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An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

11th October 2024

Re: Galway Co Council Planning Ref: ED24/110

**Declaration of Exempted Development under Section 5 of the Planning & Development Act
2000 – Change of use from Commercial to Residential**

A Chara,

Please find enclosed an Appeal to a Refusal by Galway Co Council (Ref No. ED24/110) on behalf of our client Caroline Quinn, Georges Street, Gort, Co. Galway. Please find attached the appropriate fee of €220.00.

Should you require any further information, please do not hesitate to contact this office.

Mise le Meas,

Des Glynn B.Sc. Arch.T.

Grealish Glynn & Associates

| | |
|-------------------------|---------------------------------|
| AN BORD PLEANÁLA | |
| LDG- | <u>075501-24</u> |
| ABP- | _____ |
| 14 OCT 2024 | |
| Fee: € | <u>220-</u> Type: <u>Chg</u> |
| Time: | <u>9.42</u> By: <u>Rog Pest</u> |

Client

Caroline Quinn

Proposed Development

Change of use from Commercial to Residential

Address of Development

Georges Street, Gort, Co. Galway

Address of Appellant

Georges Street, Gort, Co. Galway

Ref. No. In Planning Register of Galway County Council

ED24/110

Date

11th October 2024

Prepared by

Des Glynn BSc. Arch. T.
Grealish Glynn & Associates

1. Introduction

After receiving details of the Refusal of Declaration of Exempt Development for our client Caroline Quinn, we judged that Galway County Council has dealt with this application unfairly. We have been instructed to prepare an appeal of this decision to An Bord Pleanála. I hope that the following information will lead you to making a just and speedy decision in relation to this matter.

This appeal consists of

Chapter 1 - Introduction

Chapter 2 - Reasons for Refusal

Chapter 3 - Assessment

Chapter 4 - Arguments against Refusal

Chapter 5 - Conclusions

Appendix - Containing a list of attachments to support this appeal

2. Reasons for Refusal

1. The definition of “works” set out in Section 2 of the Planning and Development Act 2000 (as amended);
2. The definition of “development” set out in Section 3 of the said Planning and Development Act;
3. Section (4) of the said Planning and Development Acts;
4. Article 6 of the Planning and Development Regulations 2001 (as amended);
5. Article 9 of said Planning and Development Regulations;
6. Article 10 (1) & (6) of the said Planning and Development Regulations;
7. Documents submitted from the referrer n this Section 5 application

3. Assessment

Having studied the reasons for refusal it is clear that Galway Co. Council has not assessed this application properly. The Planning Authority applies the letter of the law to this application without understanding the spirit to the law and the reasons behind the implication of the legislation to provide much needed housing in this rent pressure zone area and also to revitalise town centres. This site is located within 100m of a train station in a provincial town where high housing density are encouraged.

4. Arguments against Refusal

The Planning Authority has refused the application on the basis that we are non-compliant with storage requirements and room sizes. The legislation refers to “*Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities*”. This particular development is a town house and not an apartment. The Guidelines referred to are only guidelines and not standards and also are designed to be applied to new apartments where there are less design limitations. Design within existing structures will always limit the ability to comply 100% with the Guidelines but in this case we feel that we are nearly 100% compliant. The Guideline sizes at 90sqm are also for 5 person apartments. It is very unlikely that this building will have 5 persons living in it. The optimum is 3 persons for this development. Section 1.11 of the Guidelines refer to them as target standards where existing buildings are concerned. Section 6.9 of the Guidelines state that “*Planning authorities are also requested to practically and flexibly apply the general requirements of these guidelines in relation to refurbishment schemes, particularly in historic buildings,*

some urban townscapes and 'over the shop' type or other existing building conversion projects, where property owners must work with existing building fabric and dimensions".

The overall size of the dwelling unit is 90sqm which is acceptable for a 3 bedroomed unit. This size allows for sufficient storage within the unit. The bedroom sizes are shown on the plans at 11.72sqm, 11.48sqm and 8.6sqm. The aggregate complies with the minimum floor areas.

The Planning Authority also note that the existing 1st floor, which is existing residential, cannot be accommodated within the exemption. But I draw your attention to ED19/29 which Galway County Council granted which was to convert a public house with overhead accommodation to 3 residential town houses. In this instance, the overhead living accommodation was assimilated into the houses and there was no issue. We are just asking for fairness and practicality in this regard.

