

F2

GALWAY COUNTY COUNCIL

BUILDING CONTROL ACT of 1990

DECISION under SECTION 6 of the ACT of 1990

FSC Reference Number: FS 248/07

Date of Rec of Application: 31st of October, 2007

Managers Order No:

Declan Harte,
C/o MBK Associates,
Town Park Centre,
Tuam Road,
Galway.


Pursuant to the Building Control Act, 1990

I, Paul Ridge, Director of Services Planning & Development Unit, by the virtue of the powers conferred on me by the Local Government Act 2001, hereby decide to grant application for fire safety certificate to the above named, for the following proposal, namely;

Change of use from dwelling to ground floor take-away, first floor apartment and extensions to rear at No.1 Foster Place, Tuam, Co. Galway.

subject to the conditions set out in the Schedule hereto and I order that the appropriate notice be served on the applicant. I further order that the said fire safety certificate subject to the said conditions shall be deemed to be and is hereby granted in respect of the said development unless an appeal is lodged within the appropriate period.

Signed this 07th day of February, 2008


COUNTY MANAGER/
DIRECTOR OF SERVICES

SEE ATTACHED SCHEDULE
(CONDITIONS NOS. 2)

The Building Control Regulations 1997 provide for the submission of a "Commencement Notice" before works commence on buildings (or where a material change of use takes place), including dwellinghouse and a Commencement Notice is attached herewith. Please see attached sheet for Important Notice regarding appeals under the Building Control Act, 1990.

SCHEDULE REFERRED TO F.S.C. NUMBER FS 248/07

Based on plans, documentation and information date stamped the 31/10/2007 and additional information date stamped the 21/01/2008, I recommend that a Fire Safety Certificate as per Building Control Regulations 1997 (as amended) be granted by the Council as Building Control Authority in respect of the above premises subject to the following conditions.

(2 conditions)

1. The fire alarm systems are to meet the full requirements for LD2 of BS5839: Part 6: 2004 (minimum grade D) in the apartment, and at least L3 of IS 3218: 1989 in the commercial unit.

REASON: In order to comply with B1 to the Building Regulations 2006

2. Emergency exits to comply with section 1.4.3.2 Technical Guidance Document B 2006 (and open in the direction of escape in the part of the restaurant occupied by the public) accordance with section 1.4.3.3)

REASON: In order to comply with B1 to the Building Regulations 2006

NOTE:

1. Any changes in plan and information submitted in above application shall be resubmitted to Galway County Council for approval. Such changes may necessitate a new Fire Safety Certificate application. Any fit out of the premises may also require a further Fire Safety Certificate Application.
2. A copy of the Commencement Notice as per SI 497 of 1997 is enclosed.
3. Transitional arrangements may apply to this application. See page 2 of Technical Guidance Document B to the Building Regulations 2006
4. Article 17(2) of the 1997 Building Control Regulations reads as follows:

“(2) A Fire Safety Certificate granted under this part shall only be construed as certifying that the building or works, if constructed in accordance with the plans, documents and information submitted, would comply with the requirements of Part B of the Second Schedule to the Building Regulations”

(1) An appeal against a decision of a Building Control Authority under Section 7 of the Building Control Act, 1990 may be made to An Bord Pleanála.

(2) An appeal shall—

- (a) be made in writing.
- (b) state the name and address of the appellant.
- (c) state the subject matter of the appeal.
- (d) state in full the grounds of appeal and the reasons, considerations and arguments on which they are based.
- (e) be accompanied by the appeal fee of €250, and
- (f) should be accompanied by a copy of this decision.

An appeal which does not comply with the above requirements shall be invalid.

(3) An appellant shall not be entitled to elaborate upon, or make further submissions in relation to, the grounds of appeal stated in the appeal or to submit further grounds of appeal and any such elaboration, submissions or further grounds of appeal that is or are received by the Bord shall not be considered by it.

(4) An appeal shall be accompanied by such documents, particulars or other information relating to the appeal as the appellant considers necessary or appropriate.

(5) An appeal shall be made by—

- (a) sending an appeal by registered prepaid post to the Board, or
- (b) leaving the appeal with an employee of the Board at the offices of the Board during office hours.

(6) TIME LIMIT

- (a) An appeal may be made within a period of one month beginning on the day of the decision of the Building Control Authority on an application.
- (b) An appeal received by the Board after the expiration of the above period shall be invalid.
- (c) Where the last day of the period specified in sub-article (1) is a Saturday, a Sunday, a public holiday (within the meaning of the Holidays (Employees) Act, 1973) or any other day on which the offices of the Board are closed, an appeal shall, notwithstanding Note 6 (a) and (b) above, be valid as having been made in time if received by the Board on the next following day on which the offices of the Board are open.

(7) Appeals should be addressed to An Bord Pleanála, Floor 3, Blocks 6& 7, Irish Life Centre, Lower Abbey Street, Dublin 1.0

Building Control Authority: Galway County Council
This Commencement Notice must be submitted to the Planning Office, Prospect Hill, Galway together with the required FEE of €30 Per Building not less than 14 days and not more than 28 days before works commence.

OFFICE USE ONLY

Date received: _____
Register Ref: _____
Entered on: _____
Entered by: _____
Fee Received: _____

I, the undersigned, hereby give notice/give notice on behalf of the person(s) named below*, to the above Building Control Authority (in accordance with Part II of the Building Control Regulations) that I/the persons named below* intend to carry out the development as described below. (* Cross out whichever is inappropriate)

Signature: _____ Date: _____ Tel: _____ Fax: _____
Name of person(s): _____ Email: _____
Address: _____
Commencement date (of works): _____ Fee payable (€): _____

2a. PROJECT PARTICULARS: (In addition, for Residential Developments, please complete Section 2b below)

Description of proposed development: _____

Planning permission no.: _____ Date of Grant of Planning Permission (C3 Date): _____
Fire Safety Certificate Number (if applicable): _____
Location of development: _____

2b. Residential Development Information:
Total number of dwelling units (all phases): _____ Total no. of phases: _____
Phase for this commencement notice: _____ No. of units for this phase/commencement notice: _____
Commencement date for this phase: _____ (Proposed) end-date for this phase: _____

3. Builder:

Name: _____ Tel: _____ Fax: _____
Address: _____ Email: _____

4. Building Owner Details: (if different from Section 1 above)

Name: _____ Tel: _____ Fax: _____
Address: _____ Email: _____

5. Building Designer Details:

Name: _____ Tel: _____ Fax: _____
Address: _____ Email: _____

6. Information: Person(s) from whom such plans, documents and any other information, as are necessary to show that the building or works will, if built in accordance with design, comply with the requirements of the Building Regulations, may be obtained.

Name: _____ Tel: _____ Fax: _____
Address: _____ Email: _____

7. Drainage System Foundations: Person(s) from whom notifications of the pouring of any foundations and/or the covering up of any drainage systems may be obtained

Name: _____ Tel: _____ Fax: _____
Address: _____ Email: _____

PLEASE COMPLETE THE ENTIRE FORM.

INCOMPLETE COMMENCEMENT NOTICES SHALL BE RETURNED.

Explanatory Notes Overleaf

C2

GALWAY COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACTS 2000-2002

DECISION under SECTION 34 of the ACT of 2000

Reference Number: 06/5041

Date of Receipt of Application: 16/11/2006

Declan Harte
c/o M.B.K. Associates
Unit 5, First Floor
Townparks Centre
Tuam Road, Galway

I hereby give you NOTICE that the Galway County Council has by order
dated decided to grant PERMISSION

To the above named, for development of land, in accordance with documents lodged, namely:

for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extract fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm) in the townland of Tuam

and subject to the conditions 11 set out in the Schedule hereto.

