

An
Bord
Pleanála

Board Order ABP-317441-23

Planning and Development Acts 2000 to 2022

Planning Authority: Galway City Council

Planning Register Reference Number: 23/85

Appeal by Berls Developments Limited care of Enviroplan Consulting Limited of Suit 3, Third Floor, Ross House, Victoria Place, Eyre Square, Galway against the decision made on the 29th day of May, 2023 by Galway City Council to refuse permission.

Proposed Development: Changes to previously granted merger, renovation and extension of pair of semi-detached houses, planning register reference number 20/51, to change of use to student accommodation and extension of previously granted detached house (merged of semi-detached houses) to form a 13-bedroom student accommodation (all ground floor bedrooms wheelchair accessible) in a single two-storey building, demolition of rear house extensions and existing shed, construction of a new rear part single and part two-storey rear extension and small front single storey entrance extension, all associated elevation changes, construction of a bin store and covered bike stand, construction of rear single storey self-contained recreation room for the sole use of the main building occupants, and all associated building works and all associated site works, all at 7 and 9 Upper Newcastle Road, Galway.

Decision

GRANT permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the residential zoning provision of the site in the Galway City Development Plan 2023-2029, within an area defined as "Inner City Residential", and Section 3.7 of the development plan which permits infill where the proposal provides reasonable protection of the residential amenities and the character of the area, the planning history of the site, the height, scale, design, layout and use of materials, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of pedestrian and traffic safety and convenience, would not lead to significant overlooking or overbearing of the adjoining property, and would not seriously injure the residential amenities of property in the vicinity or the visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The 13 student accommodation units hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided under section 13 (d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, and shall not be used for any other purpose without a prior grant of planning permission for change of use.

Reason: In the interest of residential amenity and to limit the scope of the proposed development.

3. (a) The student accommodation and complex shall be operated and managed in accordance with the measures identified in the Student Accommodation Management Plan submitted with the planning application.
(b) The student housing units shall not be amalgamated or combined.

- (c) A plan containing details for the management of waste (and, in particular, recyclable materials) within the proposed 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 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.

Reason: In the interest of the amenities of occupiers of the units and surrounding properties.

4. Boundaries and areas of communal open space shown on the lodged plans shall be landscaped in accordance with the landscape scheme, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the proposed development, and any trees or shrubs which die shall be removed immediately and replaced in the first planting season thereafter. The landscaping shall be completed before any of the units are made available for occupation.

Reason: In order to ensure the satisfactory development of the public open space area.

5. (a) The communal open spaces, including hard and soft landscaping, access ways, communal refuse/bin storage, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract shall be submitted to, and agreed with, the planning authority prior to commencement of development.

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

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

Reason: In order to safeguard the amenities of property in the vicinity.

7. 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.

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

8. Water supply and drainage arrangements, including the attenuation and 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.

9. The construction of the proposed 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 proposed development, including noise management measures and off-site disposal of construction/demolition waste.



Reason: In the interest of public safety and residential amenity.

10. 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.

11. 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.



Liam Bergin

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this 11th day of April 2024.