5. Conclusion

We seek that An Bord Pleanála to grant the Declaration of Exempted Development on the grounds that:

1. The Planning Authority have not given adequate reason for the refusal of this Exemption;
2. Refusing this Exemption creates an undesirable precedent and will discourage people from converting shop units to residential units under Section 5 of the Planning and Development Act.
3. Minimum size requirements are substantially met.
4. This is a high rent pressure zone area and the Planning Authority should take a practical and encouraging approach to such applications.

Appendix

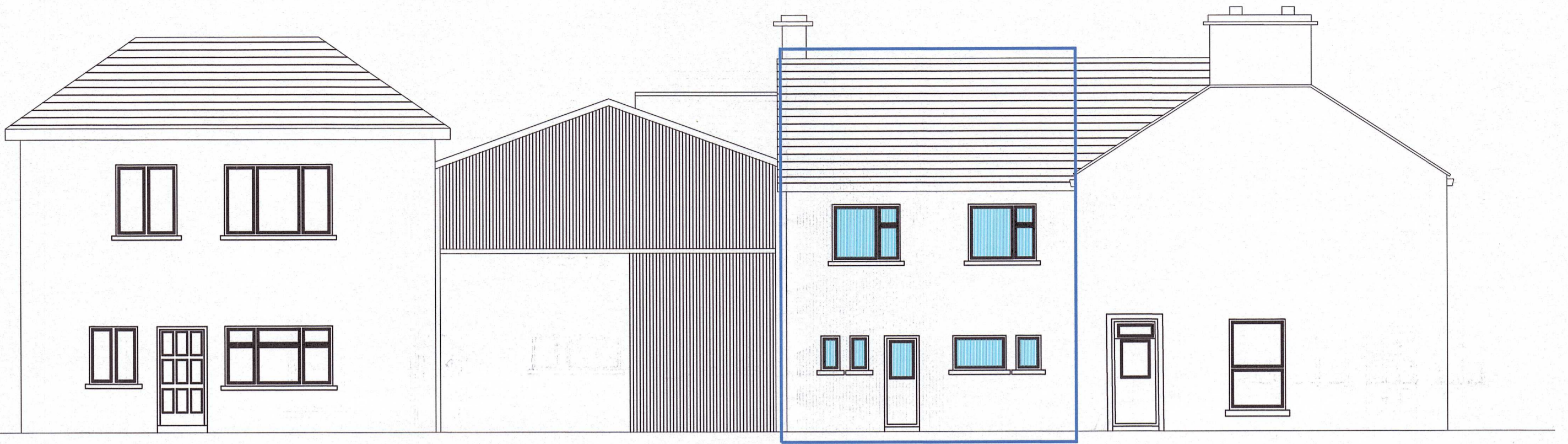
Attachments

1. Cover Letter
2. Copy of Refusal ED24/110
3. Floor Plan
4. Fee €220
5. Copy of ED19/29

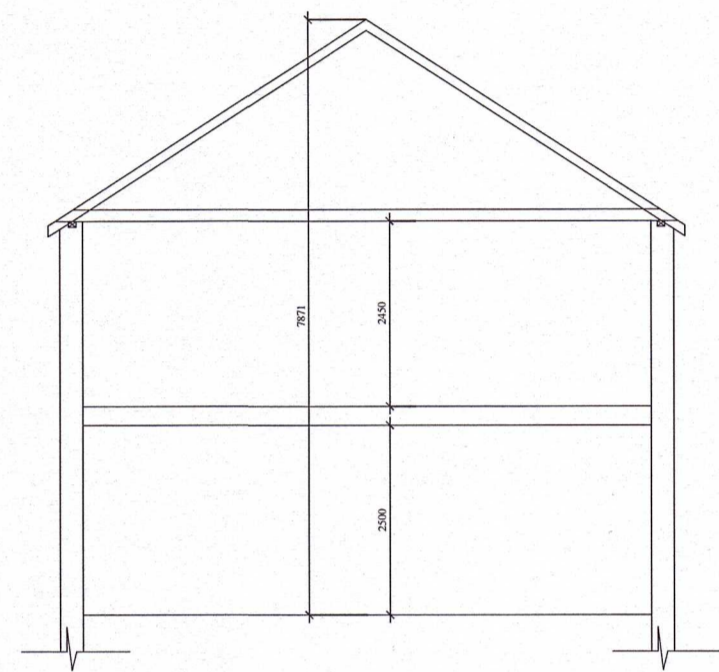
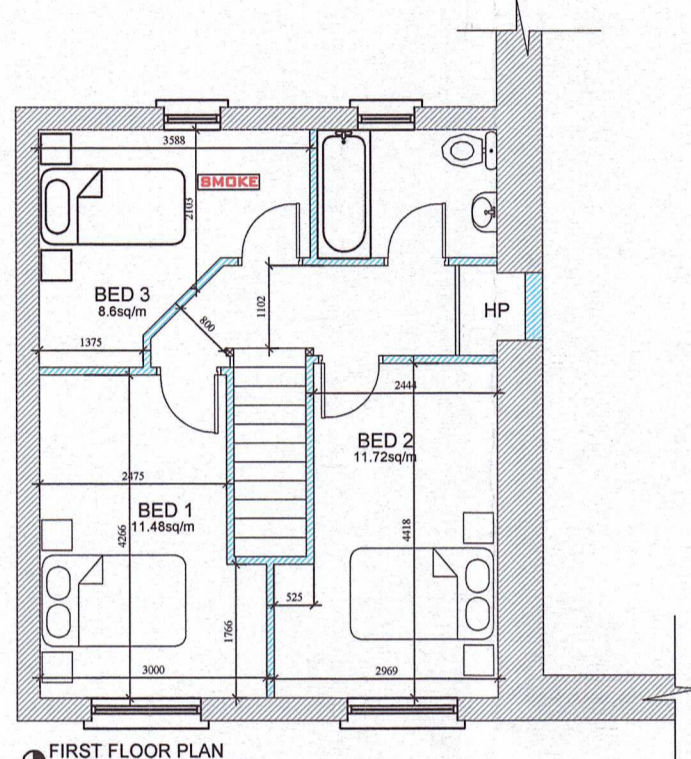
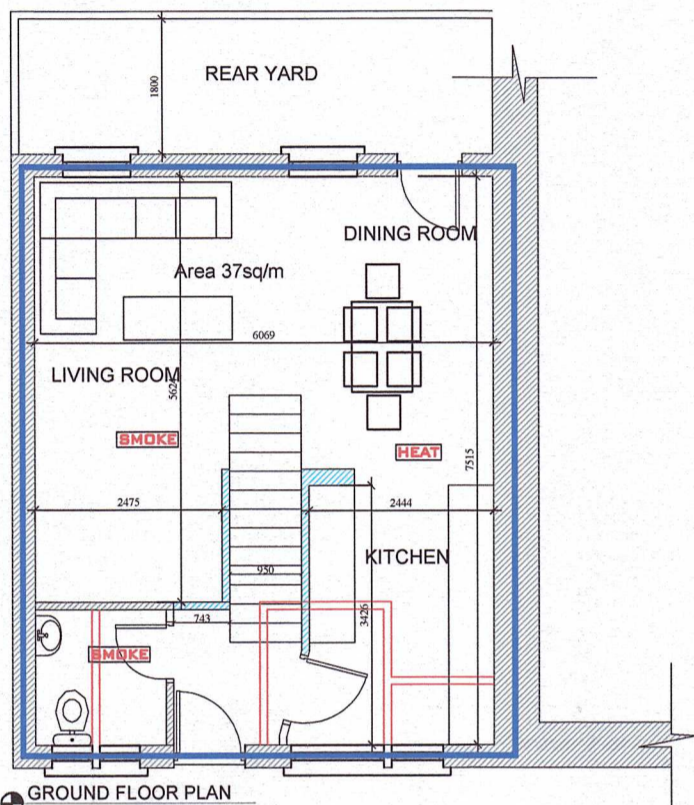


Des Glynn B.Sc. Arch.T.
Grealish Glynn & Associates

Grealish Glynn & Associates Architectural Services Limited.