Main reasons and considerations on which the decision is based:-

The proposed development has been assessed, within the restrictions imposed by the principles of proper planning and sustainable development and having regard to the policies and objectives of Galway County Council as set out in the 2003 - 2009 County Development Plan. Based on this assessment it is considered that the proposed development is in accordance with the proper planning and sustainable development of the area and with the provisions of the Development Plan.

Signed this 13 day of April 2007 on behalf of Galway County Council

pp COUNTY SECRETARY

THIS NOTICE IS NOT A GRANT OF PLANNING PERMISSION and work should not be commenced until a grant of permission is issued. Permission will be issued on the expiration of the period for the making of an appeal (i.e. four weeks from the date of the above mentioned order), if there is then no appeal before Bord Pleanála.

SEE ATTACHED SCHEDULE

(CONDITION NO.'S 11)

A grant of permission shall cease to have effect on expiration of 5 years beginning on the date of such grant, as regards

- a) The entire development if the development to which the permission relates is not commenced during that period, and
- b) So much of the development as is not completed within that period, in the case of development which has been commenced but not completed

Please see attached sheet for important Notice regarding Planning Appeals

SCHEDULE REFERRED TO – PLANNING REFERENCE NO. 06/5041

- (1) The development shall be carried out in accordance with the plans and particulars lodged with the application 16th of November 2006, as amended by the plans and particulars received by the Planning Authority on the 5th of April 2007, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

- (2) The proposed traditional shop front shall be of timber and the associated signage shall be hand painted in accordance with documents lodged to the Planning Authority in support of this application on the 5th of April 2007.

Reason: In the interest of visual amenity.

- (3) The external finishes to the proposed extension shall harmonise in colour and texture with the existing finishes on the dwelling house.

Reason: In the interest of visual amenity.

- (4) (a) The hours of operation of the take-away shall be restricted to be from 09.00am to 12.00am, unless otherwise agreed in writing with the planning authority.
(b) The operator of the premises here permitted shall ensure on a nightly basis that no litter resulting from the operation of the business here permitted is left uncollected in the vicinity of the premises.

Reason: In the interests of visual and residential amenity and the proper planning and sustainable development of the area.

- (5) The developer shall provide litter bins, details to be agreed with the Tuam Town Engineer.

Reason: To protect the amenities of the area.

- (6) All surface water generated by the development shall be disposed of within the site and shall not be discharged onto the road or the adjoining property.

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

- (7) All demolition and construction waste shall be reused on site or disposed of in accordance with the relevant Waste Management Acts.

Reason: In the interest of proper planning and development.

Cont'd..

Recommendation on Planning Reference: 06-5041

I recommend that Planning Permission be granted subject to the conditions set out in the attached schedule(s) of conditions.

Schedule 1

The proposed development has been assessed, within the restrictions imposed by the principles of proper planning and sustainable development and having regard to the policies and objectives of Galway County Council as set out in both the 2003 - 2009 County Development Plan and the 2005-2011 Tuam Local Area Plan. Based on this assessment it is considered that the proposed development is in accordance with the proper planning and sustainable development of the area and with the provisions of both the Development Plan and the Tuam Local Area Plan.

Signed:

[Signature]
17/04/07
17 APR 2007

Job Title:

Executive Planner

- (1) The development shall be carried out in accordance with the plans and particulars lodged with the application 16th of November 2006, as amended by the plans and particulars received by the Planning Authority on the 5th of April 2007, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

- (2) The proposed traditional shop front shall be of timber and the associated signage shall be hand painted in accordance with documents lodged to the Planning Authority in support of this application on the 5th of April 2007.

Reason: In the interest of visual amenity.

- (3) The external finishes to the proposed extension shall harmonise in colour and texture with the existing finishes on the dwelling house.

Reason: In the interest of visual amenity.

SCHEDULE REFERRED TO – PLANNING REFERENCE NO. 06/5041

- (8) All public roads and footpaths shall be maintained free from dirt and debris during construction. Any damage to the public road/footpath shall be repaired by the developer at his/her own expense to the satisfaction of the Tuam Area Engineer.

Reason: In the interests of proper planning and sustainable development of the area.

- (9) Construction work for the development here permitted shall commence at 8 a.m. and cease at 8 p.m. daily, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of protecting residential amenity in the area.

- (10) A grease trap shall be provided at the connection to the public sewer in accordance with details to be agreed with the Planning authority.

Reason: In the interests of public health.

- (11) Before any development commences on the site proposed to be developed, the developer shall pay €12,336.00 to the Planning Authority, unless a phased payment schedule has been agreed in writing, with the Planning Authority. This charge has been calculated using the Development Contributions Scheme adopted by Galway County Council in accordance with the provisions of Section 48 of the Planning and Development Act 2000

Reason: So that the developer shall pay an equitable portion of the cost of the facilities that are provided or that it is intended will be provided by or on behalf of Galway County Council, which will facilitate the proposed development.

Development Type	Development Sub-Type	Charge Code Description	Number of Units	Unit Charge	Line Charge
House >= 125 sq.m					
Group 3	Take-Away	Water	96	€4.00	€384.00
	Take-Away	Recreation and Amenities	96	€5.60	€537.60
	Take-Away	Sewerage	96	€6.40	€614.40
Car Parking	Car Parking	Car Parking	3	€3,600.00	€10,800.00
				Total	€12,336.00

Copy

17/04/2007

Patrick Cunningham
Bermingham,
Tuam,
Co. Galway

RE: Planning ref. no.:06/5041 - PERMISSION for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extract fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm) in the townland of Tuam

Applicant: Declan Harte

A Chara,

With reference to your correspondence in connection with the above, I wish to inform you that a decision to **Grant** issued in this case.

The applicant or any other person may appeal against the above decision within 4 weeks beginning on the
[Signature] Appeals should be made in writing, and addressed to The Secretary, An Bord Pleanála, 64 Malborough Street, Dublin 1 and the above mentioned Planning Reference No. should be quoted.

The appeal should include your name and address, subject matter of the appeal, grounds of appeal and supporting material and arguments, and the correct fee.

In the case of a third party appeal, the acknowledgement by the Planning Authority of receipt of the submission or observation made by the person to the Planning Authority at the application stage should also be submitted with the appeal.

An appeal to An Bord Pleanála will be invalid unless it is accompanied by the appropriate fee.

Mise le meas

P Ridge
Stiúrthóir Seirbhísí / Director of Services
Pleanáil & Forbairt / Planning & Development

pp-onot

Copy

17/04/2007

Sean & Mary O' Gorman
Foster Place
Tuam
Co Galway

RE: Planning ref. no.:06/5041 - PERMISSION for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extract fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm) in the townland of Tuam

Applicant: Declan Harte

A Chara,

With reference to your correspondence in connection with the above, I wish to inform you that a decision to Grant issued in this case.

The applicant or any other person may appeal against the above decision within 4 weeks beginning on the 17/04/07. Appeals should be made in writing, and addressed to The Secretary, An Bord Pleanála, 64 Malborough Street, Dublin 1 and the above mentioned Planning Reference No. should be quoted.

The appeal should include your name and address, subject matter of the appeal, grounds of appeal and supporting material and arguments, and the correct fee.

In the case of a third party appeal, the acknowledgement by the Planning Authority of receipt of the submission or observation made by the person to the Planning Authority at the application stage should also be submitted with the appeal.

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Mise le meas

P Ridge

Stiúrthóir Seirbhíse / Director of Services
Pleanáil & Forbairt / Planning & Development

pp-onot

Copy

17/04/2007

Sean & Mary O' Gorman
Foster Place
Tuam
Co Galway

TAG: Uimh. tag. Pleanála : 06/5041 - PERMISSION for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extract fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm) i mbaile fearainn Tuam

Iarrthóir : Declan Harte

A Chara,

Ag tagairt dod chomhfhreagras maidir leis an ábhar thuasluaite, ba mhaith liom tú a chuir ar an eolas gur eisíodh cinneadh **Grant** sa gcás seo.

