



An
Bord
Pleanála

Inspector's Report

ABP-319012-24

Development	Change of use from public house to 5 no. apartments and 1 no. retail unit, consisting of 4 no. 1 bed apartments and 1 no. 2 bed apartment with material alterations to the existing building and all associated site works.
Location	Former O'Sullivan's Bar, Ballyhooly South, Ballyhooly, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	235427
Applicant(s)	Brennan and O'Connor Estates Ltd.
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Sean Feehan
Observer(s)	None

Date of Site Inspection

15 August 2024 and 23 September
2024

Inspector

Claire McVeigh

1.0 Site Location and Description

- 1.1. The subject site, 0.0295 ha, is located within the development boundary of Ballyhooly, a key Village within the North Cork – Fermoy and Kanturk-Mallow Municipal Districts located along the National Primary Route N72 between the towns of Fermoy and Mallow. The subject site sits south of the N72 within a designated Architectural Conservaton Area (ACA) (Lower Ballyhooly Conservation Area) on the junction with the L-1506 local road.
- 1.2. The subject site comprises three buildings along the Main Street (378.5 sq.m). The existing two storey building (O’Sullivan’s Bar) is a small mid 19th century town house over a public house and, as stated in the submitted Conservation Report, a landmark building on the corner of the historic streetscape. Some works were carried out under the previous permission (08/5140) but not completed. The Conservation report states that the works ‘...were not carried out in full and have left the building in a state of disrepair and at odds with the surrounding conservation area’. The second building a two-bay extension to south of the main building appears as a two-storey infill structure and the roofline sits below that of both adjoining buildings. The third building is a three-bay structure adjoining the main corner building to the east on Main Street.

2.0 Proposed Development

- 2.1. The proposed development comprises change of use from public house to 5 no. apartments and 1 no. retail unit (30 sq. metres), consisting of 4 no. 1 bedroom apartments and 1 no. 2 bedroom apartment with material alterations to the existing building and associated site works.
- 2.2. Proposed apartments revised following request for further information, as set out in table:

Reference	No. of Bedrooms	Total floor area
Apartment 1 (First Floor)	1	49 sqm
Apartment 2 (First Floor)	Studio	38 sqm

Apartment 3 (Ground Floor)	1	68 sqm
Apartment 4 (Ground Floor)	1	57 sqm
Apartment 5 (Ground Floor)	2 bed (3 person)	66 sqm
Retail unit	n/a	30 sqm

Table 2.2

- 2.3. A new shopfront is proposed and new timber windows to the street facing elevations. In addition, it is proposed to smooth lime render the external walls. Along the street edge new paving, kerbing and heritage bollards are proposed to prevent junction parking.

3.0 Planning Authority Decision

3.1. Decision

On the 25 January 2024 the planning authority decided to grant permission subject to 11 no. conditions.

- 3.1.1. Conditions not of a standard nature include:

Condition no. 3 The 30 sqm retail unit shall be used as retail use only and no change of use shall take place without the prior grant of permission.

Condition no. 4 Shopfront design to be submitted and approved prior to undertaking of any site works. Applicant to consult with the conservation office prior to submission of compliance.

Condition no. 5 A camera condition survey of the receiving trunk sewer shall be submitted to the area office ratifying its condition and proposed service connection locations.

Condition no. 6 construction management plan to be agreed prior to commencement of development.

Condition no. 7 during the course of construction the developer shall provide on Barrack Road a covered skip or other such receptacle for the deposit.

Condition no. 10 A new public footpath and kerb with cast iron bollards shall be laid along the entire roadside perimeter of the site, prior to the first occupation of the new dwellings. Paving and kerbing shall be heritage in style and construction and agreed in advance with the architect's department and local area roads office.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Report

- No real likelihood of significant effects on the environment arising from the proposed development the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.
- Blackwater River SAC is located approximately 250m south of the subject site. The requirement for Appropriate Assessment has been screened out having regard to the scale and nature of the proposals and lack of any physical or hydrological connection between the development site and the European Site.
- Flood mapping indicates that the site is not located within an area that experiences any fluvial or pluvial flooding.
- Further information was sought in relation to revision to the internal layouts of the apartments to meet with the standards set out in the guidelines and to provide a schedule of areas, clarification sought relating to access to the communal areas and how bin storage will be facilitated, inaccuracies identified in the submitted planning drawings revised drawings required, fenestration revisions sought, proposed entrance detail revisions sought to units 1 and 2 and revised shopfront to reflect the scale, form and proportion suitable for the ACA – Conservation Matters included the preparation of an Architectural Impact Assessment making use of the existing AIA for the site (see planning history section 4.0), and further details sought in respect to the

proposed use of the commercial unit. Revised layout showing all connections for water/surface water /foul sewer shall be provided.

