



An  
Bord  
Pleanála

## Inspector's Report ABP 301857-18

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<b>Development</b>	Construction of a 2.4-metre-high security fence, four entrance gates and associated works on the roadside boundary of lands at Sub-sites 1, 3, 4, 7 and 8.
<b>Location</b>	Galway West Business Park. Rahoon, Galway.
<b>Planning Authority</b>	Galway City Council
<b>P. A Reg. Ref.</b>	17/354
<b>Applicant</b>	Thomas McDonagh and Sons.
<b>Type of Application</b>	Permission.
<b>Decision</b>	Grant Permission
<b>Type of Appeal</b>	First Party X Condition No 3.
<b>Appellant</b>	Thomas McDonagh and Sons.
<b>Date of Site Inspection</b>	29 <sup>th</sup> August, 2018
<b>Inspector</b>	Jane Dennehy

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## 1.0 Site Location and Description

- 1.1. The site is that of the Galway Business Park which is on the south west side of the Ragoon Road and which is subdivided into a number of Sub-sites. Subsites 1, 3, 4, 7 and 8 are undeveloped and are covered in spoil and rough vegetation. Sub-site 2 is developed and fully landscaped. It is occupied by Allergen. Along the west boundary with Sub-site No 3 there is a 2.4 metres high fence, painted green. The adjoining subsite (No 3) contains a mound and fill and is covered in rough scrubland. There are two twin buildings on Sub-site 5 at the south western end of the site where AVIVA is based, and it is fully landscaped. Along the northern boundary with Sub-site No 4 there is a 2.4 metres high fence, painted green
- 1.2. Bothair An Stiofain is located along the west side boundary along which there is dense hedgerow. The internal access road is off the Western Distributor Road to the east, off the Ragoon Road to the north and it has been fully constructed. It has footpaths to each side and double yellow continuous yellow lines are located along each side of the carriageway. A school adjoins the southern boundary with Sub-site No 8 and the Knocknacarra Business Centre is located a short distance to the south.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for erection of a 2.4 metres high security fence, four entrance gates and associated works on the boundaries facing onto the public road at Sub-sites 1,2,4, 7 and 8 pending future completion and occupation of each of the Sub-sites. Two design options are included in the proposals. It is submitted that the purpose of the fencing is to provide for an appropriate level of security against illegal trespass, dumping and anti-social behaviour.
- 2.2. A request for additional information was issued on 18<sup>th</sup> February, 2018 in which the applicant was advised that the fencing height should be reduced to a maximum height of 1.5 metres and that it be green coloured metal post fencing and not chain link fencing. The applicant was requested to advise the duration for which the fencing is required, details of measures being undertaken to sell the site and, consideration of providing for improvement and seeding of the land.

2.3. In the further information submitted on 25<sup>th</sup> April, 2018 it is stated that the applicant purchased the lands in 2017 and that the height of 2.4 metres is critical to protect the public and for security. The occurrences of illegal dumping is acknowledged. It is stated that 2.4 metres high fencing is erected, with the approval of the planning authority in the surrounding area at the AVIVA building, at the Allergan building, outside houses on Bothair An Stiofain, and at the recently constructed school near Sub-sites No 7 and 8. It is submitted that it is cost prohibitive to soil and seed the lands but that it is the intention of the applicant to develop the site at an appropriate time.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. By order dated 22<sup>nd</sup> May, 2018, the planning authority decided to grant permission subject to conditions which include the following requirements:

- Duration of grant permission to expire after a five-year period unless a further grant of permission has been obtained. Condition No 2.
- Use of Generic Type A fencing at 1.8 metres in height according to details submitted on 14<sup>th</sup> December, 2017. (Condition No 3)
- Removal (if necessary) of fencing if it conflicts with the final position of the N6 (Galway City Ring Route) (GCRR.) (Condition No 4.)

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planning officer having considered the original and further information submissions was satisfied with the proposed development subject to the requirements of the attached conditions.

#### 3.2.2. Technical Reports

The report of Uinsinn Finn of the **National Roads Office**, Ballybrit notes a conflict with the GCRR but indicates the matter could be resolved by removal or realignment of the fence in the event of overlap.

The **Chief Fire Officer** in his report indicates no objection.

The report of **Transportation Infrastructure Ireland** (TII) indicates no objection to the proposed development.