FRONT ELEVATION (No Change)



REAR ELEVATION (No Change)

CHANGE OF USE OUTLINED BLUE

| REV | DESCRIPTION | DATE | BY |
|-----|-------------|----------|----|
| A | BCMS | 07/06/24 | DG |

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CLIENT: CARLINE QUINN
 PROJECT: PROPOSED CHANGE OF USE @ STATION ROAD, GORT
 DRAWING TITLE: PLANS & ELEVATIONS OF PROPOSED DWELLING HOUSE

| | | | |
|--------------------|--------------|--------------|----------------|
| DATE: 26/08/24 | SCALE: 1:100 | DRAWN BY: DG | CHECKED BY: DG |
| DRAWING NO: 1 of 3 | | STATUS: BCMS | |

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JJ/CH/ED19/29

Comhairle Chontae na Gaillimhe
Galway County Council

Colman Roache
c/o Grealish Glynn & Associates
1 The Punchbowl
Ennis Road
Gort
Co Galway

21st May 2019

RE: Declaration of Exempted Development under section 5 of the Planning & Development Act 2000

ED 19/29- To convert a public house with overhead living accommodation to 3 residential town houses at Church Street, Gort

DECISION – EXEMPTED DEVELOPMENT

A Chara,

I refer to the above application which was received by this office on the 23rd April 2019.

The Planning Authority, in considering this Section 5 application, had regard particularly to:

- The definition of “works” set out in Section 2 of the Planning and Development Act 2000 (as amended).
- The definition of “development” set out in Section 3 of said Planning and Development Act.
- Section (3) of said Planning and Development Act.
- Section 4 (1) (h) & (4) of said Planning and Development Acts.
- Article 6(1) of said Planning and Development Regulations.
- Article 9(1)(a) subsections (i), (vi), (vii), (viiB) & (viiC) of said Planning and Development Regulations.
- Class 14’ of Schedule 2 Part 1 of the 2001 Planning and Development Regulations and S.I. No.30 of 2018
- Documents submitted from the referrer in this Section 5 application.

Cont’d



Bosca Poist Uimhir 27,
Aras an Chontae,
Cnoc na Radharc,
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Comhairle Chontae na Gaillimhe
Galway County Council

Caroline Quinn
Georges Street,
Gort,
Co. Galway H91 AX24

24th Sept 2024

RE: Declaration of Exempted Development under section 5 of the Planning & Development Act 2000

ED24/110 – S.I. No. 75/2022 – Planning & Development Act (Exempted Development) Regulations 2022
Change of use from commercial to residential at Georges St. Gort, Co. Galway.

DECISION – NOT EXEMPTED DEVELOPMENT

A Chara,

The Planning Authority, in considering this Section 5 application, had regard particularly to

- The definition of “works” set out in Section 2 of the Planning and Development Act 2000 (as amended).
- The definition of “development” set out in Section 3 of said Planning and Development Act.
- Section 4 of said Planning and Development Acts.
- Article 6 of the Planning and Development Regulations 2001 (as amended).
- Article 9 of said Planning and Development Regulations.
- Article 10 (1) & (6) of said Planning and Development Regulations
- Documents submitted from the referrer in this Section 5 application.

The Planning Authority, in exercise of the powers conferred on it by Section 5 of the 2000 Planning Act (as amended), hereby decides that:

The change of use from a ground floor public with overhead residential to a 3 bed residential unit at Georges St., Gort, Co. Galway is development and is **not exempted development** under Article 10 (6) of the Planning and Development Regulations 2001 (as amended)

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.

- 3 Bedroom minimum aggregate bedroom areas
 - 11.4+13+7.1 sqm
- Minimum bedroom areas
 - Single Bedroom
 - 2.1m width
 - 7.1 sqm
 - Double Bedroom
 - 2.8m width
 - 11.4 sqm
 - Single Bedroom
 - 2.8m width
 - 13 sqm
- No storage space provided.

Opinion:

Having regard to the above, in particular to the nature of the proposed works in conjunction with the Sections 2, 3 & 4 of the Planning and Development Act 2000 (as amended) and Articles 6, 9 & 10 of the Planning and Development Regulations 2001 (as amended), it is considered that the development would constitute development under Section 3 of the Planning and Development Act 2000 (as amended).

Having considered the works proposed the Planning Authority is of the opinion that the change of use from a ground floor public with overhead residential to a 3 bed residential unit at Georges St., Gort, Co. Galway does not satisfy all the conditions and limitations under Article 10 (6) of the Planning and Development Regulations 2001 (as amended):

Applicant has not submitted satisfactory evidence that the proposal meets all the criteria of Article 10(6) of The Planning and Development Regulations 2001 (as amended). Please go through all the criteria's and ensure you are compliant with all of the below, should you wish to reapply.

(a) In this sub-article—

'habitable room' means a room used for living or sleeping purposes but does not include a kitchen that has a floor area of less than 6.5 square metres;

'relevant period' means the period from 8 February 2018 until 31 December 2025.

