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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Galway City Council**

**Planning Register Reference Number: 21/292**

**Appeal** by Mary Brennan care of RW Nolan and Associates of Number 37 Lower Baggot Street, Dublin against the decision made on the 8<sup>th</sup> day of June, 2022 by Galway City Council to grant subject to conditions a permission to CastleCarra Developments Limited care of Feeney McMahon Architects of The Old School, Bishop Street, Limerick in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Demolition of the existing single storey dwelling and outbuilding: The construction of six number residential units comprising three number one-bedroom ground floor apartments, three number first-floor two-bedroom duplex apartments all within two number three-storey residential buildings, one single storey bin and bike store, car parking for eight number cars, site boundaries upgrade, all associated site works, hard and soft landscaping, all at Chaplaincy House, Corner of Ballybane Road and An Glasán, Ballybane, Galway as revised by the further public notices received by the planning authority on the 13<sup>th</sup> day of May 2022.

## 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.**

## Reasons and Considerations

Having regard to the nature, scale and extent of the proposed development, to the location of the site within a serviced urban location, to the pattern of development in the area and to the relevant provisions of the development plan, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area including the amenities of adjoining property, would be acceptable in terms of pedestrian and traffic safety and would constitute an acceptable form of residential development at this location. The proposed development 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 the totality of the documentation on file, including the technical assessments prepared by the applicant and the submissions from the third party appellant on the matter of daylight and sunlight. The Board noted and agreed with the Inspector's assessment that the proposed development would be acceptable in terms of, the principle of the use, unit mix and density, overlooking, overbearance, parking, place making and design, and sunlight. With regard to the concern of the Inspector on the issue of internal daylight to the adjoining residential property, the Board considered that the '*Daylight Analysis and Overshadowing*' report prepared by the applicant, in conjunction with a full analysis of the drawing material submitted with the application, was sufficient to enable the making of a determination on this matter. The Board also noted the commentary of the



inspector that, with the exception of the kitchen window, all other windows on the south elevation of the adjoining property either serve non habitable rooms or have a window on another elevation. Furthermore, the Board considered that the modelling in the technical assessment by the applicant overstates the fenestration on this façade and thus can reasonably be considered to represent a worst-case scenario. In overview, the Board concluded that the proposed development would not have an unacceptable adverse impact on the overall amenity of the adjoining property, even though a reduction on daylight would arise to the kitchen area (generally considered a less sensitive room for the purposes of daylight and sunlight impact). In this regard the Board shared the opinion of the planning authority that the proposed development would be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 25<sup>th</sup> day of April 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Éireann.

**Reason:** In the interest of public health.

3. The air to water external units indicated on ground floor and site plan drawing number PP01 B, submitted to the planning authority on the 25<sup>th</sup> day of April, 2022, shall be set back from the northern site boundary and shall be repositioned to the locations indicated on the ground floor and site plan drawing number PP01 A, submitted to the planning authority on the 7<sup>th</sup> day of September, 2021, and shall be enclosed in a structure which includes sound baffling. Revised drawings showing compliance with this condition shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of residential amenity and in the interest of the proper planning and sustainable development of the area.

4. Details of the materials, colours and textures of all of the external finishes to the proposed apartment buildings and hard surface areas shall be as indicated on the submitted drawings. Any alteration to external finishes and the treatment of hard surfaced areas shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

5. Proposals for the apartment development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. On receipt of agreement the developer shall provide name plates and house number plates to the written agreement of the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility and to ensure the satisfactory completion of the development.



6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

7. The communal open spaces and access ways shall be maintained by a properly constituted management company which shall also provide for the external repainting of the apartment block every four years. Details of the management company contract shall be submitted to and agreed in writing with the planning authority prior to occupation of any of the proposed apartments.