Report following receipt of further information

- Revisions made to the apartment 2 to a studio apartment and apartment 5 comprises a 3 person 2-bedroom apartment is acceptable to the planning authority.
- All apartments with access to communal amenity space and confirmation that bins will be brought through the communal corridor on the ground floor and out the security gate for kerbside collection.
- Revised FI drawings provide for correct apartment numbers, principal dimensions and designated areas in accordance with Appendix A of the Design Standards for New Apartments.
- The proposed fenestration and material finishes have been revised as per Drawing PD004 rev 01 and are considered acceptable subject to condition recommended by the Conservation Officer.
- Proposed entrance to apartments no. 1 and no. 2 via a communal corridor with security gate in black wrought Iron. Conservation Officer has raised no issues with the proposed detail. Conservation report has been prepared and revised shopfront details provided. Satisfied that the redesigned elevations and detail are sufficient to protect and enhance the architectural heritage of the ACA, subject to condition recommended by Conservation Officer.
- Internal layout for the proposed retail unit has not been provided as it depends on the ultimate end user. A defined use has not been chosen as this will depend on the unit being leased to a suitable tenant. Recommends that a condition is attached that the unit solely be used for retail and that any other change of use would require a separate planning permission to enable assessment of associated staff facilities, public toilets etc.
- Revised site layout plan includes the new public footpath with cast iron bollards along the entire perimeter of the site. Public mains sewer connection at the rear of the property is proposed to be utilised for the proposed development.

- Development contribution €794.54

3.2.2. Other Technical Reports

Area Engineer

- Roads and Transportation: - The provision of 5 no. apartments and retail unit could be considered over intensification on the subject site and that the parking demand that would need to serve such a development scale is at odds with what can be realistically provided for on the perimeter of the site. However, on balance and to see the redevelopment of the brownfield site the proposal is supported in order to prevent urban decay in the Architectural Conservation Area.
- Surface water – Existing disposal
- Water supply – Existing connections. New connections will have to be shown.
- Sewage disposal – Concerns have been raised in relation to the existing sewer lines serving the existing property, a condition survey will be required of the exiting main traversing the site.

Conservation Officer

- Necessary to seek more information on the extent of historic fabric of the buildings on the site. Applicants to engage the services of a suitably qualified conservation consultant to carry out an Architectural Impact Assessment (AIA). Applicants to refer to 'Shopfronts of County Cork; a design guide for the historic setting' (Cork County Council) and revise shopfront design accordingly. Established the original style of the windows to the building and reinstate this style, UPVC windows are not permitted within ACAs.
- On receipt of further information, satisfied with the redesigned elements and detail provided in the Conservation Report are sufficient to protect and enhance the architectural heritage of the ACA subject to condition in relation to specific details of the design and material finishes of the shopfront.

Environment Report

- No objection to grant of permission on environmental grounds.

3.3. Prescribed Bodies

TII No observations to make.

3.4. Third Party Observations

One third party observation was submitted by Sean Feehan (the appellant), the reasons for objection to the proposed development are similar to the submitted grounds of appeal, in summary:

- Parking provision currently limited on street, in particular in the evenings. Photograph submitted. Additional demand on the limited parking is untenable and deliveries currently result in Barrack Street being blocked. Potential also for traffic obstruction on the N72.
- Vehicles regularly park on the double yellow lines on the subject site corner which results in a traffic hazard. This will be amplified with the addition of at least five additional vehicles.
- Planning permission recently granted for 39 houses under planning register reference 214372, as such there is no requirement for five apartments in the village.
- Negative loss of the property from commercial to residential. This building could be used as a large restaurant which would be needed as the village continues to grow.
- Noise impacts from construction
- Concerns about future residents short-term renting rather than house for first time buyers and young families that area needed.
- Sewage line blockages

4.0 Planning History

Planning register reference 08/5140 Planning permission was granted (November 2008) for alterations to ground floor of public house, first floor apartment, ground and first floor public house stores to include raising of roof, new shop front, dormer windows, windows and doors, change of use of public house stores to

cafe/restaurant, hairdressers on ground floor and office on first floor, demolition of single storey stores and construction of two storey and single storey extensions to rear.