## 4.0 Planning History

**P. A. Reg. Ref. 98/785:** This is a grant of permission relating to Galway Retail Park in respect of which there are proposals, in the subject application, for the fencing and entrance gates at and between subsites and roadside boundaries.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The operative development plan is the Galway City Development Plan, 2017-2023 according to which the site is zoned "I" To provide for Enterprise, industry and related uses.

According to section 11.2.5, development proposals for the Galway West Business Park must achieve a parkland setting compatible with residential amenity of existing and future housing areas.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. An appeal was received from John Mooney and Company Ltd., on 15<sup>th</sup> June, 2018. Condition No 3, the appealed condition is reproduced below.

*"The fencing erected shall be the proposed green metal and generic Type A fence, as indicated in the details received on 14/12/17, reduced to a height of 1.8 metres. This is a more appropriate type of fence having regard to the abutting commercial and residential zonings along with the specific designation of these land as a technology/business park."*

6.1.2. The sole objection is to the requirement for the reduction from a height of 2.4 metres as proposed to 1.8 metres required under the condition as outlined below:

- The application shows two fencing types. Type A is higher quality and originally proposed along the main access from Ragoon Road passing the primary school and on towards the Western Distributory Road. Type B is a 2.4 metres high chain link fence which is to be erected at the remainder of the properties.
- In the Further information submission, the Type A fence was proposed for all locations so that the planning authority concerns could be addressed. The required reduction in height to the requested 1.5 metres is not acceptable because 2.4 metres is critical for the protection of the lands. The permitted height of 1.8 metres is unacceptable because it will not stop illegal dumping and is dangerous for members of the public who may attempt to climb over it and may throw rubbish over it.
- With regard to proximity to impact on residential areas, Millers Lane and Gort Na Greinne are to the east and Riasc na Ri and Linn Bhui are to the west. Sub-site No 1 is twenty-nine metres from the nearest house in Gort Na Greinne and the distance is greater from Sub-sites 7 and 8.
- Sub-sites 3 and 4 are one hundred and thirty metres from Linn Bhui. Residential amenity is not affected because of the separation distances.
- The 600 mm height difference between proposed and reduced heights will not significantly affect neighbouring properties.
- There are no interdepartmental objections to the proposed development.
- With regard to precedent, the submission includes photographed examples in the area of other locations where similar 2.4-metre-high fences are erected and a drawing is included. The locations are:
  - Between subsite 4 and the Aviva building,
  - Between the Allergen building and Subsite 3
  - Between the Allergen building and Subsite 1
  - Outside derelict houses on Bothar An Stiofain.

- Around the games area in the recently constructed school adjacent to sub sites 7 and 8. Permitted development under P. A. Reg. Refs 15/11 and retention permission 17/335 refers.
- Permission for a 2.4 metres high fence on the school site was granted under P A. Reg. Ref. 15/11 for the school. It is shown on the retention drawings for P A. Reg. Ref 17/335. The school site fence is appropriate, does detract from visual amenity. The proposed fence on the adjoining site is similar.
- The link road will dissect Sub-site 1 affecting its future development. Security fencing is not a conflict with the road. It will be removed to allow for the GCRR.
- The fence at 2.4 metres in height and the entrance gates will not have adverse impact on adjoining residential amenities. The appearance is acceptable and similar to other within 500 metres. There is no change to existing access points to the sites as the gates will be at the entrances. There is no impact on heritage.

## 6.2. Planning Authority Response

6.2.1. A submission was received from the planning authority on 12<sup>th</sup> July, 2018 according to which:

- Section 11.2.5 of the CDP requires development proposals for the Galway West Business Park must achieve a parkland setting compatible with residential amenity of existing and future housing areas.
- There are schools and office developments in the area which contribute to a high quality environment.
- The lands have remained uncovered and in spoil and have been unkempt, attracting illegal dumping for several years, since the completion of the District Centre. The owner states that he is not anticipating use in the immediate future of the lands. Notwithstanding the temporary permission, the extensive nature and high profile at footpath edge it is not ideal. The fencing is balanced between existing district centre context development and future use of the land and the reduced height acknowledges this.