**Reason:** To provide for the satisfactory maintenance of the public structures and areas of the residential buildings.

8. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

9. Prior to commencement of development, a detailed landscaping plan prepared by a suitably qualified person shall be submitted for the written agreement to the planning authority. The landscaping plan shall be implemented within three months of the completion of the development, or within the first planting season, or otherwise agreed in writing with the planning authority. Upon completion of the landscaping scheme shall be certified by a qualified person. Any plants which die, are removed or become seriously damaged or diseased, within a period of three years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

10. The developer shall ensure that all construction activity impacting upon the public realm shall comply with the following:
- (a) The developer shall apply for and be issued with a road opening licence from the planning authority prior to the commencement of any works on the public footpath.
  - (b) Dropped kerbs shall be provided to the footpath for the full width of the proposed widened vehicular entrance. The footpath shall be reconstructed at the vehicular entrance, material to match existing.
  - (c) The residential units shall not be occupied until a certified report prepared by a suitably qualified person is submitted to the planning authority for written agreement, this will certify that the public footpath and roadway, impacted by the development, are maintained/repared to an acceptable standard after construction for the residential units has been completed.

**Reason:** In the interest of the proper planning and sustainable development of the area and traffic safety.



11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0900 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.
- (b) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (c) Details of on-site car parking facilities for site workers during the course of construction;
- (d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (e) Measures to obviate queuing of construction traffic on the adjoining road network;
- (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (h) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;



- (i) Prior to commencement of development, the developer shall agree in writing with the planning authority the times of deliveries of all construction materials to the site, only at off-peak times, this is in order to ensure the free flow of traffic along the public roadway and nearby junctions, particularly during peak travel times.
- (j) The developer shall be responsible for installing and maintaining to a satisfactory standard a vehicular wheel washing facility on site during all of the construction phases of this development so as to prevent any dirt being transferred to the public roadways.

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

**Reason:** In the interest of residential amenity, public health and safety and the proper planning and sustainable development of the area.

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

**Reason:** In the interest of sustainable waste management.



13. Any alterations to public services, public areas or utilities necessitated by the development shall be carried out at the developer's expense having firstly obtained the written agreement of the planning authority or other public bodies responsible for such areas or utilities, before any alterations are carried out.

**Reason:** In the interest of public safety and the proper planning and sustainable development of the area.

14. Surface water run-off from paved areas and downpipes associated with the development shall not be permitted to discharge onto the public road or footpath.

**Reason:** In the interest of traffic and public safety.

15. All works shall be carried out in accordance with the requirements for 'Site Development Works for Housing Areas' as issued by the Department of the Environment and Local Government in October 1998 (updated April 2021) unless required otherwise by the planning authority in which case Galway City Council standards shall apply.

**Reason:** In the interest of public safety and the proper planning and sustainable development of the area.

16. The car parking spaces provided within the development shall be reserved for exclusive use of the residential occupiers of the development.

**Reason:** In the interest of traffic safety and the proper planning and sustainable development of the area.



17. The car parking spaces shall be adequately delineated.

**Reason:** In the interest of public safety and the proper planning and sustainable development of the area.

18. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** in the interest of sustainable transportation.

19. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any apartment.

**Reason:** In the interests of amenity and public safety.

20. All signage and road markings shall be provided in accordance with the Traffic Signs Manual published by the Department of the Environment and Local Government and Guidelines for setting and managing speed limits in Ireland, March 2015 edition, or later.

**Reason:** In the interest of public safety and the proper planning and sustainable development of the area.

21. All road gullies shall be of an approved lockable type.

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

22. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

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

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


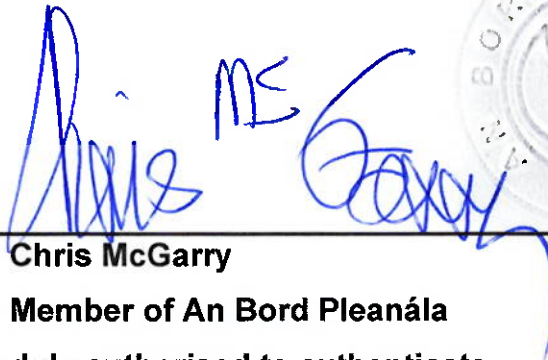
**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by a private management company of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

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

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



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

Dated this 17<sup>th</sup> day of November 2023