



An  
Bord  
Pleanála

## Inspector's Report PL.61.248108

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<b>Development</b>	Demolition of existing apartment building. Construction of apartment block consisting of 5 no. residential units.
<b>Location</b>	No 12 Salthill Road Lower. Galway.
<b>Planning Authority</b>	Galway City Council.
<b>Planning Authority Reg. Ref.</b>	16/258.
<b>Applicant(s)</b>	John & Jennifer Lillis.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Lower Salthill Residents Association.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	May 10 <sup>th</sup> , 2017.
<b>Inspector</b>	Breda Gannon.

## 1.0 Site Location and Description

- 1.1. The site is located on Salthill Road Lower to the south west of Galway city centre. It accommodates a three-storey building, with a single-storey extension to the rear. It is located at the end of a terrace and has a small garden to the front enclosed by cast iron railings and a gate. To the rear, there is a larger rectangular garden area, which is enclosed on both sides by high masonry walls. The rear boundary has been removed and fencing has been erected.
- 1.2. The building, which is currently vacant is in poor repair. It is adjoined on the west by a recently extended apartment building and to the east by a single residence on a large site. Further east lies Nile Lodge, a Protected Structure. Vehicular access is gained from the rear by a laneway that runs along the back of the terrace, connecting into St Mary's Avenue to the east. The laneway provides access to a single-storey dwelling opposite the appeal site and to the rear of adjacent properties.
- 1.3. The area is predominantly residential giving way to a greater mix of uses both westwards towards Salthill and eastwards towards the city centre.

## 2.0 Proposed Development

- 2.1. The development is described as follows in the public notices submitted with the application:

*'The demolition of an existing building which forms part of a terrace of buildings and the construction of an apartment block consisting of 5 no. residential units, parking area, amenity space and all associated site works and services'.*

The application was supported by the following documents;

- Planning and Design Statement.
- Architectural Heritage Impact Statement.
- Structural Survey Report.

The proposal would involve the demolition of the existing building on the site and the construction of a new building. The proposal would be in two blocks, interconnected at ground and first floor level. A total of 5 no. apartments would be provided (4 no. 1 bed and 1 no. 2 bed). The front building line of the existing building would be

retained and the rear building line would be stepped back from the adjoining development to the west. The building would retain the height of the existing building on the site and incorporate similar elements such as vertically proportioned opes with limestone cills, and hardwood entrance door and windows. The cast iron gate and railings would be retained.

2.2. Further Information on the application was sought on 3/11/16 on the following matters;

- Details of right of way over the rear laneway/legal confirmation that the laneway has been taken in charge.
- Revised elevational treatment to east gable in which zinc cladding around the windows and gable are omitted and a nap plaster, painted finish.
- Revised proposals to address Units 4 and 5 which are single aspect, north facing and overlooking the adjoining car park.
- Revised plot ratio calculations excluding the public road. Revised proposals to reduce the density of the development.
- Open space.
- Compliance with Part V requirements.

The applicants' response was received on January 11<sup>th</sup>, 2017. Revised side elevations were submitted showing the zinc cladding to the windows omitted and alterations to the fenestration. Various alterations were made to the apartments to ensure adequate light for each living space. The overall floor area was reduced from 367.8 m<sup>2</sup> to 324 m<sup>2</sup>.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority decided to grant permission for the development subject to 18 no. conditions. Apart from standard construction/engineering type conditions, the decision includes the following conditions of note;

**Condition No 2** – Exact details of front and windows to be agreed prior to commencement of development.

**Condition No 3** – Requires that a qualified conservation specialist be employed to monitor the removal of any elements of architectural significance (fireplaces, brick, cast iron railings to front) and their reuse. Report and photograph of elements to be retained to be submitted for written agreement with the planning authority.

**Condition No 4** – Bicycle stands at the front of the building to be omitted. Semi-mature hedge to be planted along the inside portion of the front railings with a grass lawn provided over the remainder. Revised layout to be agreed with the planning authority.

**Condition No 5** – Requires that a 1.8m high screen be provided on both sides of the second floor rear balconies. Revised elevation to be agreed with the planning authority.