Planning register reference 217156 Planning application withdrawn – Application sought permission to (i) change of use from public house to five no apartments for long term letting consisting of 1x one-bed, 2 x two-bed, and 2 x three bed apartments, (ii) material alterations to existing building and (iii) associated site works.

Planning application referred to in appeal documents to the north east of the subject site:

Planning register reference 214372 Planning permission was granted (May 2022) at Lios Ard, Phase 3, Ballyhooly South, Fermoy, Co. Cork for the construction of 39 dwelling houses and 1 residential serviced site to be carried out in two phases (55 dwelling units permitted for the same area under Planning Reg. No. 03/6062, now out of date). It will comprise of the following: - 9 no. 4 bed detached, 6 no. 4 bed semi-detached, 6 no. 3 bed detached, 10 no. 3 bed semi-detached and 8 no. 3 bed terraced houses and 1 residential serviced site and associated site works. A Natura Impact Statement will be submitted to the Planning Authority with the application.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

Core Strategy Statement - Section 2.13 (6)

This plan does not zone residential development within the boundaries of villages less than 1,500 population or villages that are due to grow in excess of 1,500 during the lifetime of the plan. Rather, each village is assigned an ‘Overall Scale of New Development’. It is not intended that this figure is seen as a target, or an absolute maximum limit on development, but as an indication of the number of additional dwellings which could reasonably be accommodated within a settlement over the lifetime of this plan subject to other considerations of proper planning and sustainable development.

Volume One Chapter 16 Section 16.3 Objectives HE 16-17 ‘Areas of Special Planning Control’ and HE 16-18 ‘Architectural Conservation Areas.

County Development Plan Objective HOU 4-6: Housing Mix

a) Secure the development of a mix of house types and sizes throughout the County as a whole to meet the needs of the likely future population across all age groups in accordance with the guidance set out in the Joint Housing Strategy and the Guidelines on Sustainable Residential Development in Urban Areas.

Volume 3 North Cork

Para. 1.8.3 Ballyhooly was developed on an outcrop and surrounding higher lands, in order to avoid the flood plain of the River Blackwater. It is a very picturesque and historic village, with an attractive panorama of the medieval castle and its surroundings to the south of the village, as viewed from Ballyhooly Bridge. The village is bounded to the south by the River Blackwater and to the extreme north by the disused Fermoy-Mallow railway line. Agriculture remains the primary employer for the area.

Para. 1.8.4 The 2016 Census indicated that Ballyhooly had a population of 475 an increase from 412 in the 2011 census. The population has more than doubled since 2006 census at 215. The growth has slowed slightly in recent years.

Para 1.8.6 A moderate growth rate is recommended to ensure future development is in line with the grain and scale of the existing settlement pattern and to ensure overall scale of population growth is rebalanced in favour of the towns. Sites which are close to the core of the village, including infill and brownfield sites should be developed first. As per DB-01 the scale of growth envisaged for the village is up to 30 units during the lifetime of this plan.

DB-01: Within the development boundary of Ballyhooly, this plan makes provision for an additional 30 dwelling units, subject to satisfactory servicing arrangements.

1.8.12 The settlement has good transport links to both Fermoy and Mallow, given its strategic location on the N72 midway between both County Towns.

Table 3.1.2: Indicates a projected 30 no. units for Ballyhooly with drinking water capacity constraints and some wastewater capacity (according to a February 2021 Assessment).

Table 2.2.1 Architectural Conservation Area: Lower Ballyhooly Conservation Area - Chapter 2 Volume 2.

PL 3-2: Encouraging Sustainable and Resilient Places

RP 5-30: Redevelopment or replacement of an uninhabitable or ruinous dwelling.

5.2. **Section 28 Guidelines**

Sustainable Urban Housing: Design Standards for New Apartments (July 2023)

... provide a target standard where existing buildings are to be wholly or partly redeveloped or refurbished for residential use that includes apartments, such as for example, vacant upper floors above commercial premises. The Planning and Development (Amendment) (No. 2) Regulations 2018 (S.I. No. 30 of 2018) provide for this type of change of use to be exempt from the requirement for planning permission and further encourage the development of apartment accommodation in cities and towns.