- The link road between the Western Distributor Road and the Ragoon Road is busy and a key link between Ragoon and Knocknacarra. The fencing has a total length of 270 metres with considerable impact on an open frontage. The 2.4 metres height is excessive at such an extent along the road impacting on appearance and amenity. The road in the vicinity is bound by a low stone wall with planting in some sections and similar treatment is along part of Bothar Stiofan. It is acknowledged that higher fencing is in the area such as at the unfinished housing on Bothar Stiofan which is to be removed on completion of the development. The fencing at the school site is smaller in scale.
- The grant of Permission granted under P. A. Reg. Ref. 05/287/PL 213311 provided for fencing which is mixed with extensive landscaping in the interest of visual amenity at the Allergan building. At the AVIVA site it was envisaged that the fencing would be temporary pending the wider development of the area in a short time scale.
- In the absence of likely development on the subject lands in future, it is necessary to ensure that the fencing has minimal impact on the environment.
- The Ragoon Road and Bothair Stiofain are heavily planted providing for enclosure of the lands.
- The existing higher fencing in the area is acknowledged. The fencing at the unfinished housing on Bothair Stiofain will be removed on completion of construction in the short term. The fencing at the school site is smaller scale and there is extensive planting along with the fencing at the Allergen Building which was required under the grant of permission under P. A. Reg. Ref. 05/287, for reasons of visual amenity.
- In the absence of development being likely in the near future on the application site the planning authority wishes to ensure that fencing has minimal impact on the environment of the area.

## 7.0 Assessment

- 7.1. The dispute is over the fence and gate height, the position of the planning authority being that the reduction in height is required to ensure a high standard of visual



amenity which is in the interest of maintenance and quality of the amenities of the development in the surrounding area. It is the applicant's case however that that proposed height is essential to deter and prevent illegal access and dumping on the lands within the undeveloped sub sites. It is considered that the cases made by both parties are reasonable.

- 7.2. The objection within the appeal is solely to the requirements of Condition No 3 attached to the planning authority decision. Having reviewed the application and the submissions made in connection with the appeal, it is considered that *de novo* consideration is unwarranted and that the appeal can be determined in accordance with the provisions of Section 139 of the Planning and Development Act, 2000 as amended.
- 7.3. Given the circumstances whereby most of the sub-sites within the Western Business Park remain undeveloped and unoccupied, it is reasonable that some flexibility should be applied in the case of the current proposal in respect of the requirement for delivery of a parkland setting, under section 11.2.5 of the CDP. While Option A (the higher quality option) shown in the application for the proposed fencing and entrance gates is not consistent with the delivery of a parkland setting the quality is reasonable for a period of limited duration pending development and occupation of the unoccupied subsites, subject to their ongoing maintenance in good condition.
- 7.4. It is agreed that the proposed height of 2.4 metres height is necessary to deter illegal access and illegal dumping and the argument that a 1.8 metres' height would be deficient in deterring unauthorised access and illegal dumping is accepted. It is recommended that the Option A fencing, at 2.4 metres in height which the applicant has indicated willingness to erect at all proposed locations, be authorised for a limited period only. This would facilitate further review regarding the completion the landscaping of the business park and delivery of parkland setting standards.
- 7.5. It is also agreed that the distances between the locations for the proposed fencing and entrance gates, including the east boundary with the public road and the residential properties on the east side of the Western Distributor Route and on the west side of Bothar Stiofain are sufficient to ensure that the proposed fencing at 2.4

metres in height would not result in material diminution of residential amenities at these properties.

## **7.6. Appropriate Assessment.**

- 7.6.1. Having regard to the scale and nature of the proposed development and to the serviced location, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. In view of the foregoing, it is recommended that the appeal be determined in accordance with the provisions of Section 139 of the Act and that the planning authority be directed to replace condition No 3 with a revised condition based on the following reasons and considerations and a draft for a revised condition is set out below.

## **9.0 Reasons and Considerations.**

- 9.1. Having regard to the planning history for the site location and the current, partial completion of the permitted development, it is considered that the proposed fencing and entrances gates to be erected at the proposed height of 2.4 metres and associated works would not be seriously injurious to visual amenities of the area or the residential amenities of properties in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

## **10.0 Revised Condition.**

*“The fencing to be erected shall be the proposed green metal post and  
“Generic Type A’ fence, shown on the plans lodged with the planning authority*

*on 14<sup>th</sup> December 2017. The fencing and entrance gates shall be painted green and shall be continuously maintained in good repair.*

**Reason:** *In the interest of clarity, orderly development and amenity.”*

**Jane Dennehy**  
Senior Planning Inspector  
6<sup>th</sup> September, 2018.