**Condition No 6** – Roof colour shall be black.

**Condition No 7** – Roof designed such that eaves do not overhang adjoining property.

**Condition No 9** – Communal open spaces and access ways to be maintained by a properly constituted management company, which shall also provide for the external repainting every four years.

**Condition No 10** – Only one shared satellite dish shall be permitted and location to be agreed. No plant, water tanks, telecommunication structures etc., to be erected above roof level or on external walls.

**Condition No 11** – Landscaping shall be as outlined and shall be implemented within three months of the completion of the building, or within the first planting season, or as otherwise agreed. Upon completion, the landscaping scheme shall be certified by a qualified landscape architect.

**Condition No 17** – Financial contribution.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The **Planning Officer's** report of 6/2/17 notes while that the building is not a Protected Structure or located in an Architectural Conservation Area, it does contain a number of aesthetically pleasing features such as a recessed building line, front garden and railings, door and archway arrangements and an end of terrace location. It is noted that the building directly adjacent to the west has been redeveloped into apartments. The remainder of the terrace which has experienced a number of modern interventions, comprises mainly single dwelling units.

It is considered that the revised design solutions have addressed the previous reasons for refusal and that the proposed development would make a positive contribution to the area. The applicant now proposes to replicate the front elevation of the existing building which would address the issue of the appearance of the building within the streetscape. The proposal is considered acceptable, as it has a history of residential/apartment usage and the redevelopment of the building will contribute to the area's urban design. The location of other new build apartment buildings within the immediate vicinity also establishes a pattern of such development within the area.

It is considered that the revised plot ratio (0.61:1) is acceptable having regard to the existing pattern of development on the adjacent site and the urban context of the site. With the provision of 6 no. bedrooms, the potential number occupying the building would remain the same as the existing building. The design of the scheme has been amended in response to the further information request and addresses the planning authority's concerns. The living areas of apartments 4 & 5 have been relocated to the second floor, increased setbacks have been provided between the front and rear blocks, large windows have been provided along the southern elevation, high level gable windows have been provided to provide direct sunlight, balconies have been provided at second floor level and screening of the car parking area.

With regard to overshadowing, the rear of the new building would be recessed from the rear of the building to the west. The first and second floor rear elevation windows are positioned more than 11m from the boundary they face, and windows in the eastern gable will be fitted with frosted glass to prevent overlooking. It is noted that in terms of private/communal open space and parking the proposal would meet the

development plan requirements. The applicant has submitted an exemption certificate from Part V.

Subject to compliance with conditions, it is considered that the proposal would be in accordance with the development plan and the proper planning and sustainable development of the area.

### 3.2.2. Other Technical Reports

The **Heritage Officer** in his report of 28/9/16 states that there is no justification for the demolition of this large important former end of terrace building. The building was noted to have immense streetscape value and that it abuts the curtilage of an important Protected Structure.

It was stated that there is nothing to stop apartments being constructed within the envelop of the building, which could be accommodated within the existing fabric. The stone building is of significant value as are the railings and limestone plinth to the front of the site. It was concluded that this important 16<sup>th</sup> century building should be refurbished and not demolished.

The **Chief Fire Officer's** report of 7/10/16 noted that the proposal as submitted would not comply with the current Fire Safety Requirements. It was stated that the applicant should be advised to remedy the deficiencies (not documented) following consultation with the Fire Authority.

### 3.3. Prescribed Bodies

Irish Water raised no objection to the proposal, subject to its requirements.

### 3.4. Third Party Observations

A number of submissions were made by observers relating to the following matters;

- Impacts on building of great historical significance which should be protected. The works undertaken have left the property vulnerable to accelerated degradation. The building is repairable based on a visual inspection conducted by an independent civil engineer.
- Previous proposals were rejected on the basis that a modern development would not be suited to the character of the surrounding area or make a

positive contribution to the area's urban design. Previous reasons for refusal remain valid.

