan. According to the planning authority, the absence of such a plan is likely to result in a significant impact to traffic flows on Pearse Street and this would endanger public safety by reason of a traffic hazard. The applicant explains that a Preliminary Construction Traffic Management Plan was prepared in accordance with the requirements of the Traffic Signs Manual and the Construction Site Traffic Management Plan Guidance. It is further pointed out that it is usual for detailed requirements to be agreed at compliance stage.

7.5.2. I can see that the applicant has prepared a Preliminary Construction Traffic Management Plan that sets out a number of requirements and responsibilities to be

undertaken during construction activity. The report explains the scope of works and that disruption will be kept to a minimum. My reading of the plan is that it is advisory rather than prescriptive in its content. By that I mean it is not entirely clear if Pearse Street will be directly affected or if primary construction traffic is to access the site from the rear via the new Innovation Centre and its public plaza. However, this is not a matter to merit a refusal of permission as it is common practice to finalise construction traffic routes prior to the commencement of development. I am satisfied that an appropriately worded condition is appropriate in this instance and permission should not be refused because of a lack of a construction phase plan.

## **7.6. Other Matters**

- 7.6.1. Residential Amenity – The applicant proposes to bring living back into the town centre and in addition to renovations to the existing accommodation has proposed new insertions. I note that the current development plan references the Sustainable Urban Housing Design Standards for New Apartments (2015) (as updated 2018) and Town and Village Housing Policy 01 and Town and Village Housing Objective 03 both refer. The current plan identifies that guidelines are updated, and I am satisfied that the 2022 are relevant in this instance. Specifically, that building refurbishment schemes on small urban sites such as the appeal site, should be acknowledged and a relaxation of standards is appropriate, subject to overall design quality. In this instance, I note that contents of the schedule of apartment accommodation and that all relevant minimum standards for internal and external amenity are met or exceeded. I also note the Daylight Provision Report prepared by the applicant to respond to concerns expressed by the planning authority and can see that daylight provision within units is acceptable and within limits. Incidentally, I note the results for units 4 and 5 incorporate amendments to windows recommended later in this report. I am satisfied that the residential amenities afforded to future occupants will be acceptable in this development.
- 7.6.2. Rear Shed Retention - The planning authority raise a number of issues to be addressed at further information stage and most of these points were noted but some remained outstanding and formed the basis of the three reasons for refusal. However, the retention of the shed structure to the rear remains as an issue. The applicant has explained that the auction house (shed) is to be retained and preserve the embodied carbon therein. The planning authority would prefer if it were

demolished. I have examined the drawings and the rationale to retain the massed concrete walls of the shed and incorporate them into the finished design approach. I am satisfied that this is both a sustainable approach to an existing structure whilst acknowledging the former use of the site. I am satisfied that the applicant's approach is valid and appropriate at this location that will open onto the public area of the new Innovation Centre.

- 7.6.3. Design and Neighbouring Property – The applicant has proposed a bold and innovative approach to an urban intervention, utilising existing buildings and inserting new residential pod structures with brave amenity facilities. The planning authority have not raised significant concerns regarding the design approach and I note the comments made by the Council's Executive Architect. Observers to the planning application were concerned about the design approach and raised issues about residential amenity, principally overlooking.
- 7.6.4. The applicant has explained the design rationale behind their proposal and how it fits into this urban and town centre location, in their view they have addressed all concerns regarding neighbouring property. I have visited the site and examined the drawings in detail. This is a town centre location with over the shop living accommodation, though it is evident that there is some vacancy at upper levels all along Pearse Street. Leaving the issue of vacancy aside, it is necessary to consider the amenities of neighbouring property even for a town centre location and I have some minor concerns regarding the development potential of neighbouring sites and their residential amenity.
- 7.6.5. In that regard, I have identified that units 4 and 5 could harbour the potential for overlooking to the south west. Given that units 4 and 5 are triple aspect I am satisfied that windows along the south western elevation facing neighbouring property should be amended as follows: south western elevation windows on the first floor of units 4 and 5 shall be replaced with fixed high level clerestory windows, the south western elevation windows to bedrooms on the second floor of units 4 and 5 shall be omitted. Such amendments and omissions would not significantly impact the residential amenity associated with these units as dual and triple aspect orientations will remain largely unaffected. Lastly, I am conscious that the south western elevation window and open space proposed on top of the residential communal room has the potential to provide overlooking opportunities and consequently loss of



privacy for neighbouring property. In my view, this roof top space is unnecessary when there are so many other spaces on offer in the proposed development for the enjoyment of future occupants. I recommend that the south western elevation window, access staircase and roof amenity space associated with the residential communal room be omitted.