(b) This sub-article relates to a proposed development, during the relevant period, that consists of a change of use to residential use from Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.

(c) Notwithstanding sub-article (1), where in respect of a proposed development referred to in paragraph (b)—

(i) the structure concerned was completed prior to the making of the Planning and Development (Amendment) (No. 2) Regulations 2018,

(ii) the structure concerned has at some time been used for the purpose of its current use class, being Class 1, 2, 3, 6 or 12, and

(iii) the structure concerned, or so much of it that is the subject of the proposed development, has been vacant for a period of 2 years or more immediately prior to the commencement of the proposed development,

then the proposed development for residential use, and any related works, shall be exempted development for the purposes of the Act, subject to the conditions and limitations set out in paragraph (d).

(d)

(i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall -

(I) primarily affect the interior of the structure,

(II) retain 50 per cent or more of the existing external fabric of the building, and

(III) not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities" issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) No development shall relate to any structure in any of the following areas:

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

Our Ref: ED 24/110

(xi) No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.

(xii) No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it.

Please note that the change of use areas must fall within the categories as listed under Class 1, 2, 3, 6 or 12 of Part 4 to Schedule 2.

It is noted that existing residential use (first floor) is not listed in these classes.

Please note that you may appeal this decision to **An Bord Pleanála** within four weeks of the issue of this declaration on payment of the prescribed fee.

Mise le meas

John O'Connor
Planning & Sustainable Development Unit

form of housing by households, that will then result in greater delivery of apartments in Ireland's cities and towns and other appropriate locations.

- 1.9 While a range of factors are key to increasing housing output generally and apartments specifically, such as securing development finance for residential development generally and a pipeline of ready to go sites at accessible prices, including brownfield sites, the purpose of these Guidelines is to strike an effective regulatory balance in setting out planning guidance to achieve both high quality apartment development and a significantly increased overall level of apartment output.
- 1.10 These Guidelines apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease. They also apply to housing developments that include apartments that are built specifically for rental purposes, whether as 'build to rent' or that were originally permitted or built as 'shared accommodation' that may subsequently be proposed as standard apartment development. Unless stated otherwise, they apply to both private and public schemes.
- 1.11 They also 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 our cities and towns.

Apartment Development in Ireland

- 1.12 Apartments¹ continue to be an increasingly common form of housing in Ireland's urban areas. Between 2002 and 2016, the number of occupied apartments increased by 85%, nationally. Apartments now comprise 12% of all occupied households in Ireland and 35% of occupied households in Dublin City (Census 2016). However, Ireland is a long way behind European averages in the numbers of households living in apartments, especially in our cities and larger towns. In many European countries like the UK, France, Germany, Italy etc, it is normal to see 40-60% of households living in apartments.
- 1.13 Given the gap between Irish and European averages in numbers of households living in apartments and the importance of addressing the challenges of meeting the housing needs of a growing population in our key cities and towns and by building inwards and upwards rather than outwards, apartments need to become more and more the norm for urban housing solutions. This need will continue because of on-going population growth, particularly in Ireland's cities, a long-term move towards smaller average household size, an ageing and more diverse population, with greater labour mobility, and a higher proportion of households in the rented sector. Between 2011 and 2016, the rate of formation of

¹ An apartment, for the purpose of these guidelines, may be defined as "a self-contained residential unit in a multi-unit building with grouped or common access".

Departures from the Requirements of these Guidelines

- 6.8 Proposals to modify current planning permissions, in full or in part, shall comply with the requirements of these guidelines, subject to Section 34(3A) of the Planning and Development Act. The requirement for the majority of apartments to exceed the minimum floor area standard by 10% (per para. 3.8 above) applies only to new apartment schemes applying for planning permission.
- 6.9 Planning authorities are also requested to practically and flexibly apply the general requirements of these guidelines in relation to refurbishment schemes, particularly in historic buildings, some urban townscapes and 'over the shop' type or other existing building conversion projects, where property owners must work with existing building fabric and dimensions. Ultimately, building standards provide a key reference point and planning authorities must prioritise the objective of more effective usage of existing underutilised accommodation, including empty buildings and vacant upper floors commensurate with these building standards requirements.
- 6.10 Moreover, in exceptional circumstances, and for a defined period which ends on 31 December 2021, where a property is undergoing redevelopment or retrofitting for rental purposes and it is impractical for certain reasons to provide fully integrated bathroom facilities within each unit, for example due to practical implications in making changes to the fabric of the building and costs arising, it is intended to amend the Housing (Standards for Rented Houses) Regulations to enable the rental of such refurbished properties once the relevant accommodation has exclusive access to sanitary services within the wider building. In framing the proposed amendments, the safety and security of the tenants will be addressed.