- Unacceptable design, the development is out of scale with surrounding buildings and rear block is particularly incongruous.
- Increase in number of apartment will result increased traffic which will impact on the neighbourhood. Inadequate car parking. No disabled or visitor car parking. Traffic hazard associated with cars accessing St Mary's Avenue from the parking area. Sightlines are restricted at the T junction from the lane to St Mary's Avenue.
- The proposed building will overshadow adjoining residences on Lr Salthill Road and St Mary's Terrace. It will result in overlooking of rear gardens of St Mary's Avenue. Objection to stairwell at the rear of the building and overlooking opportunities it will create. Windows in the gable wall will overlook No 10 Lower Salthill.
- Overdevelopment of the site and Inadequate open space provision.
- The laneway at the rear is a private laneway. It's condition will deteriorate as a result of construction traffic. It is not suitable for additional traffic. No pedestrian access in the form of footpath to be provided along laneway.
- Letting must be confined to low term lets.
- Construction related impacts such as noise, traffic etc.

#### 4.0 **Planning History**

**16/141** – Planning permission refused for the demolition of existing building on the site and the construction of an apartment block consisting of 7 no. residential units, parking area, amenity space and all associated services.

**06/800** – Planning permission refused by An Bord Pleanala (PL 61.222749) for the demolition of existing three-storey building on the site and the construction of a three-storey block of apartments accommodating 6 no. two-bedroom apartments with 6 no. off-street car parking spaces.

**91/851** – Planning permission granted for the change of use of existing premises to 3 no. self-contained flats on the site.

**03/1078** – Planning permission granted for the demolition of existing block of 8 no. bed-sitters and replacement with a block of 5 no. apartments at No 14 Lower Salthill Road on the site to the west of the appeal site.

## 5.0 Policy Context

### 5.1. Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (DoECLG, 2015).

The guidelines seek to ensure proper standards for apartment design to meet the accommodation needs of a variety of household types and sizes. The guidelines state Government policy regarding minimum standards for apartment development and preclude planning authorities from specifying conflicting standards in their development plans. They specify planning policy requirements for internal space for apartments, dual aspect ratio's, floor to ceiling heights, storage spaces, amenity spaces, room dimensions etc.

### 5.2. Development Plan

The operative development plan is the **Galway City Council Development Plan 2017-2023**. The site is located within the 'Inner Residential Area'.

**Policy 2.7 Inner Residential Area** - Protect the quality of inner residential areas including Claddagh, Shantalla and Newcastle (to Quincentenary Bridge) by ensuring that new development does not adversely affect their character and has regard to the prevailing pattern, form and density of these areas.

The site is zoned Residential 'R' with the following objective;

*'To provide for residential development and for associated support development which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods'.*



Section 11.2.8 of the Plan sets out the uses which compatible are with and which contribute/may contribute to the zoning objective.

Section 11.3 sets out general development standards and guidelines for residential development.

Schedule 3 of the Plan contains the Record of Protected Structures. Nile Lodge to the west is listed (Ref No 9007).

Relevant sections of the Plan are appended to the back of the report for the information of the Board.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal may be summarised as follows;

- A previous planning application for the demolition of the existing building and the erection of a three-storey block of apartments accommodating 6 no. two bedroom apartments was rejected by An Bord Pleanala (61.222749). The Inspector's report found that the proposed development would not make a positive contribution to the area, would not enhance the streetscape character of the area and would be contrary to the 2005 Galway City Development Plan.
- A more recent application (16/141) to demolish the building and replace it with 7 no. apartments was also refused. It was concluded that the development was contrary to section 2.5 of the Galway City Development Plan 2011-2017, would be out of character with the residential development in the vicinity and failed to demonstrate that vehicular access to the rear of the site can be safely achieved.
- There is nothing in the current application that would merit reversing the previous decisions.
- The current owner carried out extensive work on the building before the planning application 16/141 was lodged. This resulted in serious interference with an historic building, which weakened the original structure (removal of the

roof, chimney, internal walls and rendering). The applicants' claim that the building is unsound and only fit for demolition should not be entertained.