Is féidir leis an iarrthóir nó aon duine eile achomhaire a dhéanamh in aghaidh an chinneadh thuas laistigh de 4 seachtainí ag tosú ar an 17/04/07. Ba cheart achomhaire a dhéanamh i scríbhinn agus a sheoladh chuig An Rúnaí, An Bord Pleanála, 64 Sráid Malborough, Baile Átha Cliath 1 agus ba cheart an Uimh. Tagartha Pleanála thuasluaite a lua.

Ba cheart go mbeadh d'ainm agus do sheoladh, ábhar an achomhaire, bunús an achomhaire agus aon ábhar nó argóintí tacaíochta a bheith san áireamh chomh maith leis an táille cuí.

I gcás achomhaire tríú páirtí, ba cheart an admháil ón Údarás Pleanála ar an aighneacht nó tuairim a rinne an duine leis an Údarás Pleanála ag stáid an iarratais a bheith curtha isteach leis an achomhaire freisin.

Beidh achomhaire chuig An Bord Pleanála neamhbhaill mura bhfuil an táille cuí in éindí leis.

Mise le meas

P Ridge
Stiúrthóir Seirbhíse
Pleanáil & Forbairt

pp-onot

Galway County Council

Local Government Planning and Development Acts 1963 - 2002

Planning and Development Section

Planning Reference: 065041

Applicant Declan Harte

Location of proposed development: Tuam, .

Nature and extent of development: This application is for Permission for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extracting fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm)

Date Received: 16/11/2006

Date Validated: 16/11/2006

Decision Date: 19/01/2007

Extended Date:

Application Status: New Application

Development Charge Status: This development is not exempt from development charges

Date Inspected: 3rd of November 2006

Planning Officer: J Russell

Development Plan Provisions:

The following general development plan provisions apply to this application:

- 1) The site is located in an area designated as Landscape Sensitivity Class 1 (where Class 1 is the least sensitive and Class 5 the most sensitive).
- 2) The site is located within 50 metres of a structure listed in the Record of Protected

Structures Reference: = 835 829 833 834 836

3) The site is located in, or straddles the boundary of, the Urban Fringe/planning control zone around Tuam Town. It is inside the 1mi zone

4) The site is located within the GTPS

5) The site is located within an area designated as (Rkc) Regionally Important, conduit karst aquifer, development potential limited

6) The area is drained by the Corrib river

7) The development is located within a protected focal point/view.

Planning History

File Number and Name	Development Description	Application Status	Application Type	Decision	AppDecision	DecisionDate
05584	Sean	TOWNSPARK	INCOMPLETED APPLICATION	PERMISSION		
031435	Martin	TUAM	APPLICATION FINALISED	PERMISSION	CONDITIONAL	01/05/2003
052305	Billy	TOWNPARKS	APPLICATION FINALISED	PERMISSION	CONDITIONAL	12/08/2005
025234	Gearoid	FOSTER PLACE, TUAM	APPLICATION FINALISED	PERMISSION	CONDITIONAL	21/05/2003
036472, Foster Place, Old Ballygaddy Rd	Austin	TOWNPARKS (1ST DIVISION)	APPLICATION FINALISED	PERMISSION	CONDITIONAL	14/04/2004
051341	Sean	TOWNSPARK	APPLICATION FINALISED	PERMISSION	CONDITIONAL	23/09/2005
005041	Declan	TUAM	NEW APPLICATION	PERMISSION		
061174	Joe	TOWNSPARK (1ST DIVISION)	APPLICATION FINALISED	PERMISSION	CONDITIONAL	22/05/2006
06450	Billy	TOWNPARKS (1ST DIVISION)	APPLICATION FINALISED	PERMISSION	CONDITIONAL	06/04/2006

Summary Planning History for all applications within 250 metres of this application

Granted	Refused	Withdrawn	Undecided
7	0	0	1

Site Location :

The proposed development is located off Foster Street in Tuam town on lands zoned 'Town Centre'.

Adjoining Development:

The site location map shows the adjoining developments in accordance with Article 23 (1)(a) of the Planning Regulations, 2001 as amended by Article 5 of the Planning Regulations, 2002.

Sight Lines:

The site is located on a one-way street with traffic moving in a west to east direction.

Effluent Treatment:

Existing public foul & surface water sewer connection.

Water Supply:

Existing public water connection.

Assessment of Application on the 18th of January 2007

This is an application for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extracting fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm), in the townland of Tuam. The existing three bay two-storey dwelling house is located adjacent to Foster Street (one-way) and has parallel parking (pay & display) along in front of the site. The building is also located on commercially zoned lands and within an ACA, as set out in the Tuam Lap 2005-2011.

The proposed development was referred to the Conservation Officer, where following comments were made: 'It is not considered appropriate to insert roof lights in the front pitch of a roof within the ACA. Any inserted to the rear should be of conservation grade, i.e. flush with roof. Details of shop front should also be submitted. It is not appropriate to insert uPVC windows'.

The proposed first floor apartment is inadequate to meet the minimum size set out in Table 4.2 of the Tuam LAP for 2 bed apartments (55m²). The Planning Authority also has concerns over the potential overlooking onto adjoining properties posed for the proposed balcony. The rear access to the apartment is not considered acceptable, in terms of precedent and access by emergency services. A certificate of exemption under Section 97 of the Planning Act should have been submitted. Carparking parking associated with the apartment would be off-set with the existing residential use of the building.

Two objection letters were lodged on file from the owner/occupiers of the adjoining properties, who are concerned that the take-away will affect their residential amenity due to the noise, loitering and odours generated by the proposed development. Concern is also raised over potential fire in these premises, noise generated by extraction system, waste storage generated by take-away, overlooking on their property due to the construction of the rear two-storey extension (balcony) & access to apartment is to the rear of the site (access road), which would pose problem for emergency services. In addition, the rear access road is locked at night for security purposes

Recommended Refusal Reasons:

- 1 The proposed development, if permitted, may result in the depreciation of the value of adjacent property, as the proposal by its nature and hours of opening would result in the loss of residential amenity for occupier/occupiers of adjacent properties and therefore would be contrary to the proper planning and development of the area.
- 2 Having regard to the substandard size of the proposed two bedroom apartment, it is considered, that the proposed development, if permitted, would be contrary to Table 4.2 of the Tuam Local Area Plan 2005-2011 and would constitute over-development on this restricted site, as the proposed development would not provide for an acceptable standard of residential amenity. The proposed development, therefore, would constitute substandard development and would therefore seriously injure the amenities of future occupants of the residential units and would therefore be contrary to the proper planning and sustainable development of the area.
- 3 Having regard to the location of the access of the first floor apartment via a separate rear access road, which is not opened 24 hours a day, it is considered, the proposed development, if permitted, would set an undesirable precedent for similar development and would create access problems for emergency services.
- 4 Having regard to the private open space to serve the proposed first floor apartment, it is considered the proposed first floor balcony feature would overlooking onto adjoining properties and would seriously injure the amenities of the occupier/occupiers of the adjoining properties. Accordingly, to grant permission for the first floor apartment would set an undesirable precedent for similar developments and would be contrary to the proper planning and sustainable development of the area.

- 5 The proposed development is located within an area designated as Architectural Conservation Area in the Tuam Local Area Plan 2005-2011 and in the absence of an architectural assessment report to the contrary, it is considered that the proposed development would, by reason of its design, have an adverse impact on the existing street streetscape and would therefore, be contrary to the proper planning and sustainable development of the area.