5.3. **Other**

Shopfronts of County Cork; a design guide for the historic setting' (Cork County Council)

5.4. **Natural Heritage Designations**

Special Area of Conservation: Blackwater River (Cork/Waterford) SAC Site Code: 002170

5.5. **EIA Screening**

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. An EIA screening determination or an EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The third-party appellant Sean Feehan submits that the development contravenes the stated objectives of the county development plan, in summary the grounds of appeal are:

- Parking and Traffic Hazard

There is currently limited on-street parking available, and the proposed development will exacerbate this problem. Issues identified with respect to the pinch point created by demand for on-street parking, problems with delivery trucks blocking the road, hazards created by existing car parking on the double yellow lines at the junction and the proposed developments impact during construction (Condition no. 8 and Condition no. 10 relates) and when occupied.

Appendix 1 includes photographs of the N72 and Barrack Street to evidence the parking situation currently.

- Inconsistent administration of application(s)

Planning register reference 21/7156 referred to by the appellant in which further information was sought in respect to concerns raised about the lack of available parking available in the vicinity of the site and clarification sought if there was any dedicated parking to serve the former commercial activity on site. This application was subsequently withdrawn.

The appellant raises the point that as both applications are almost identical the same further information should have been requested with respect to availability of parking in the area.

- Conflicts with the county development plan

Housing provision over the development plan target of 30 dwelling units as permission granted under planning register reference 214372 for 39 houses in Lios Ard. Granting permission for additional housing in direct contravention to this primary stated objective of the CDP (Objective DB-01).

Ballyhooly is identified in the CDP as a village with no additional water services capacity. To grant permission for 5 no. apartments plus the 39 no. households already granted permission under planning register reference 214372 amounts to dereliction of responsibility to consider these services. Mains water has been turned off on Barrack Street for repairs at least three times in the last year alone.

The additional residential units proposed, in addition to the recently granted 39 no. units will overwhelm the wastewater treatment plant which currently has little capacity, with the treatment plant already not being compliant with wastewater discharge licence emission limit values.

The Economy and Employment section of the CDP for Ballyhooly seeks to encourage the provision of small-scale employment uses within the village which can add to the vitality of the settlement and contribute to a reduction in commuting by providing local employment opportunities. The subject site is the only building suitable for such development i.e. a bar/restaurant, retail outlet, pharmacy etc. Proposes that the site is rezoned for commercial use to serve the needs of the community.

- Bats

Ballyhooly is in an area with very high levels of bat roosting activity. Under previous application 217156 a preliminary roost assessment was sought as a further information request. As already noted, this application was withdrawn. The appellant states that no explanation has been given as to why further information on bat roosting was not sought in respect to this almost identical application.

- Environmental and Health Concerns

The development will result in five additional households with an associated ten vehicles to a commuter settlement for Cork City, impacts on air quality in the village. There is no condition attached to the planning application for the provision of electric vehicles charging facilities.

- Sewage/wastewater infrastructure

Points included above under conflicts with development plan.

- Overlooking

The proposed development overlooks property and garden. Recommend that the boundary wall is conditioned to be raised by one or two metres.

- Transparency/integrity of the process

Commentary on lack of engagement of the planning authority with the appellant and concerns raised in respect to the integrity of the decision-making process.

- Commentary on future potential occupants

6.2. Applicant Response

The applicant has provided a response to the grounds of appeal, in summary:

Parking

- The proposed development would have a lower parking requirements than the current use. Bollards conditioned to be placed on the edge of the footpath along the frontage of the property will restrict parking on the double yellow lines and increase safety at the junction.

Administration of application

- No comment on the administration of the application by the planning authority.

Conflicts with the development plan

- The redevelopment of a brownfield site which has little or no commercial viability with much needed housing is in accordance with the development plan.
- The existing building is already connected to the waste/water network and 5 apartments will have a significantly lower requirement than a pub/restaurant.

Bats

- No further environmental studies deemed necessary by the planning department in respect to bats. No structural or material changes are proposed to the roof.

Environmental and Health Concerns

- Agree with the planning authority's decision that the proposal will not have a negative impact on the environment.