- The building, which the planning authority are allowing to be demolished is of historical importance. The building appears in the 1855 Griffith's Evaluation as No 1 Merrion Village in the townland of Kilcorkey. It is not included in the List of Protected Structures, although other buildings in the Lower Salthill/Taylor's Hill area built as a similar period were included in the list.
- The historical importance of the building was acknowledged by the Heritage Officer (16/141), who stated that the building must be preserved. It was also considered that the demolition of the building would affect the integrity of the streetscape and the area generally. The building should be re-roofed and restored.
- It is also considered that the proposed development will overshadow adjoining residences on Lower Salthill Road and residences on St Mary's Avenue. The windows on the gable wall overlook the property at No. 10 Lower Salthill. Condition No 5 does not address these concerns.
- There are several issues associated with the laneway which runs at the back of the property, which have not been addressed in the planning application. It is a private laneway which is not maintained by the City Council. It is in poor condition and construction of the development will worsen its condition. The wall of No.10 St Mary's Avenue is particularly vulnerable to the use of the laneway by heavy construction vehicles. The exist from the laneway onto St Mary's Avenue is a blind corner, posing serious risks to traffic using the laneway and St. Mary's Avenue.
- There are concerns regarding the future use of the apartments. If they are used for short term letting this would not be in keeping with the existing settled and family oriented nature of the area. Should permission be granted, the nature of the apartment letting must be specified and confined to long-term lets to comply with the residential status of the area.

## 6.2. Applicant Response

The response is summarised as follows:

### ***Previous refusals on urban design and intervention***

- The concerns raised by the Board in its previous decision have been addressed as part of the current proposal.
- The Boards reason to refuse (Reason No 1) was based upon the fact that an attractive building was being replaced by a poor quality replacement building. This issue was raised again in the planning authority's decision to refuse an intensive apartment development (16/141).
- The current proposal, as amended by the further information response, is a high quality design and is acutely responsive to the planning history. The design approach seeks to resonate the key attractive features of the original building whose demolition is entirely necessary. The proposal will retain the attractive elements of the building by respecting the original line, building height, front elevation and streetscape, gable/side elevation design, re-use of original fabric and the pattern of building blocks and plots in the area.
- The proposal also addresses Reason No 2 of the Board's decision in respect of design and substandard layout. The issue of single aspect apartments was addressed in the application and reinforced as part of the further information response. The applicant is fully in compliance with all of the provisions of the Ministerial Apartment Guidelines (December 2015).
- The planning authority's decision to grant is fully mindful of the planning history on the site as well as the provisions of Section 2.7 of the Plan i.e Redevelopment within 'Inner Residential Areas' .

### ***Demolition of existing building***

- The applicants are aggravated by the allegations that they vandalised their own building.
- Their original intention was to refurbish No. 12 but they became aware of serious structural issues with the building.

- The Board's decision was based upon the fact that an attractive building was being replaced by a poor quality building. It did not refuse the principle of replacing the building outright. The policy for 'Inner Residential Areas' does not preclude the demolition of this building provided its replacement design is appropriate.
- The appellants have not and cannot provide evidence that the existing building should/can be saved. In contrast the necessity to demolish the existing building has been confirmed by two separate structural engineers report, prepared in support of the current and the previous proposal on the site (16/141).

### ***Historical Streetscape***

- The existing building is not a protected structure, is not within an ACA and is not worthy of these statutory protections. While the building is old it is of poor quality construction.
- An Architectural Heritage Impact Assessment of the building was commissioned by the applicant, which noted that the demolition of the building should be monitored to ensure that any fabric of interest is retained and reused on the site.
- Features of interest on the site and within the building are proposed to be retained and reused as part of the proposed development.
- In terms of streetscape, the design is a sensitive approach to resonate the street appearance of the building as part of the development proposal. There is no adverse visual impact arising.

### ***Overlooking/Overshadowing***

- As per the revised drawings, the proposed windows in the eastern gable are high level windows and no overlooking issues arise. The proposed 1.8m high frosted glass partition, either side of the rear stairs entrance to proposed Apartment No's 4 & 5, will protect the privacy of adjoining properties.
- The proposal will not create any adverse impacts in the area by way of overshadowing.

