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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Galway City Council**

**Planning Register Reference Number: 22102**

**Appeal** by Galway Simon Community care of N J Kearns and Company Limited of Unit 6 Dun Eibhir, Na Forbacha, Contae na Gaillimhe, against the decision made on the 14<sup>th</sup> day of April, 2023 by Galway City Council to grant, subject to conditions, a permission to Galway Simon Community in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Permission for development which will consist of permission for the use of the 2<sup>nd</sup> floor as habitable space and permission to retain the administrative use of the former ground floor external store and for elevational changes at 2<sup>nd</sup> floor level, at 20 Hazel Park, Newcastle, Galway. The proposed development was revised by further public notices received by the planning authority on the 12<sup>th</sup> day of December, 2023.

**Decision**

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below,

**directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to**

**(i) REMOVE condition number 3(c).**

Having regard to the nature of the service provided within the property, the location of the property at the end of a cul-de-sac, the fact that volunteers to the service and clients do not travel by private car to the property, and the scale of the operation, which is relatively modest, typically serving four number clients, the planning authority's condition number 3(c) requirement to limit the number of persons in the office to four number during the day and two number at night and at the weekends, with the exception of changeover periods is therefore not warranted.

**(ii) REMOVE condition number 3(d).**

Having regard to the nature of the service provided within the property, the temporary duration of staff change-overs, and the enforceability of a condition limiting the duration of staff changeovers to 30 minutes, the planning authority's condition number 3(d) requirement, limiting the duration of staff changeover periods to 30 minutes, is, therefore, not warranted.

**(iii) AMEND condition number 2 so that it shall be as follows for the reasons set out.**

2. The second floor, indicated on *Drawing 1755-W-01* and annotated as the area comprising 'second floor plan', submitted to the planning authority on the 22<sup>nd</sup> day of April 2022, shall not be used as habitable space.

**Reason:** To ensure that the development is carried out in accordance with the permission and that effective control is maintained.

## Reasons and Considerations

Having regard to the amendments made to the proposed development by the applicant at further information stage, specifically;

- (i) the omission of the use of the second floor as habitable accommodation,
- (ii) the burden of cost to the applicant arising from the removal of existing partition walls and WC facilities,
- (iii) the disruption that the carrying out of the works would cause to the delivery of services within the property, and,
- (iv) the effectiveness of a condition which stipulates the use of the second floor, which it is considered is sufficient to ensure that effective control is achieved and that the scope of the permission is unambiguous,

the planning authority's condition number 2 requirement to remove existing partition walls and WC facilities is therefore not warranted.



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**Joe Boland**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

Dated this 25<sup>TH</sup> day of June 2024.