Sewage Infrastructure

- Pipework will be to standard and capacity issues as already noted will be less than the existing commercial use.

Overlooking

- No detrimental impact on neighbouring properties

Transparency

- Comments made in respect to ownership and timing of notification of the decision are incorrect.

Future occupants

- Not relevant to consideration of the appeal

6.3. Planning Authority Response

- All relevant issues have been covered in the technical reports forwarded to the Board as part of the appeal documentation, no further comment to make in this matter.

6.4. Observations

- None

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, the reports of the local authority and having inspected the site, and having regard to the relevant local, regional, national policies and guidance, I consider that the substantive issues in this appeal, grouped where appropriate to avoid repetition were overlapping issues, to be considered are as follows:

- Principle of development

- Parking and traffic hazard
- Overlooking and boundary
- Servicing of development
- Bats
- Miscellaneous issues

Principle of development

- 7.1.1. The subject site is located within the development boundary of Ballyhooly village and sits prominently in the designated Architectural Conservation Area (ACA). The currently unused buildings visually detract from the streetscape and the proposal to refurbish these buildings including restoration of the fenestration to its original proportions and a new shopfront would significantly improve the visual appearance of the structures within the ACA.
- 7.1.2. To address in the first instance the proposed change of use of part of the structures from commercial to residential. I would agree with the appellant that such a prominent site in the core of Ballyhooly village would present itself as an appropriate and suitable location for many small-scale commercial uses to add to the vitality of the settlement. Notwithstanding, taking into account that the subject site is not specifically zoned I consider that the proposed provision of a small commercial unit at ground floor would provide an opportunity for a commercial use that would contribute positively to the village. Given the proposed size of the commercial use I consider that it would not generate significant parking demand and is of such a scale that would be compatible with the existing adjoining uses. I note condition no. 3 attached to the planning authority's decision restricts the use to retail only. I consider that for clarity in the event the Board is of a view to grant permission a condition should be attached to restrict the use as a shop as defined in Article 5 of the Planning and Development Regulations 2001, as amended which allows for a certain flexibility in the retail use which in my view should be facilitated given the level of vacancy evident in Ballyhooly and the development plans ambition to strengthen the range of services and employment opportunities in Ballyhooly. In the event that the Board is minded to grant permission, having regard to the Area Engineer's report which indicated that a fast food takeaway would not be acceptable given the

pressing parking demands at this location, I recommend that a condition is attached that prevents the commercial unit be used as a takeaway.

- 7.1.3. The development plan envisages growth of up to 30 no. units in Ballyhooly. The appellant raises concerns that this development in combination with the previously granted development for 39 no. housing units (214372) at Lios Ard in Ballyhooly would be in direct contravention to DB-01. I note that the planner's report highlights that no applications for residential development had been made since the adoption of the plan in June 2022. The planner's report acknowledges that there are some extant permissions. They state that such provisions are exclusive of the housing targets for the settlement and in this respect the provision of 5 no. units is in keeping with the scale of growth anticipated for the village.
- 7.1.4. Having regard to the permitted development at Lios Ard (214372), granted in May 2022 prior to the adoption of the development plan, I highlight that this application comprised a phase of development effectively reactivating a previously permitted housing scheme under planning register reference 03/6062 which had expired. As such, I am of the opinion that the extant permissions at Lios Ard do not form part of the current development plan target provision of an additional 30 dwelling units (Objective DB-01) and therefore the issue of contravention of the core strategy does not arise in this subject application for 5 no. dwelling units (1 no. 2 bed (3 person unit), 1 no. studio and 3 no. 1 bed apartments). Furthermore, I note that para 2.12 (6) of the development plan clarifies that the assigned overall scale of new development is not intended as a target or an absolute maximum limit on development but as an indication of the number of additional dwellings which could reasonably be accommodated within a settlement over the lifetime of the plan.
- 7.1.5. In conclusion on this point I consider the proposed redevelopment of the existing structures and change of use to 5 no. residential apartments with a commercial unit at ground floor is acceptable in principle within the development boundary of Ballyhooly and given that the development plan seeks to develop sites which are close to the core of the village first, including infill and brownfield sites, the proposal meets with Objective DB-01 for moderate growth.