### ***Use of laneway***

- Evidence has been provided which shows that the laneway to the rear consists of a long established right of way in which the subject property has rights over.
- It is not intended to use the laneway for construction traffic. All heavy traffic will be facilitated from the front and a traffic plan will be agreed with the City Council. The applicant has no intention of damaging the wall of No. 10 St Mary's Avenue.

### ***Future use of apartments***

- Refers to Ministerial Circular PL 12/2016 entitled 'Recent An Bord Pleanála Decision on Short Term Lettings'. It would appear that short term letting of the proposed residential units would be subject to a separate planning application. As such, it is not considered that the issue of short term letting is relevant to the assessment of the proposal.

### **6.3. Planning Authority Response**

No response to the ground of appeal were submitted by the planning authority

### **6.4. Observations**

None

## 7.0 Assessment

I consider that the main issues that arise for determination by the Board in respect to this appeal relate to the following;

- Principle of the development.
- Demolition of existing building.
- Impacts on the streetscape.
- Impacts on residential amenity.
- Traffic & Parking.
- Appropriate Assessment.

### 7.1. Principle of the development

7.2. The proposed development is consistent with the Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (DoECLG, 2015), which states that apartments are most appropriately located within inner urban areas and that are close to employment and a range of urban amenities.

Having regard to the established use of the building for residential purposes, the residential zoning pertaining to the site and the proximity of the site to the city centre and the amenities of Salthill, I consider that the proposed development accords with the provisions of the Guidelines and the development plan and is acceptable in principle in this location site, subject to good planning practice.

### 7.3. Demolition of building

It is contended in the appeal and in the various submissions received by the planning authority that this building should not be demolished and that it should be retained and refurbished. This view is shared by the Heritage Officer of Galway City Council.

The Architectural Impact Assessment which supports the application notes that the building was possibly constructed pre 1855 and that eight of the nine buildings that comprised the original mid-nineteenth century terrace have already been demolished and replaced with more modern buildings. The interior of the building was remodelled from a private dwelling into three apartments, following the granting of planning permission in the 1990's (91/851). This resulted in the in the removal of almost all the original features from the building. Apart from the retention of two fireplaces, which may or may not be in their original positions, nothing from the earlier period was retained in the building. Internally there is, therefore, little of architectural significance remaining in the building.

The original nineteenth century fabric of the building survives in its external walls. This will be lost due to the proposed demolition of the building. A structural report prepared by Ignatius Greaney supports the application. It notes that at the time of inspection the structure was exposed, which facilitated the assessment and eliminated presumptive assumptions.

The report documents the structural elements remaining which include structural timbers in roof, floors and lintels, internal load bearing structure and external load bearing walls and their foundations. Structurally the building is stated to n be seriously compromised. The structural timbers in the roof, floor and lintels are noted to be infested with dry rot, wet rot and woodworm. The internal structure is reported to have failed at foundation level, having subsided relative to external walls. The external loadbearing walls and their foundations are also noted to be inadequate structurally for the existing or proposed loading conditions in the property.

The report notes that there are structural deficiencies in the building associated with the original construction (e.g. unusually wide span from side to side walls and external walls of the same width at the base as at the top of the structure stated to be unusual in masonry buildings of any age). These deficiencies have over time resulted in the structural instability now evident in the building, including bulging in front wall and a large crack in south gable wall etc. arising from the lack of lateral support to front and back wall and other factors, failure of internal load bearing structure etc. The report concludes that the entire structure requires demolition and that it is not considered that any portion of the structure could be safely retained.

The appellants' do not accept the conclusions reached in the report. It is their contention that the building is repairable and that there is no evidence of bowing or significant cracking, which would compromise the structure's stability. I note that this opinion is based on a visual inspection conducted by a civil engineer, but is not supported by a comprehensive structural report, which rebuts the finding of applicant's report.

On the basis of the information presented, it appears that the main structural elements supporting the building have been compromised and that refurbishment is not a realistic proposition. Arising from the assessment, it would appear that the demolition of the building is justified. I note that this position is accepted in the Architectural Impact Assessment Report.