Assessment of Application on the 17th of April 2007

This application was placed on an EOT for 3 months (18/01/07 to 18/04/07) and within this period of time the following unsolicited additional information was submitted to the Planning Authority on the 5th of April 2007 to address & overcome the recommended 5 no. refusal reasons:

- (1) Revised site layout map has been submitted to show a SDT of 120m in both directions of the proposed vehicular access point to the site;
- (2) The proposed two bed first floor apartment has been changed to a one bed apartment in line with the minimum apartment sizes, as set out in Table 4.2 of the Tuam LAP.
- (3) Access to the first floor apartment has been revised to include a separate access door on the front elevation with internal staircase.
- (4) The screens walls around the first floor balcony have been increased to 2.15m in all places, except to rear balcony wall, which will have a height of 1.465m. It is noted there is an existing window from the adjoining property approx. 3 metres from the front balcony wall, as shown on the rear elevation drawing (dwg. 2118-04).
- (5) Revised drawings of the front façade to be more in keeping with the existing streetscape, which has a considerable number of commercial/shopfronts.
- (6) An Impact Assessment report of the proposed development on the ACA has also been submitted.
- (7) An application for a certificate of exemption has been submitted.

It is considered recommended refusal reasons no. 1 to 5 inclusive have been adequately addressed, however, a condition concerning hours of operation shall apply.

- (4) (a) The hours of operation of the take-away shall be restricted to be from 09.00am to 12.00am, unless otherwise agreed in writing with the planning authority.
- (b) The operator of the premises here permitted shall ensure on a nightly basis that no litter resulting from the operation of the business here permitted is left uncollected in the vicinity of the premises.

Reason: In the interests of visual and residential amenity and the proper planning and sustainable development of the area.

- (5) The developer shall provide litter bins, details to be agreed with the Tuam Town Engineer.

Reason: To protect the amenities of the area.

- (6) All surface water generated by the development shall be disposed of within the site and shall not be discharged onto the road or the adjoining property.

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

- (7) All demolition and construction waste shall be reused on site or disposed of in accordance with the relevant Waste Management Acts.

Reason: In the interest of proper planning and development.

- (8) All public roads and footpaths shall be maintained free from dirt and debris during construction. Any damage to the public road/footpath shall be repaired by the developer at his/her own expense to the satisfaction of the Tuam Area Engineer.

Reason: In the interests of proper planning and sustainable development of the area.

- (9) Construction work for the development here permitted shall commence at 8 a.m. and cease at 8 p.m. daily, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of protecting residential amenity in the area.

- (10) A grease trap shall be provided at the connection to the public sewer in accordance with details to be agreed with the Planning authority.

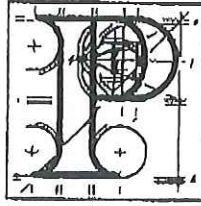
Reason: In the interests of public health.

- (11) Before any development commences on the site proposed to be developed, the developer shall pay €12,336.00 to the Planning Authority, unless a phased payment schedule has been agreed in writing, with the Planning Authority. This charge has been calculated using the Development Contributions Scheme adopted by Galway County Council in accordance with the provisions of Section 48 of the Planning and Development Act 2000

Reason: So that the developer shall pay an equitable portion of the cost of the facilities that are provided or that it is intended will be provided by or on behalf of Galway County Council, which will facilitate the proposed development.

Development Type	Development Sub-Type	Charge Code Description	Number of Units	Unit Charge	Line Charge
House >=125 sq.m					
Group 3	Take-Away	Water	96	€4.00	€384.00
	Take-Away	Recreation and Amenities	96	€5.60	€537.60
	Take-Away	Sewerage	96	€6.40	€614.40
Car Parking	Car Parking	Car Parking	3	€3,600.00	€10,800.00
				Total	€12,336.00

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2006

Galway County

Planning Register Reference Number: 06/5041

An Bord Pleanála Reference Number: PL 07/223386

APPEAL by Sean and Mary O'Gorman of Foster Place, Tuam, County Galway against the decision made on the 17th day of April, 2007 by Galway County Council to grant subject to conditions a permission to Declan Harte care of M.B.K. Associates of Unit 5, First Floor, Town Parks Centre, Tuam Road, Galway in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Change of use from dwelling to take-away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) To demolish shed to rear of site; 2) To construct new two-storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor; 3) provide new shop front with signage over; 4) Provide extract fans and vent ducts to rear of building; 5) Roof lights to existing roof attic storage space, all at number 1 Foster Place, Tuam, County Galway.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

AS

REASONS AND CONSIDERATIONS

Having regard to the central location of the site and its commercial zoning, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, or of property in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the changes introduced by the further drawings and information were to the benefit of the development and of surrounding properties, and, moreover, were within the envelope of the site and proposed development.

CONDITIONS

1. The development shall be carried out 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 5th day of April, 2007, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

3. Prior to commencement of construction of the houses, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

4. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual amenity.

AS

5. 1) The hours of operation of the proposed take-away shall be restricted to between 0900 hours and 2400 hours only unless otherwise agreed in writing with the planning authority.
- 2) The operator of the premises hereby permitted shall ensure, on a nightly basis, that no litter resulting from the operation of the business hereby permitted is left uncollected in the vicinity of the premises.

Reason: In the interests of visual and residential amenity and orderly development.

6. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

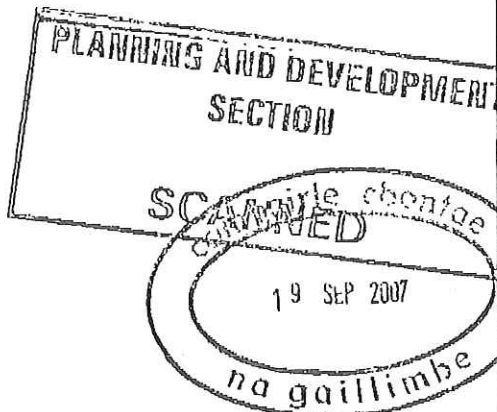


Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

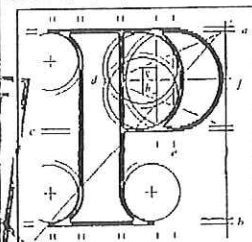
Dated this 17th day of September 2007.

Our Ref: PL 07.223386
P.A.Reg.Ref: 06/5041

The Secretary
Planning Section,
Galway County Council
Post Office Box No. 27,
County Hall,
Prospect Hill,
Galway.



An Bord Pleanála



19 SEP 2007

Appeal Re: Change of use from dwelling to take-away with apartment over, rear extension, staff facilities, extract fans and vent ducts, signage.
Foster Place, Tuam, Co. Galway.

Dear Sir/Madam,

An order has been made by An Bord Pleanála determining the above-mentioned appeal under the Planning and Development Acts 2000 to 2006. A copy of the order is enclosed.

The Board took its decision in this appeal within the statutory time period. However, due to workload constraints, it was not possible to sign and issue the order in the appeal on that day.