7.6.6. In terms of overshadowing and adjacent property, I refer the Board to the Daylight Provision Report prepared by the applicant to respond to concerns expressed by the planning authority. After examination of the diagrams contained therein and given the urban setting, and the prevailing shadow environment, I am satisfied that no adverse impacts will result given the scale and design of the development as proposed.

7.6.7. Procedural Issues – the applicant has raised a number of issues about how the planning application was processed and that lines of communication between them and the planning authority were not well maintained before and during the process. However, I am satisfied that the manner in which the application was processed was in accordance with the relevant Act and Regulations. I appreciate that at times frustration can be an issue between parties, but these are not matters that I can consider with reference to the appeal on hand.

## **7.7. Appropriate Assessment**

7.7.1. I have considered the housing development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

7.7.2. The subject site is located in an urban and serviced site where the the closest Natura 2000 site is the River Moy SAC (site code 002298) located 160 metres to the south east of the site.

7.7.3. The proposed development comprises a mixed use renovation and extension project for 5 apartment units and 2 retail units set out in detail within section 3 of my report above. No nature conservation concerns were raised in the planning appeal with respect to Natura 2000 sites.

7.7.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The nature and scale of the mixed use development on urban and serviced land.
- The lack of proximity between the appeal site and any Natura 2000 site and the lack of direct connections between same.

7.7.5. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

7.7.6. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **8.0 Recommendation**

8.1. Having regard to the above assessment, and based on the following reasons and considerations, it is recommended that permission be granted subject to conditions.

## **9.0 Reasons and Considerations**

9.1.1. Having regard to Objective SSO 13 of the Mayo County Development Plan 2022-2028, that the subject site located on lands zoned C1 - Commercial Town Centre under the Ballina and Environs Development Plan 2009-2015, that amongst other things seeks to provide for shopping and retail stores, office development and apartments, to preserve town centre character and heritage building sites, to retain retail/shop use on ground floor of principal shopping streets and promote “Living over the Shop” and to protect the amenity of the residential community, it is considered that the proposed development, subject to conditions set out below would maintain and enhance the vitality, viability and environment of the town centre and provide for appropriate town centre uses, would not seriously injure the residential or visual amenities of the area, and would generally be acceptable in terms of traffic safety and convenience. 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, as amended by the further plans and particulars received by the planning authority on the 1<sup>st</sup> day of March 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) the south western elevation windows on the first floor of units 4 and 5 shall be replaced with fixed high level clerestory windows, the south western elevation windows to bedrooms on the second floor of units 4 and 5 shall be omitted.

(b) the south western elevation window, access staircase and roof amenity space associated with the residential communal room shall be omitted.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

3. The developer shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.

Reason: In the interests of clarity and public health.

4. Details of the materials, colours and textures of all the external finishes to the proposed extensions shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the Planning Authority a detailed surface water design proposal that incorporates an element of Sustainable Urban Drainage System measures if feasible, such a report and/or drawings shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

6. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

8. The construction of the development shall be managed in accordance with a Construction and Traffic 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 practice for the development, including:

(a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;

(b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the construction management plan shall have regard to guidance on the protection of fisheries during construction works prepared by Inland Fisheries Ireland.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

9. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

11. Proposals for a street, building and public space naming scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs and dwelling numbers, shall be provided in accordance with the agreed scheme. No advertisements / marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

Reason: In the interest of urban legibility.

12. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

13. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the Planning Authority not later than

6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be

referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

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.

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Stephen Rhys Thomas  
Senior Planning Inspector

18 April 2024



## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-317199-23			
<b>Proposed Development Summary</b>	Construction of 5 apartments. Change of use of former auction house to 2 retail units and all associated and ancillary works on a site of 0.059 Hectares.			
<b>Development Address</b>	Scotch House, Pearse Street, Ballina, Co. Mayo			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓	
		<b>No</b>		
<b>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?</b>				
Yes				
No	✓		Proceed to Q.3	
<b>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]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
No	✓	10. Infrastructure projects, (b) (i) Construction of more than 500 dwelling units.  And	Urban development, mixed use comprising 5 dwellings and the change of use of two retail units, all on a site of 0.059	No EIAR or Preliminary Examination required

		(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Hectares in the town centre. Scale of development is less than 500 dwelling units, on a site 0.059 Hectares within the business district area.	
<b>Yes</b>				Proceed to Q.4

<b>4. Has Schedule 7A information been submitted?</b>		
<b>No</b>	N/A	<b>Preliminary Examination required</b>
<b>Yes</b>	N/A	<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_