There are no known historical associations with the building and whilst it does form an attractive feature in the streetscape, it is not considered to be of architectural or other interest (artistic, archaeological cultural, scientific, technical or social) to merit inclusion in the RPS.

The proposal to replicate the front façade and to re-use remaining fabric will mitigate the effects of its demolition. Subject to the monitoring of demolition and all remaining fabric of interest being retained and reused on the site, I consider that building can be removed without serious impacts on the integrity of the streetscape or the area generally.

#### **7.4. Impacts on streetscape**

The proposed development is located in an Inner Residential Area where there is a presumption against the demolition of existing buildings. Section 2.7 states

*'Demolition of existing dwellings for higher density development will not be acceptable in the inner residential areas except in case where it can be demonstrated that the proposed development would make a positive contribution to the area's urban design and where it does not represent a major intervention into or redevelopment of the urban fabric. This assessment will be balanced with the contribution that any proposed development would make to enhancing the character of the area and will have regard to any sustainable benefits of such development. Where replacement is acceptable, new development will be required to comply with the Council's development standards.'*



This provision was referenced in two previous refusals of permission (16/141 & 61.222749), where it was concluded that the demolition of the building and its replacement with an apartment building would be contrary to the plan and that the proposed replacement building would not make a positive contribution to the streetscape or the area's urban design.

As noted above, I consider that a substantive case has been made for the demolition of the existing building based on the lack of structural stability of its main elements including internal foundations, roof and external walls. The question that arises for determination by the Board is whether the replacement building addresses the previous concerns raised by both the planning authority and the Board.

The current proposal seeks to replicate the front façade of the existing building and its main elements. It will present as a three-storey three bay façade rendered faced with similar proportions to the building being replaced. The building line, roof ridge line, front garden and enclosing railings would all be maintained. The symmetry of the windows and solid to void ratio will be preserved and the building will be fitted with hardwood wooden windows and front door. The proposed development, in contrast to previous proposals will not detract from the remainder of the terrace and is will make a positive contribution to the streetscape and the area's urban design quality. I consider that the current proposal addresses the previous concerns regarding impacts on the streetscape to warrant positive consideration by the Board.

I would point out to the Board that there is a protected structure (Nile Lodge) to the east of the subject site. It is separated from the proposed development by the existing house at No 10. Having regard to the separation distance and the intervening development, I do not consider that the proposed development will seriously detract from the character or setting of the protected structure.

#### **7.5. Impacts on residential amenities**

Issues have been raised in the submissions regarding the potential impacts of the development on the residential amenity of adjoining property arising from overlooking and overshadowing.

The existing building is adjoined to the east by a single dwelling on a substantial site. The dwelling is recessed behind the rear building line of the terrace, with a substantial garden to the front. The eastern gable which faces the house has a blank

wall presentation. The proposal will alter this arrangement with 4 no. windows being provided in the gable at first and second floor level. The windows do not create the potential for overlooking of the adjoining house/garden due to the high level at which they are located (1.8m above floor level). The provision of 1.8m high frosted glass partitions will curtail the potential for overlooking from the balconies.

To the west the site is adjoined by a more recently constructed apartment development which has a blank wall presentation towards the subject site. Privacy screens have been provided around the balconies to prevent overlooking. The proposed development will be constructed behind the rear building line of the adjacent building, which eliminates the potential for overlooking with impacts on privacy. Similar 1.8m high frosted glass partitions will be provided along the sides of the balconies.

To the rear the building is orientated to face the laneway and there is adequate separation distance to ensure no impacts on privacy will arise to the properties fronting onto St Mary's Avenue.

No significant overshadowing impacts will arise that would result in a serious diminution of amenity to adjacent properties. The proposed development will be recessed behind the building to the west and accordingly no impacts will arise. Whilst the extended profile of the building may result in an increase in overshadowing of the property to the east, this will be limited to the garden area close to the boundary. Arising from the size of the garden, it is not considered that the impacts will be significant. There is no potential for overshadowing of the properties on St Mary's Avenue due to the separation distance.