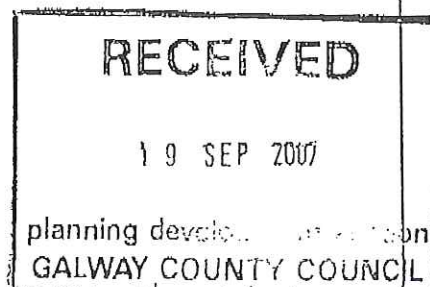
In accordance with section 146(3) of the Planning and Development Act 2000, the Board will make available for inspection and purchase at its offices the documents relating to the appeal within 3 working days following its decision. In addition, the Board will also make available the Inspector's Report and the Board Direction on the appeal on its website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

Yours faithfully,

Eamonn Dowling
Executive Officer
Direct Line:

Encl:

BP 100AN.ltr

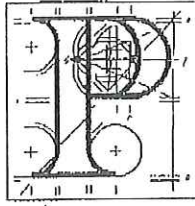


64 Sraid Maoilbhríde,
Baile Átha Cliath 1.

Tel: (01) 858 8100
LoCall: 1890 275 175
Fax: (01) 872 2684
Web: <http://www.pleanala.ie>
email: bord@pleanala.ie

64 Marlborough Street,
Dublin 1.

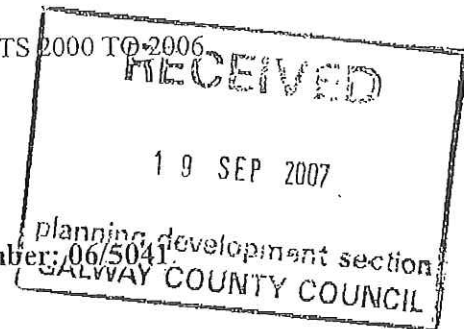
An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2006

Galway County

Planning Register Reference Number: 06/5041



An Bord Pleanála Reference Number: PL 07/223386

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PROPOSED DEVELOPMENT: Change of use from dwelling to take-away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) To demolish shed to rear of site; 2) To construct new two-storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store-and-service-area-to-ground floor; 3) provide new shop-front with signage over; 4) Provide extract fans and vent ducts to rear of building; 5) Roof lights to existing roof attic storage space, all at number 1 Foster Place, Tuam, County Galway.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the central location of the site and its commercial zoning, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, or of property in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the changes introduced by the further drawings and information were to the benefit of the development and of surrounding properties, and, moreover, were within the envelope of the site and proposed development.

CONDITIONS

1. The development shall be carried out 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 5th day of April, 2007, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

3. Prior to commencement of construction of the houses, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

4. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual amenity.

5. 1) The hours of operation of the proposed take-away shall be restricted to between 0900 hours and 2400 hours only unless otherwise agreed in writing with the planning authority.
- 2) The operator of the premises hereby permitted shall ensure, on a nightly basis, that no litter resulting from the operation of the business hereby permitted is left uncollected in the vicinity of the premises.

Reason: In the interests of visual and residential amenity and orderly development.

6. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

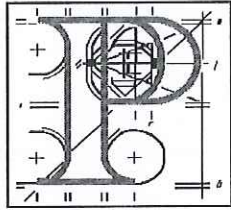


[Handwritten signature]

Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this *17th* day of *September* 2007.

An Bord Pleanála



Board Direction

Ref:PL07.223386.

The submissions on this file and the Inspector's report were considered at a Board meeting held on the 13th. September 2007.

The Board decided to grant permission in accordance with the attached draft reasons, considerations and conditions.

REASONS AND CONSIDERATIONS.

Having regard to the central location of the site, and its commercial zoning, it is considered that the proposed development, subject to the conditions set out below, would not seriously injure the amenities of the area, or of property in the vicinity, and would, therefore, be in accordance with P.P.&S.D.

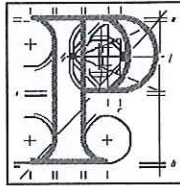
CONDITIONS.

1. Planpartic.
2. Waterdrain.
3. Externngen.
4. Cables.
5. P.A. no.4.
6. S.48.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the changes introduced by the further drawings and information were to the benefit of the development and of surrounding properties, and moreover, were within the envelope of the site and proposal.

Board Member _____ Date 13th. September 2007.
BRIAN F. SWIFT.

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2006

Galway County

Planning Register Reference Number: 06/5041

An Bord Pleanála Reference Number: PL 07/223386

APPEAL by Sean and Mary O’Gorman of Foster Place, Tuam, County Galway against the decision made on the 17th day of April, 2007 by Galway County Council to grant subject to conditions a permission to Declan Harte care of M.B.K. Associates of Unit 5, First Floor, Town Parks Centre, Tuam Road, Galway in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Change of use from dwelling to take-away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) To demolish shed to rear of site; 2) To construct new two-storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor; 3) provide new shop front with signage over; 4) Provide extract fans and vent ducts to rear of building; 5) Roof lights to existing roof attic storage space, all at number 1 Foster Place, Tuam, County Galway.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the central location of the site and its commercial zoning, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, or of property in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the changes introduced by the further drawings and information were to the benefit of the development and of surrounding properties, and, moreover, were within the envelope of the site and proposed development.

CONDITIONS

1. The development shall be carried out 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 5th day of April, 2007, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

3. Prior to commencement of construction of the houses, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

4. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual amenity.

5. 1) The hours of operation of the proposed take-away shall be restricted to between 0900 hours and 2400 hours only unless otherwise agreed in writing with the planning authority.
- 2) The operator of the premises hereby permitted shall ensure, on a nightly basis, that no litter resulting from the operation of the business hereby permitted is left uncollected in the vicinity of the premises.

Reason: In the interests of visual and residential amenity and orderly development.

6. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2007.

C2

GALWAY COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACTS 2000-2002

DECISION under SECTION 34 of the ACT of 2000

Reference Number: 06/5041

Date of Receipt of Application: 16/11/2006

Declan Harte
c/o M.B.K. Associates
Unit 5, First Floor
Townparks Centre
Tuam Road, Galway

I hereby give you NOTICE that the Galway County Council has by order dated _____ decided to grant PERMISSION

To the above named, for development of land, in accordance with documents lodged, namely:

for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extract fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm) in the townland of Tuam

and subject to the conditions 11 set out in the Schedule hereto.

Main reasons and considerations on which the decision is based:-

The proposed development has been assessed, within the restrictions imposed by the principles of proper planning and sustainable development and having regard to the policies and objectives of Galway County Council as set out in the 2003 - 2009 County Development Plan. Based on this assessment it is considered that the proposed development is in accordance with the proper planning and sustainable development of the area and with the provisions of the Development Plan.

Signed this _____ day of _____ on behalf of Galway County Council

pp COUNTY SECRETARY

THIS NOTICE IS NOT A GRANT OF PLANNING PERMISSION and work should not be commenced until a grant of permission is issued. Permission will be issued on the expiration of the period for the making of an appeal (i.e. four weeks from the date of the above mentioned order), if there is then no appeal before Bord Pleanala.

**SEE ATTACHED SCHEDULE
(CONDITION NO.'S 11)**

A grant of permission shall cease to have effect on expiration of 5 years beginning on the date of such grant, as regards

- a) The entire development if the development to which the permission relates is not commenced during that period, and
- b) So much of the development as is not completed within that period, in the case of development which has been commenced but not completed

Please see attached sheet for important Notice regarding Planning Appeals

SCHEDULE REFERRED TO – PLANNING REFERENCE NO. 06/5041

- (1) The development shall be carried out in accordance with the plans and particulars lodged with the application 16th of November 2006, as amended by the plans and particulars received by the Planning Authority on the 5th of April 2007, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

- (2) The proposed traditional shop front shall be of timber and the associated signage shall be hand painted in accordance with documents lodged to the Planning Authority in support of this application on the 5th of April 2007.

Reason: In the interest of visual amenity.

- (3) The external finishes to the proposed extension shall harmonise in colour and texture with the existing finishes on the dwelling house.

Reason: In the interest of visual amenity.

- (4) (a) The hours of operation of the take-away shall be restricted to be from 09.00am to 12.00am, unless otherwise agreed in writing with the planning authority.
(b) The operator of the premises here permitted shall ensure on a nightly basis that no litter resulting from the operation of the business here permitted is left uncollected in the vicinity of the premises.

Reason: In the interests of visual and residential amenity and the proper planning and sustainable development of the area.

- (5) The developer shall provide litter bins, details to be agreed with the Tuam Town Engineer.

Reason: To protect the amenities of the area.

- (6) All surface water generated by the development shall be disposed of within the site and shall not be discharged onto the road or the adjoining property.

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

- (7) All demolition and construction waste shall be reused on site or disposed of in accordance with the relevant Waste Management Acts.

Reason: In the interest of proper planning and development.

Cont/d...