7.2. *Parking and traffic hazard*

- 7.2.1. A total of 5 no. dwelling units and 1 no. commercial unit of 30 sq. metres is proposed in the refurbished properties. I note the appellant's concerns that further information was not sought in respect to parking provision, as had been previously sought in respect planning register reference 217156 which was solely for residential use. The Area Engineer does make reference to the previously withdrawn application and acknowledges that as per their considerations in respect to that development still are of the view that the proposed development could be considered over intensification on the subject site. It is stated in the area engineer's report that the parking demand that would need to serve such a development scale is at odds with what can be realistically provided for on the perimeter of the site. From my site inspections and from the submitted photographic evidence I would concur with the appellant and the report of the area engineer that there are parking demands in this location. The area engineer is consistent in their assessment of both 21/7156 and the subject application in this regard.
- 7.2.2. The current development plan Table 12.6 indicates 1 space per 8 (net sq.m) is required for public houses and taking an estimation of the public house net sq.m the existing use would have a parking demand of approximately 7 car parking spaces alone, not including the parking demand associated with the adjoining commercial unit and upper floor use. Taking into account Table 12.6 requires 1.25 car parking spaces per apartment unit the proposed development would result in a parking demand of 6 spaces. Therefore, on the basis of this broad assessment the parking demand for the proposed development is considered to be less than the existing uses. On balance, taking into account that the previous commercial uses would have had an associated parking demand I consider that the benefit of the refurbishment and use of the structures to the vitality of the village core outweigh any potential increase in parking demand from the proposal.
- 7.2.3. I acknowledge that condition no. 8 of the planning authority's decision to grant permission requires the provision of a covered skip or other such receptacle for the deposit of rubble etc. The appellant has raised concerns that the location of the skip on Barrack Street will further exacerbate the pressure on availability of on-street parking. Such additional pressure on parking will be temporary during the construction period. Given the location of the subject site on the prominent corner

with the N72 and the local road Barrack Street, in the event that the Board is minded to grant permission I recommend that such details can be agreed directly with the planning authority through the submission of a Resource Waste Management Plan (RWMP).

- 7.2.4. In respect the issue raised relating to the provision of EV charging points I note that there is no dedicated off-street or assigned on-street parking identified as being associated with the subject site and as such a condition requiring same is not achievable.
- 7.2.5. The proposed development is for a modest redevelopment of existing structures within the village core I do not consider that such as development would give rise to a significant increase in traffic generation to detrimentally impact upon air quality to a perceptible degree given the subject site's position directly on the national route (N72).
- 7.2.6. The proposal to provide for cast iron bollards along the roadside perimeter will prevent vehicles parking on the junction and, as such the proposed development will improve the current situation. I do not consider that the proposed development would result in a traffic hazard.

7.3. *Overlooking and boundary*

- 7.3.1. The proposed layout of the 5 no. apartments were revised following a request for further information from the planning authority. From my review the studio and apartments generally meet with the target standards of the 'Sustainable Urban Housing: Design Standards for New Apartments' (July 2023) with respect to minimum floor areas and standards. The modifications to the rear elevations and windows are minimal at first floor level to accommodate the proposed internal reconfiguration. I note that one small window is proposed to be blocked up (Proposed apartment no. 1).
- 7.3.2. At ground floor level the existing stone boundary between the subject site and the appellants property is of a height sufficient to prevent any direct overlooking of the adjacent private amenity spaces. Taking into account the limited changes to the existing windows proposed at first floor level, the proposed use as bedrooms of those rooms closest to the shared boundary and that there are no directly opposing

windows, I am of the opinion that the proposed development would not result in significant increase in overlooking from the existing situation.