In terms of the level of amenity that would be afforded to future residents there are a number of factors that need to be considered including internal space standards, access to sunlight and daylight, provisions of amenity space etc. All of the apartments exceeds the minimum floor area for one/two bedroom units set out in the DoECLG guidance ensuring that the space and amenity requirements of residents are met. Whilst the widths of the living room/dining room to Apartment No's 1 & 2 are marginally below the minimum recommended, the aggregate floor areas are acceptable. Similarly, adequately sized bedrooms, storage space etc., are proposed within each apartment and the design of the scheme maximises access to sunlight

and daylight. I would point out to the Board that the development does not achieve the 2.7m minimum floor to ceiling height specified in the guidelines, but this has to be balanced against the need to maintain the original profile of the building within the streetscape.

The original scheme incorporated 2 no. dual aspect apartment (40% of scheme), which the applicants' considered complied with the guidelines. The Guidelines facilitates a reduction to 33% from the normal minimum requirement of 50% with dual aspect in certain circumstances (inner urban sites where it is necessary to ensure good street frontage and subject to high quality design) However, on foot of issues raised by the planning authority the scheme was redesigned, relocating the living areas of Apartments 4 & 5 to the first floor and incorporating 'hockey stick windows' in the southern elevation at this level. Apartment No 3 remains single aspect but is south facing. The redesign of the scheme significantly improves access to sunlight and daylight for these apartments, improving the quality and amenity of the space and ensuring full compliance with the guidelines.

Private open space is provided in the form of small enclosed gardens at ground level for Apartment No's 1 & 2 and in the form of balconies to Apartment No's 4 & 5, which satisfy the space requirements of the guidelines. I have concerns regarding the functionality of the gardens at ground level which are accessed from bedrooms. I consider that the amenity of these apartments would be significantly improved by the relocation of the bedroom and living space to ensure access to the garden from the living areas. Should the Board be minded to grant permission for the development, I recommend that this be included as a condition.

There is no private amenity space associated with Apartment No 3. Whilst I accept that it would be preferable that some private open space was provided, I note that previous proposals which included balconies to the front elevation, were considered inappropriate in terms of impacts on the streetscape. The provisions of the development plan facilitate open space in the form of balconies, terraces and communal open space. The Board will note that a significant area of communal amenity space is proposed to the rear of the building, which will benefit all of the residents of the scheme. I am also mindful of the advantageous location of the development within close range of a number of amenities including local parks and the promenade at Salthill.

I consider that the quality of the communal open space could be improved by the relocation of car parking space No 5 so that it lies parallel to the other spaces. This would facilitate the removal of the bin storage area and bicycle stands to the opposite side of the access path. These changes will ensure a clearly defined, cohesive area of communal open space is provided and that the overall residential environment is improved.

#### **7.6. Traffic & Parking**

Issues have been raised in the submissions regarding impacts arising from increased traffic on the laneway to the rear of the terrace and on the junction with St Mary's Avenue. Other matters raised relate to inadequate car parking and impacts arising from construction.

It has been clarified that the laneway is a long established private right of way, over which the applicants' as owners of the subject site has right of access. The laneway which runs west-east off St Mary's Avenue provides access to the back of the properties facing both onto Salthill Road Lower and St Mary's Avenue and will be used to gain access to the rear of the site.

I accept that the laneway at c. 3m wide is narrow and that sight visibility at the junction with St Mary's Avenue is restricted particularly in a northern direction. However, having regard to the previous use of the building as self-contained units with associated car parking (permitted under 91/851), I do not consider that it could reasonably be concluded that the proposed development would result in a significant intensification of traffic that would seriously impact on the laneway or the capacity of the local network. It has been clarified by the applicants' that construction will take place from Salthill Road Lower and accordingly there will be no construction related impacts on the laneway.

With regard to car parking I note that 5 no. spaces will be provided at the rear of the site. This satisfies the development plan standards for Inner Residential Areas which specifies a maximum 1 no. space per dwelling. There is no requirement for visitor car parking.

#### **7.7. Appropriate Assessment**

The closest European sites are Galway Bay Complex SAC (000268) and Inner Galway Bay SPA (004031). Having regard to the location of the development within

a built up area of the city, the nature and scale of the development and the separation distance from the Natura 2000 sites, I consider that the proposed development, either alone or in combination with other plans or projects, does not have the potential to impact adversely on the qualifying interests of any Natura 2000 site. Stage 2 Appropriate Assessment is not therefore required.