SCHEDULE REFERRED TO – PLANNING REFERENCE NO. 06/5041

- (8) All public roads and footpaths shall be maintained free from dirt and debris during construction. Any damage to the public road/footpath shall be repaired by the developer at his/her own expense to the satisfaction of the Tuam Area Engineer.

Reason: In the interests of proper planning and sustainable development of the area.

- (9) Construction work for the development here permitted shall commence at 8 a.m. and cease at 8 p.m. daily, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of protecting residential amenity in the area.

- (10) A grease trap shall be provided at the connection to the public sewer in accordance with details to be agreed with the Planning authority.

Reason: In the interests of public health.

- (11) Before any development commences on the site proposed to be developed, the developer shall pay €12,336.00 to the Planning Authority, unless a phased payment schedule has been agreed in writing, with the Planning Authority. This charge has been calculated using the Development Contributions Scheme adopted by Galway County Council in accordance with the provisions of Section 48 of the Planning and Development Act 2000

Reason: So that the developer shall pay an equitable portion of the cost of the facilities that are provided or that it is intended will be provided by or on behalf of Galway County Council, which will facilitate the proposed development.

Development Type	Development Sub-Type	Charge Code Description	Number of Units	Unit Charge	Line Charge
House >=125 sq.m					
Group 3	Take-Away	Water	96	€4.00	€384.00
	Take-Away	Recreation and Amenities	96	€5.60	€537.60
	Take-Away	Sewerage	96	€6.40	€614.40
Car Parking	Car Parking	Car Parking	3	€3,600.00	€10,800.00
				Total	€12,336.00

Copy

17/04/2007

Patrick Cunningham
Bermingham,
Tuam,
Co. Galway

RE: Planning ref. no.:06/5041 - PERMISSION for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extract fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm) in the townland of Tuam

Applicant: Declan Harte

A Chara,

With reference to your correspondence in connection with the above, I wish to inform you that a decision to **Grant** issued in this case.

The applicant or any other person may appeal against the above decision within 4 weeks beginning on the
17/04/07 Appeals should be made in writing, and addressed to The Secretary, An Bord Pleanála, 64 Malborough Street, Dublin 1 and the above mentioned Planning Reference No. should be quoted.

The appeal should include your name and address, subject matter of the appeal, grounds of appeal and supporting material and arguments, and the correct fee.

In the case of a third party appeal, the acknowledgement by the Planning Authority of receipt of the submission or observation made by the person to the Planning Authority at the application stage should also be submitted with the appeal.

An appeal to An Bord Pleanála will be invalid unless it is accompanied by the appropriate fee.

Mise le meas

P Ridge
Stiúrthóir Seirbhíse / Director of Services
Pleanáil & Forbairt / Planning & Development

pp-onot

Copy

17/04/2007

Sean & Mary O' Gorman
Foster Place
Tuam
Co Galway

RE: Planning ref. no.:06/5041 - PERMISSION for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extract fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm) in the townland of Tuam

Applicant: Declan Harte

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Mise le meas

P Ridge
Stiúrthóir Seirbhís / Director of Services
Pleanáil & Forbairt / Planning & Development

pp-onot

Copy

17/04/2007

Scan & Mary O' Gorman
Foster Place
Tuam
Co Galway

TAG: Uimh. tag. Pleanála : 06/5041 - PERMISSION for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extract fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm) i mbaile fearainn Tuam

Iarrthóir : Declan Harte

A Chara,

Ag tagairt dod chomhfhreagras maidir leis an ábhar thuasluaite, ba mhaith liom tú a chuir ar an colas gur císíodh cinneadh **Grant** sa gcás seo.

Is féidir leis an iarrthóir nó aon duine eile achomhairc a dhéanamh in aghaidh an chinneadh thuas laistigh de 4 seachtainí ag tosú ar an 17/4/07. Ba cheart achomhairc a dhéanamh i scríbhinn agus a sheoladh chuig An Rúnaí, An Bord Pleanála, 64 Sráid Malborough, Baile Átha Cliath 1 agus ba cheart an Uimh. Tagartha Pleanála thuasluaite a lua.

Ba cheart go mbeadh d'ainm agus do sheoladh, ábhar an achomhairc, bunús an achomhairc agus aon ábhar nó argóintí tacaíochta a bheith san áireamh chomh maith leis an táille cuí.

I gcás achomhairc tríú páirtí, ba cheart an admháil ón Údarás Pleanála ar an aighneacht nó tuairim a rinne an duine leis an Údarás Pleanála ag stáid an iarratais a bheith curtha isteach leis an achomhairc freisin.

Beidh achomhairc chuig An Bord Pleanála neamhbhailí mura bhfuil an táille cuí in éindí leis.

Mise le meas

P Ridge
Stiúrthóir Seirbhíse
Pleanáil & Forbairt

pp-onot

Galway County Council

Local Government Planning and Development Acts 1963 - 2002

Planning and Development Section

Planning Reference: 065041

Applicant Declan Harte

Location of proposed development: Tuam, .

Nature and extent of development: This application is for Permission for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extracting fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm)

Date Received: 16/11/2006

Date Validated: 16/11/2006

Decision Date: 19/01/2007

Extended Date:

Application Status: New Application

Development Charge Status: This development is not exempt from development charges

Date Inspected: 3rd of November 2006

Planning Officer: J Russell

Development Plan Provisions:

The following general development plan provisions apply to this application:

- 1) The site is located in an area designated as Landscape Sensitivity Class 1 (where Class 1 is the least sensitive and Class 5 the most sensitive).
- 2) The site is located within 50 metres of a structure listed in the Record of Protected

Structures Reference: = 835 829 833 834 836

- 3) The site is located in, or straddles the boundary of, the Urban Fringe/planning control zone around Tuam Town. It is inside the 1mi zone
- 4) The site is located within the GTPS
- 5) The site is located within an area designated as (Rkc) Regionally Important, conduit karst aquifer, development potential limited
- 6) The area is drained by the Corrib river
- 7) The development is located within a protected focal point/ view.

Planning History

File Number and Name	Development Description	Application Status	Application Type	Decision	App Decision	Decision Date
05584	Sean	TOWNSPARK	INCOMPLETED APPLICATION	PERMISSION		
031435	Martin	TUAM	APPLICATION FINALISED	PERMISSION	CONDITIONAL	01/05/2003
052365	Billy	TOWNPARKS	APPLICATION FINALISED	PERMISSION	CONDITIONAL	12/08/2005
025234	Gearoid	FOSTER PLACE, TUAM	APPLICATION FINALISED	PERMISSION	CONDITIONAL	21/05/2003
036472, Foster Place, Old Hallygaddy Rd	Austin	TOWNPARKS (1ST DIVISION)	APPLICATION FINALISED	PERMISSION	CONDITIONAL	14/04/2004
051341	Sean	TOWNSPARK	APPLICATION FINALISED	PERMISSION	CONDITIONAL	23/09/2005
065041	Declan	TUAM	NEW APPLICATION	PERMISSION		
061174	Joe	TOWNSPARK (1ST DIVISION)	APPLICATION FINALISED	PERMISSION	CONDITIONAL	22/05/2006
06430	Billy	TOWNPARKS (1ST DIVISION)	APPLICATION FINALISED	PERMISSION	CONDITIONAL	06/04/2006

Summary Planning History for all applications within 250 metres of this application

Granted	Refused	Withdrawn	Undecided
7	0	0	1

Site Location :

The proposed development is located off Foster Street in Tuam town on lands zoned 'Town Centre'.

Adjoining Development:

The site location map shows the adjoining developments in accordance with Article 23 (1)(a) of the Planning Regulations, 2001 as amended by Article 5 of the Planning Regulations, 2002.

Sight Lines:

The site is located on a one-way street with traffic moving in a west to east direction.

Effluent Treatment:

Existing public foul & surface water sewer connection.