7.4. *Servicing of development*

- 7.4.1. The appellant highlights the capacity issues in Ballyhooly in respect to both drinking water and wastewater services. I have checked Uisce Éireann's 10-year water supply capacity register, as at the time of writing my report the register notes that capacity constraints exist in Ballyhooly but there is potential capacity available with connection applications being assessed on an individual basis. The register indicates as amber the available capacity in terms of wastewater treatment and there is potential spare capacity with applications to be considered on an individual basis. The latest Annual Environmental Report (AER) for Ballyhooly wastewater treatment plant (2022) indicates that the WWTP, with a plant capacity Population Equivalent of 750, is compliant with the Emission Limit Values (ELVs) set out in the wastewater discharge licence. No environmental complaints are noted in 2022 and no reportable incidents in 2022, as per the AER. Furthermore, the AEP states that the discharge from the wastewater treatment plant does not have an observable negative impact on the Water Framework Directive status.
- 7.4.2. The area engineer in their report sought further information on the existing sewer line and connections serving the existing property including a condition survey of the existing main traversing the site. I note that the revised drawings submitted include the existing public sewer on the proposed ground floor plan/site layout drawing (Drawing PD004 Revision no 01) but that a condition survey was not submitted. A statement from the applicant's agent contend that the connection served the pub for many years and there are no signs of deterioration of the system. Furthermore, the agents state that the apartments will generate significantly less wastewater than the previous use as a pub. I highlight to the Board that no further detail or calculations have been provided to demonstrate same. The area engineer recommends a condition for a camera condition survey of the receiving trunk sewer be submitted to the area office ratifying its condition and proposed service connection locations be attached.
- 7.4.3. Taking into account that potential capacity of both water supply and wastewater treatment is indicated on Uisce Éireann's capacity registers, the latest AEP for

Ballyhooly WWTP and that the proposed development represents a change of use of use of an existing building with existing connections and previous demand on these public services I am of the view that the development plan proposes modest growth over the plan period in recognition of the identified constraints. Furthermore, the proposed redevelopment of existing structures is of an appropriate scale that has been accounted for in the formulation of growth envisaged for the village. In the event that the Board is minded to grant permission I recommend that a condition is attached requiring that the condition survey be undertaken prior to the commencement of development for the written agreement with the planning authority.

7.5. *Bats*

- 7.5.1. The appellant has highlighted that Ballyhooly is in an area with high level of bat roosting activity. I acknowledge also that a preliminary roost assessment was sought in respect to a request for further information on previous application, subsequently withdrawn, planning register reference 217156 that was not submitted.
- 7.5.2. There were no concerns raised in respect to bat roosts/activity during the planning application stage by internal departments of the local authority, prescribed bodies or raised in the third-party submission. The third-party appellant confirms that they can not be definitive that bats enter and exit the subject site but have seen scores of bats in the vicinity of the development.
- 7.5.3. The applicant in their response to the appeal states that 'no structural or material changes are being made to the roof'. I note that the submitted Conservation Report confirms that the main building roof is slated with modern artificial slate and the chimneys appear to have been recently rebuilt, no roof works are identified in section 5.0 of the Conservation Report. My site visit confirms the condition of the roof.
- 7.5.4. All bats are protected species under national and EU legislation. There is no evidence provided to support the case that the proposed development will negatively impact on bat species. Furthermore, there is a separate process which the applicant is required to undertake with the National Parks and Wildlife Service (NPWS) which requires that a derogation license be issued, should bat roosts be found on the site, or where any works undertaken would capture or kill, or disturb bats at important

parts of their life cycle. In this context and given that no structural or material changes to be made to the roof as part of the proposed development is my view that the proposed development would not have a negative impact on bat species.

7.6. Miscellaneous Issues

- 7.6.1. In terms of procedural matters and the alleged irregularities in terms of the planning authority's notification of decision I am satisfied that this did not prevent the concerned party from making representations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

The appellant has raised concerns relating to the potential future occupiers of the proposed apartments, these are not planning matters. I am of the view that the proposed redeveloped structures will provide an alternative housing type and tenure within the village core close to the existing services and would meet with the development plan objective HOU 4-6: Housing Mix.

8.0 AA Screening

- 8.1. Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)
- 8.2. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.
- 8.3. The subject site is not located within or adjacent to any European Site. The closest European Site, part of the Natura 2000 Network, is the Special Area of Conservation: Blackwater River (Cork/Waterford) SAC Site Code: 002170, approximately 200m southwest of the subject site.
- 8.4. The proposed development is located within Ballyhooly village core and comprises the conversion of existing structures into 5 no. apartments and 1 no. commercial unit, minor alterations to elevations and all associated site works.
- 8.5. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.

The reason for this conclusion is as follows:

- Small scale and domestic nature of the development
- The location of the development in a serviced urban area, distance from European Sites and urban nature of intervening habitats, absence of ecological pathways to any European Site.