## **8.0 Recommendation**

8.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission be granted for the development for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

The site is located in an Inner Residential Area where in accordance with the provisions of the current development plan for the area, the demolition of existing dwellings for higher density development is not normally acceptable. Having regard to the documented structural condition of the existing building on the site, the location of the development in an area zoned for residential use and the established use of the site for residential purposes, it is considered that subject to compliance with the following conditions the proposed demolition of the building and its replacement with the proposed development, would be acceptable and would enhance the character of the area and make a positive contribution to the area's urban design, would not be seriously injurious to the visual or residential amenities of the area, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area

## **10.0 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 11<sup>th</sup> day of January 2017, 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 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 interests of clarity.

2. Prior to any development taking place on the site revised plans shall be submitted to the planning for written agreement showing the following;
  - (a ) the relocation of the kitchen/living space to the rear of Apartment No's 1 & 2, and
  - (b) the provision of 1.8m high frosted glass screens to both sides of the second floor balconies.

**Reason:** To provide access from the living area of the apartments to the private open space and to protect residential amenity.

3. Prior to the commencement of any development on the site, the developer shall submit a revised site layout (1:500) for the rear of the site for written agreement with the planning authority. The revised layout shall make provision for the following;
  - (a) the relocation of parking space no 5 to the east, parallel with car parking space no 4,
  - (b) the relocation of the proposed bin store and bicycle stands to the west to occupy the area vacated by car parking space No 5,
  - (c) the repositioning of the access road to the west to coincide with the relocated bin store/bicycle stand,
  - (d) a landscaping scheme for the area designed by a landscape professional to include details of the number, type and setting of species proposed, details of all proposed hard surface finishes including samples of materials, and details of

proposed boundary treatment to private open space and bin storage areas. The landscaping scheme shall be completed prior to the occupation of the scheme.

(e) a lighting scheme for the proposed development.

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

4. Details of the materials, colours and textures of all the external finishes to be proposed development shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. Windows in the front elevation shall be sliding sash and both front windows and front door shall be solid wood only.

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

5. A suitably qualified conservation expert shall be employed to monitor the removal of any elements of architectural significance (including the cast iron railings and gate to the front of the building, two remaining fireplaces, remnants of brick etc.,). A report containing photographs detailing the elements to be removed and how they will be reused in the proposed development shall be submitted to and agreed in writing with the planning authority prior to commencement of any development on the site.

**Reason:** To ensure adequate protection of remaining elements of architectural significance.

5. The existing railings and gateway along the site frontage shall be reinstated at the front of the proposed development. A semi-mature hedgerow shall be planted inside the railing and a grass lawn shall be provided over the remainder of the area, to details to be submitted to and agreed in writing with the planning authority prior to the commencement of the development.

**Reason:** In the interests of protecting the quality of the streetscape.

6. The proposed apartments shall not be used for short term let purposes.

**Reason:** To protect the residential amenity of adjoining property.

7. 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:** To ensure adequate servicing of the development and to prevent pollution.

8. No part of the development shall overhang or oversail adjoining property. All surface water shall be disposed of on site.

**Reason:** In the interests of residential amenity

9. 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.

10. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including facilities for 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 shall be submitted to, and agreed in writing prior to commencement of development. Thereafter, the waste shall be managed in accordance with an agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interests of protecting the environment.

11. The bicycle stand shall be covered to details to be submitted to the planning authority prior to commencement of the development. The bicycle stands located to the front of the building shall be omitted.

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

12. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing for the future maintenance of communal open spaces and communal area shall be submitted to and agreed in writing with the planning authority prior to commencement of the development

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

13. Site development and building works shall be carried out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 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.

14. 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, noise/vibration monitoring and management and traffic management measures.

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

15. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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

16. Prior to the 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 the Board for determination.

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

17. 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.

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Breda Gannon  
Planning Inspector

25th May, 2017.