Operation and Management of Apartment Developments

- 6.11 Certainty regarding the long term management and maintenance structures that are put in place for an apartment scheme is a critical aspect of this form of residential development. It is essential that robust legal and financial arrangements are provided to ensure that an apartment development is properly managed, with effective and appropriately resourced maintenance and operational regimes.
- 6.12 In this regard, consideration of the long-term running costs and the eventual manner of compliance of the proposal with the Multi- Unit Developments Act, 2011 are matters which should be considered as part of any assessment of a proposed apartment development.
- 6.13 Accordingly, planning applications for apartment development shall include a building lifecycle report which in turn includes an assessment of long term running and maintenance costs as they would apply on a per residential unit basis at the time of application, as well as demonstrating what measures have been specifically considered by the proposer to effectively manage and reduce costs for the benefit of residents.

Appendix 1

Required Minimum Floor Areas and Standards

Minimum overall apartment floor areas

| | |
|---------------------------|--------------------|
| Studio | 37 sq m (n/a)* |
| One bedroom | 45 sq m (38 sq m)* |
| Two bedrooms (3 person)** | 63 sq m (n/a)* |
| Two bedrooms (4 person) | 73 sq m (55 sq m)* |
| Three bedrooms | 90 sq m (70 sq m)* |

* Figures in brackets refer to 1995 guidelines

**Permissible in limited circumstances

Minimum aggregate floor areas for living/dining/kitchen rooms, and minimum widths for the main living/dining rooms

| Apartment type *** | Width of living/dining room | Aggregate floor area of living / dining / kitchen area* |
|-------------------------|-----------------------------|---|
| Studio | 4m** | 30 sq m** |
| One bedroom | 3.3 m | 23 sq m |
| Two bedrooms (3 person) | 3.6m | 28 sq m |
| Two bedrooms (4 person) | 3.6 m | 30 sq m |
| Three bedrooms | 3.8 m | 34 sq m |

* Note: An enclosed (separate) kitchen should have a minimum floor area of 6.5 sq. metres

**Note: Combined living/dining/bedspace, also includes circulation

*** Note: Variation of up to 5% can be applied to room areas and widths subject to overall compliance with required minimum overall apartment floor areas.

Minimum bedroom floor areas/widths***

| Type | Minimum width | Minimum floor area |
|----------------|---------------|--------------------|
| Studio | 4m** | 30 sq m** |
| Single bedroom | 2.1 m | 7.1 sq m |
| Double bedroom | 2.8 m | 11.4 sq m |
| Twin bedroom | 2.8 m | 13 sq m |

* Note: Minimum floor areas exclude built-in storage presses that are contributing to storage space requirements

**Note: Combined living/dining/bedspace

Minimum aggregate bedroom floor areas

| | |
|-------------------------|----------------------------------|
| One bedroom | 11.4 sq m |
| Two bedrooms (3 person) | 13 + 7.1 sq m = 20.1 sq m |
| Two bedrooms (4 person) | 11.4 + 13 sq m = 24.4 sq m |
| Three bedrooms | 11.4 + 13 + 7.1 sq m = 31.5 sq m |

Minimum storage space requirements

| | |
|-------------------------|--------|
| Studio | 3 sq m |
| One bedroom | 3 sq m |
| Two bedrooms (3 person) | 5 sq m |
| Two bedrooms (4 person) | 6 sq m |
| Three or more bedrooms | 9 sq m |

Minimum floor areas for private amenity space

| | |
|-------------------------|--------|
| Studio | 4 sq m |
| One bedroom | 5 sq m |
| Two bedrooms (3 person) | 6 sq m |
| Two bedrooms (4 person) | 7 sq m |
| Three bedrooms | 9 sq m |

Minimum floor areas for communal amenity space

| | |
|-------------------------|--------|
| Studio | 4 sq m |
| One bedrooms | 5 sq m |
| Two bedrooms (3 person) | 6 sq m |
| Two bedrooms (4 person) | 7 sq m |
| Three bedrooms | 9 sq m |