8.6. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Recommendation

I recommend that permission be granted for the following reasons and considerations set out below:

10.0 Reasons and Considerations

Having regard to the subject site's location within the development boundary of Ballyhooly village and the designated Architectural Conservation Area (ACA) the proposal to refurbish these buildings including restoration of the fenestration to its original proportions and a new shopfront, would significantly improve the visual appearance of the structures within the ACA. Furthermore, the proposal meets with Objective DB-01 for moderate growth, given that the development plan seeks to develop sites which are close to the core of the village first, including infill and brownfield sites. The proposed redeveloped structures would provide an alternative housing type and tenure within the village core close to the existing services and would meet with the development plan objective HOU 4-6: Housing Mix. Taking into account that the previous commercial uses would have had an associated parking demand the benefit of the refurbishment and use of the structures to the vitality of the village core outweigh any potential increase in parking demand from the proposal. Given the existing height of the boundary wall between the subject site and the adjacent property and the limited changes to the existing windows proposed at first floor level, the proposed use of such rooms and that there are no directly opposing windows, the proposed development would not result in significant increase in overlooking from existing. As such, it is considered that, subject to compliance with conditions set out below, the proposed development would

comprise the efficient use of existing building stock and would not seriously injure the residential amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 21 December 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 30sqm commercial unit located on the ground floor as detailed in plans and particulars received by the planning authority on 21/12/2023 shall be restricted in use to Class 1 'Use as a shop' as specified in Part 4 of Schedule 2 and as defined in Article 5 of the Planning and Development Regulations 2001 (as amended). The proposed retail unit shall not be used as a takeaway without a prior grant of planning permission.

Reason: In the interest of clarity, to safeguard the amenities of the area and in the interest of road safety.

3. Prior to the commencement of development, the developer shall submit a camera condition survey of the receiving truck sewer ratifying its condition and proposed service connection locations, following consultation with Uisce Éireann, for the written agreement with the planning authority.

Reason: In the interests of orderly development and public health.

4. Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

5. Prior to the commencement of development, the developer shall submit specific details regarding the proposed shopfront design, material finishes and proposed lighting for the written agreement of the planning authority, following consultation with the local authority's Conservation Officer.

Reason: To protect the visual amenity and established character of the designated Architectural Conservation Area (ACA).

6. Prior to the commencement of development, the developer shall submit specific details regarding the new public footpath, kerb and cast-iron bollards for the written agreement of the planning authority, following consultation with the local authority's Conservation Officer, architects department and local area roads office.

Reason: In the interests of road safety and to protect the visual amenity and established character of the designated Architectural Conservation Area (ACA).

7. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior

to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of proper planning and sustainable development.

8. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

9. 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 communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

10. 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.

Claire McVeigh
Planning Inspector

25 October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319012-24		
Proposed Development Summary	Change of use from public house to 5 no. apartments and 1 no. retail unit, consisting of 4 no. 1 bed apartments and 1 no. 2 bed apartment with material alterations to the existing building and all associated site works.		
Development Address	Former O'Sullivan's Bar, Ballyhooley South, Ballyhooley, Co. Cork.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	√
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	√		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No			
Yes	√	Class/Threshold: Part 2 Class 10 (b) Construction of more than 500 dwelling units.	Change of use but includes some works.
			Conclusion
			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2: Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	319012-24	
Proposed Development Summary	Change of use from public house to 5 no. apartments and 1 no. retail unit, consisting of 4 no. 1 bed apartments and 1 no. 2 bed apartment with material alterations to the existing building and all associated site works.	
Development Address	Former O'Sullivan's Bar, Ballyhooley South, Ballyhooley, Co. Cork.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is for change of use from public house to 5 no. apartments and 1 no. retail unit of 30 sq.m and associated site works.</p> <p>No significant waste, emissions or pollutants are likely.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The size of the proposed development is notably below the mandatory thresholds in respect of a Class 10 Infrastructure Projects of the Planning and Development Regulations 2001 as amended.</p> <p>There is no real likelihood of significant cumulative considerations having regard to other existing and/or permitted projects in the adjoining area.</p>	No
Location of the		

<p>Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p>	<p>The subject development is not located on an ecologically sensitive site.</p>	
<p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>It is considered that, having regard to the limited nature and scale of the development, there is no real likelihood of significant effect on other significant environmental sensitivities in the area.</p>	
<p style="text-align: center;">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment in terms of the nature, size and location of the proposed development and having specific regard to the criteria set out in Schedule 7 of the P&D Regs 2001 (as amended).</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