Water Supply:

Existing public water connection.

Assessment of Application on the 18th of January 2007

This is an application for change of use from dwelling to Take-Away on ground floor and apartment to first floor with attic storage space comprising of the following: 1) to demolish shed to rear of site 2) to construct new two storey extension to rear of building with roof top balcony to first floor, staff toilet/canteen, store and service area to ground floor 3) provide new shop front with signage over 4) provide extracting fans and vent ducts to rear of building 5) rooflights to existing roof to attic storage space (Gross floor area 71.60 sqm), in the townland of Tuam. The existing three bay two-storey dwelling house is located adjacent to Foster Street (one-way) and has parallel parking (pay & display) along in front of the site. The building is also located on commercially zoned lands and within an ACA, as set out in the Tuam Lap 2005-2011.

The proposed development was referred to the Conservation Officer, where following comments were made: 'It is not considered appropriate to insert roof lights in the front pitch of a roof within the ACA. Any inserted to the rear should be of conservation grade, i.e. flush with roof. Details of shop front should also be submitted. It is not appropriate to insert uPVC windows'.

The proposed first floor apartment is inadequate to meet the minimum size set out in Table 4.2 of the Tuam LAP for 2 bed apartments (55m²). The Planning Authority also has concerns over the potential overlooking onto adjoining properties posed for the proposed balcony. The rear access to the apartment is not considered acceptable, in terms of precedent and access by emergency services. A certificate of exemption under Section 97 of the Planning Act should have been submitted. Carparking parking associated with the apartment would be off-set with the existing residential use of the building.

Two objection letters were lodged on file from the owner/occupiers of the adjoining properties, who are concerned that the take-away will affect their residential amenity due to the noise, loitering and odours generated by the proposed development. Concern is also raised over potential fire in these premises, noise generated by extraction system, waste storage generated by take-away, overlooking on their property due to the construction of the rear two-storey extension (balcony) & access to apartment is to the rear of the site (access road), which would pose problem for emergency services. In addition, the rear access road is locked at night for security purposes

Recommended Refusal Reasons:

- 1 The proposed development, if permitted, may result in the depreciation of the value of adjacent property, as the proposal by its nature and hours of opening would result in the loss of residential amenity for occupier/occupiers of adjacent properties and therefore would be contrary to the proper planning and development of the area.
- 2 Having regard to the substandard size of the proposed two bedroom apartment, it is considered, that the proposed development, if permitted, would be contrary to Table 4.2 of the Tuam Local Area Plan 2005-2011 and would constitute over-development on this restricted site, as the proposed development would not provide for an acceptable standard of residential amenity. The proposed development, therefore, would constitute substandard development and would therefore seriously injure the amenities of future occupants of the residential units and would therefore be contrary to the proper planning and sustainable development of the area.
- 3 Having regard to the location of the access of the first floor apartment via a separate rear access road, which is not opened 24 hours a day, it is considered, the proposed development, if permitted, would set an undesirable precedent for similar development and would create access problems for emergency services.
- 4 Having regard to the private open space to serve the proposed first floor apartment, it is considered the proposed first floor balcony feature would overlooking onto adjoining properties and would seriously injure the amenities of the occupier/occupiers of the adjoining properties. Accordingly, to grant permission for the first floor apartment would set an undesirable precedent for similar developments and would be contrary to the proper planning and sustainable development of the area.

- 5 The proposed development is located within an area designated as Architectural Conservation Area in the Tuam Local Area Plan 2005-2011 and in the absence of an architectural assessment report to the contrary, it is considered that the proposed development would, by reason of its design, have an adverse impact on the existing street streetscape and would therefore, be contrary to the proper planning and sustainable development of the area.

Assessment of Application on the 17th of April 2007

This application was placed on an EOT for 3 months (18/01/07 to 18/04/07) and within this period of time the following unsolicited additional information was submitted to the Planning Authority on the 5th of April 2007 to address & overcome the recommended 5 no. refusal reasons:

- (1) Revised site layout map has been submitted to show a SDT of 120m in both directions of the proposed vehicular access pint to the site;
- (2) The proposed two bed first floor apartment has been changed to a one bed apartment in line with the minimum apartment sizes, as set out in Table 4.2 of the Tuam LAP.
- (3) Access to the first floor apartment has been revised to include a separate access door on the front elevation with internal staircase.
- (4) The screens walls around the first floor balcony have been increased to 2.15m in all places, except to rear balcony wall, which will have a height of 1.465m. It is noted there is an existing window from the adjoining property approx. 3 metres from the front balcony wall, as shown on the rear elevation drawing (dwg. 2118-04).
- (5) Revised drawings of the front façade to be more in keeping with the existing streetscape, which has a considerable number of commercial/shopfronts.
- (6) An Impact Assessment report of the proposed development on the ACA has also been submitted.
- (7) An application for a certificate of exemption has been submitted.

It is considered recommended refusal reasons no. 1 to 5 inclusive have been adequately addressed, however, a condition concerning hours of operation shall apply.

Recommendation on Planning Reference: 06-5041

I recommend that Planning Permission be granted subject to the conditions set out in the attached schedule(s) of conditions.

Schedule 1

The proposed development has been assessed, within the restrictions imposed by the principles of proper planning and sustainable development and having regard to the policies and objectives of Galway County Council as set out in both the 2003 - 2009 County Development Plan and the 2005-2011 Tuam Local Area Plan. Based on this assessment it is considered that the proposed development is in accordance with the proper planning and sustainable development of the area and with the provisions of both the Development Plan and the Tuam Local Area Plan.

Signed:

[Signature]

RECOMMENDATION
17/04/07
17 APR 2007

Job Title:

Executive Planner

- (1) The development shall be carried out in accordance with the plans and particulars lodged with the application 16th of November 2006, as amended by the plans and particulars received by the Planning Authority on the 5th of April 2007, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

- (2) The proposed traditional shop front shall be of timber and the associated signage shall be hand painted in accordance with documents lodged to the Planning Authority in support of this application on the 5th of April 2007.

Reason: In the interest of visual amenity.

- (3) The external finishes to the proposed extension shall harmonise in colour and texture with the existing finishes on the dwelling house.

Reason: In the interest of visual amenity.

- (4) (a) The hours of operation of the take-away shall be restricted to be from 09.00am to 12.00am, unless otherwise agreed in writing with the planning authority.
(b) The operator of the premises here permitted shall ensure on a nightly basis that no litter resulting from the operation of the business here permitted is left uncollected in the vicinity of the premises.

Reason: In the interests of visual and residential amenity and the proper planning and sustainable development of the area.

- (5) The developer shall provide litter bins, details to be agreed with the Tuam Town Engineer.

Reason: To protect the amenities of the area.

- (6) All surface water generated by the development shall be disposed of within the site and shall not be discharged onto the road or the adjoining property.

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

- (7) All demolition and construction waste shall be reused on site or disposed of in accordance with the relevant Waste Management Acts.

Reason: In the interest of proper planning and development.

- (8) All public roads and footpaths shall be maintained free from dirt and debris during construction. Any damage to the public road/footpath shall be repaired by the developer at his/her own expense to the satisfaction of the Tuam Area Engineer.

Reason: In the interests of proper planning and sustainable development of the area.

- (9) Construction work for the development here permitted shall commence at 8 a.m. and cease at 8 p.m. daily, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of protecting residential amenity in the area.

- (10) A grease trap shall be provided at the connection to the public sewer in accordance with details to be agreed with the Planning authority.

Reason: In the interests of public health.

- (11) Before any development commences on the site proposed to be developed, the developer shall pay €12,336.00 to the Planning Authority, unless a phased payment schedule has been agreed in writing, with the Planning Authority. This charge has been calculated using the Development Contributions Scheme adopted by Galway County Council in accordance with the provisions of Section 48 of the Planning and Development Act 2000

Reason: So that the developer shall pay an equitable portion of the cost of the facilities that are provided or that it is intended will be provided by or on behalf of Galway County Council, which will facilitate the proposed development.

Development Type	Development Sub-Type	Charge Code Description	Number of Units	Unit Charge	Line Charge
House >=125 sq.m					
Group 3	Take-Away	Water	96	€4.00	€384.00
	Take-Away	Recreation and Amenities	96	€5.60	€537.60
	Take-Away	Sewerage	96	€6.40	€614.40
Car Parking	Car Parking	Car Parking	3	€3,600.00	€10,800.00
				Total	€12,336.00

Form of Commencement Notice for Development

(Notice to a Building Control Authority pursuant to Part II of the Building Control Regulations, 1997)

Building Control Authority: Galway County Council

This Commencement Notice must be submitted to the Planning Office, Prospect Hill, Galway together with the required FEE of €30 Per Building not less than 14 days and not more than 28 days before works commence.

OFFICE USE ONLY

Date received: 20/06/08
Registered: RECEIVED
Entered on: 20/06/08
Entered by: 20/06/08
Fee Received: 2008

1. Hugh Whiskey

I, the undersigned, hereby give notice/give notice on behalf of the person(s) named below to the above Building Control Authority (in accordance with Part II of the Building Control Regulations) that the person(s) named below intend to carry out the development as described below. (* Cross out whichever is inappropriate)

Signature: Hugh Whiskey Date: 20/06/08 Tel: 011 768704 Fax: 768027
Name of person(s): DENIS O' CORNELL Email: Design@cornell.ie
Address: _____

Commencement date (of works): 20/06/08 Fee payable (€): 30.00

2a. PROJECT PARTICULARS: (In addition, for Residential Developments, please complete Section 2b below)

Description of proposed development:

THE CHANGE OF USE FROM Dwelling to take away of ground floor 2 apartment to first floor.

Planning permission no.: 06/5041 Date of Grant of Planning Permission (C3 Date): 17/sept/07

Fire Safety Certificate Number (if applicable): FS - 28/07

Location of development: 1 ROSKE PLACE, TOWN, CO. GALWAY

2b. Residential Development Information:

Total number of dwelling units (all phases): _____ Total no of phases: _____

Phase for this commencement notice: _____ No. of units for this phase/commencement notice: _____

Commencement date for this phase: _____ (Proposed) end-date for this phase: _____

3. Builder:

Name: MARQUE DEVELOPMENTS Tel: 011 768036 Fax: 011 768107
Address: _____ Email: _____

4. Building Owner Details: (if different from Section 1 above)

Name: N/A Tel: _____ Fax: _____
Address: _____ Email: _____

5. Building Designer Details:

Name: MBK & ASSOCIATES Tel: _____ Fax: _____
Address: _____ Email: _____

6. Information: Person(s) from whom such plans, documents and any other information, as are necessary to show that the building or works will, if built in accordance with design, comply with the requirements of the Building Regulations, may be obtained.

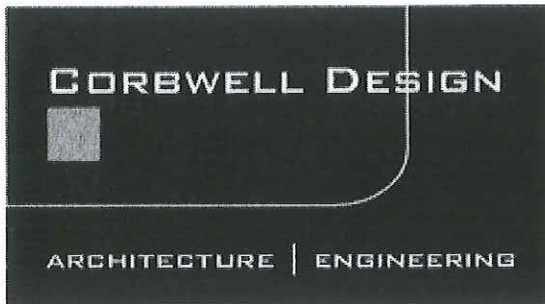
Name: CORNWELL DESIGN Tel: 011 768704 Fax: 011 768027
Address: _____ Email: _____

7. Drainage System Foundations: Person(s) from whom notifications of the pouring of any foundations and/or the covering up of any drainage systems may be obtained

Name: AS ABOVE (Cornell Desg) Tel: _____ Fax: _____
Address: _____ Email: _____

PLEASE COMPLETE THE ENTIRE FORM.

Explanatory Notes Overleaf



CONSULTING ENGINEERS ARCHITECTS

Glenrock business park, Bother na Mine, Ballybane,
Galway

Tel: 091 768704/5

Fax: 091768027

email: design@corbwell.ie

DRAFT OPINION ON COMPLIANCE

I, Mr. Hugh Whiriskey, B. E., M.I.E.I., of Corbwell Design Limited, Unit 12, Glenrock Business Park, Ballybane, Galway am the Engineer retained by Mardoc Developments and certify as follows: -

1. I am an engineer having qualified as such at NUI Galway and I am a member of the Institute of Engineers of Ireland.
2. I am a partner in the above named firm of Corbwell Design, Consulting Engineers and Architects.
3. I am the Engineer retained by Mardoc Developments through-out the conversion of an existing dwelling house to a ground floor commercial premises and a first floor residential unit At No. 1 Foster Place, Tuam, Co. Galway. I am also the engineer retained throughout the construction of a two storey extension to the rear of the property - such building or works being hereinafter referred to as "the relevant works".
4. I visited the office of the Planning Authority (Galway County Council) and there inspected the plans, drawings, layout plan and specifications which were represented by the Planning Authority as those on foot of which the Permission/Approval mentioned in Paragraph 5 hereunder was granted.
5. The grant of Permission/Approval by An Bord Pleanala No. PL 07/223386 granted the 17th Day of September 2007 relates to the relevant works.
6. The relevant works and the services thereof, to which paragraph 5 relates have been designed in substantial conformity with the Building Regulations made pursuant to the Building Control Act, 1990.
7. I carried out regular inspections of the Relevant Works and in my opinion the construction of the same complies substantially with the Grant of Permission mentioned in Paragraphs 5 hereof and substantially with all the said Building Regulations applicable thereto.
8. Commencement Notice of intention to undertake the works was submitted on the day of 200 in accordance with Building Control Regulations 1997, and such notices contained the information and Particulars as prescribed by the said regulations.
9. No Planning Permission other than that referred to at paragraph 5 aforesaid is Pertinent to the Relevant Works.
10. The conditions of the Permission/Approval referred to at paragraph 5 have been substantially complied with but this paragraph is not to be taken as extending to conditions for the payment of financial contributions or the

giving of security for satisfactory completion, compliance with which is not within my competence to certify.

11. The grant of Fire Safety Certificate No. PL 07/248 granted by Galway County Council on the 7th Day of February 2008 relates to the relevant works. used

12. The conditions of the said fire safety certificate referred to at paragraph 11 have been substantially complied with but this paragraph is not to be taken as certifying the following items which are not within my competence to certify.

- Escape/Emergency lighting To IS 3217 : 1989.
 - Fire Detection and Alarm systems to IS 3218 : 1989 & BS 5839
 - Electrical Installations in Accordance with E.C.T.I.
- x confirmed

13. In the event that the Relevant Works and the site works pertaining thereto have Not been built and/or laid out exactly in accordance with the said Permission/ Approval any disparity is unlikely to affect the planning and development of the area as envisaged by the Planning Authority and expressed through such Permission/Approval.

14. Take not that this Certificate is issued solely with a view to providing evidence for Title purposes of the compliance of the Relevant Works with the requirements of Planning Legislation and of the Building Control Act, 1990 and the Regulations there under. Except insofar as it relates to compliance with the said requirements and Regulations it is not a report or survey on the physical condition or on the structure of the Relevant Works NOR does it warrant, represent or take into account any of following matters:-

- a. the accuracy of dimensions in general save where arising out of the conditions of the Permission/approval or the building regulations
- b. the following conditions, compliance with which cannot be established: None.
- c. matters in respect of private rights or obligations
- d matters of financial contribution and bonds
- e. development of the Relevant Works which may occur after the date of issue of this certificate.

Dated theday of..... 2010

Signed: _____

Hugh Whiskey B.E. M.I.E.I

