



An  
Bord  
Pleanála

## Inspector's Report ABP-301898-18

<b>Development</b>	8 Duplexes consisting of 4 1-Bedroom Apartments and 4 2-Bedroom Maisonettes
<b>Location</b>	Taylors Hill Court, Rosary Lane, Taylors Hill, Galway
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	18/17
<b>Applicant(s)</b>	Declan Taite & Anne O Dwyer as Joint Receivers over certain assets of the Model Investment Partnership (In receivership)
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Devon Court Residents Association.
<b>Date of Site Inspection</b>	1 <sup>st</sup> October 2018.
<b>Inspector</b>	Bríd Maxwell

## **1.0 Site Location and Description**

- 1.1. The appeal site has a stated area of .5644 hectares is located off Rosary Lane, to the south of Taylors Hill Road approximately 800m to the north of Salthill Village Centre and 1.5km west of Galway City Centre. The site is located within an established residential area and is occupied by two apartment blocks Taylor's Hill Court, which contain a total of 14 units (1 and 2 bed) in a terraced back to back arrangement, located east and west on the site with a hardstand paved and tarmacked area between the blocks. The blocks are two storey with a third storey element within the attic space.
- 1.2. A brick wall with railing defines the northern boundary with a c2m high stone wall along the southern boundary. The development is gated with access by way of a cul-de-sac off Rosary lane which terminates in a mini roundabout and also serves the Dominican College secondary school located to the north west of the appeal site. Scoil Naisiúnta Róis - adjoins to the north. Adjoining to the south of the site is Devon Court a mature residential area of detached dwellings. The site itself is mainly flat but sits approximately 2.1m above Devon Court.

## **2.0 Proposed Development**

- 2.1. Initial proposal sought permission for one block of 8 no duplexes consisting of 4 no own door 1-bedroom apartments and 4 no 2-bedroom maisonettes with bin store, revised parking arrangement for Taylor Hill Court along with all ancillary site works. In response to the council's request for additional information the number of units was reduced from 8 to 6 (2no. 2 bed, 1no. 1bed and 3no. 3 bed units). Units range in size from 58.2 sq.m to 129.2 sq.m.
- 2.2. The proposed building is located centrally between the two established blocks on the site. Finish includes brick and plaster finish with metal clad canopies over entrances. A partial hip is provided to roof to be finished in dark blue grey slate concrete tile. Private amenity space is provided to residential units in the form of balconies and terraces.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated 24<sup>th</sup> May 2018 Galway City Council issued notification of its decision to grant permission and to which 15 conditions were attached which included the following of particular note.

- Condition 3. Paved areas shall be removed and detailed landscaping plan provided.
- Condition 4. Road opening licence/ Residential units shall not be occupied until a certified report prepared by a suitably qualified person is submitted for written agreement.
- Condition 12. Development Contribution €58,426.
- Condition 13. The additional residential units shall form part of the existing management company.
- Condition 14. Bond €25,000.
- Condition 15. Part V Agreement.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

3.2.1.1 Initial Planner's report sought a reduction in number of units from 8 to 6, clarification of proposals with regard to communal open space and a demonstration of compliance with DMURS with respect to parking space. Final report recommends permission subject to conditions.

#### **3.2.2. Other Technical Reports**

3.2.2.1 Executive Engineer Drainage Division report indicates no objection subject to discharge of surface water to suitably designed soakaways. Details to be agreed.

3.2.2.2 Recreation and Amenity Department report indicates no objection subject to engagement of landscape architect and detailed landscape plan.

### 3.3. Prescribed Bodies

3.3.1 Submission from Irish Water indicates no objection based in plans submitted. Connection agreement prior to commencement of development.

### 3.4. Third Party Observations

3.4.1 Submission by Devon Court Residents Association indicates object to the proposed development on grounds of negative impact on established residential amenity, traffic and other disturbance and note that there is no demand for such units.

3.4.2 Submissions by James O Donnell, Senior Planning Consultant on behalf of Dominican College, Taylors Hill indicates no objection in principle subject to appropriate measures with regard to construction / traffic management which should be addressed at planning stage given proximity to established schools.

## 4.0 Planning History

4.1 The site has an extensive planning history including the following decision of note:

**PL61.228438 (07/1013)** The Board, overturned the refusal by Galway City Council and granted permission for 8 no apartments, parking and all associated site works and services. Decision was made on 6/11/2008. I note that the decision of the Board was contrary to the recommendation of the Inspector to refuse on amenity and traffic grounds. Condition 1 required an amendment of the proposal to reduce the level to six units only, centrally located on the site and not less than 17m distant from the main front wall of the existing flanking blocks. No fewer than 22 car parking spaces to be provided.

**PL.221712 / File ref. No. 06/871** Permission refused by Planning Authority and on appeal to ABP for 3-storey block of 10 residential units over basement car park. The reason for refusal was as follows *'Having regard to the extent of development proposed, it is considered that it would, by reason of its scale, height, design and location (including location of the ramped access to existing residential units) be*

*inconsistent and out of character with the established pattern and form of development, would constitute overdevelopment of the site resulting in serious injury to the amenities of existing properties (particularly nearby single aspect residential units). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.”*

**PL.122308 / File ref. No. 00/633/** Permission refused by planning authority and ABP on 20.11.2001 for 22 residential units in 3 blocks for use as student/tourist accommodation with a caretaker's apartment and seminar room. The reason for refusal was as follows *‘The proposed development of three blocks containing 22 apartments on a limited site and the inadequate provision of open space within the development, within lands which are zoned for Institutional and Community Facilities use as set out in the current Galway County Borough Development Plan, would be out of character with the pattern of development in the area and would contravene the zoning objective to preserve the existing open aspect and character of these lands, which objective is considered reasonable. The proposed development would, therefore, be contrary to the proper planning and development of the area’.*

**PL.124479 / File ref. No. 00/597/** Permission granted by the planning authority and by ABP for 14 townhouses in 2 blocks on 20.11.2001

**File ref. No.00/596/PL.122608** Permission refused by the Planning Authority and granted on appeal (21.06.2001) for 9 two storey detached houses.

**PL.124480 /File ref. No. 00/599** Permission granted by the planning authority for 16 townhouses and refused on appeal to ABP. The reason for refusal was as follows *‘It is considered that, by reason of its design and orientation and having regard to the proposed floor levels relative to adjoining property, the proposed development would seriously injure the amenities of property in the vicinity and would, therefore, be contrary to the proper planning and development of the area’.*

## **5.0 Policy Context**

### **5.1 National Policy**

5.1.1 Sustainable Residential Development in Urban Areas 2008

5.1.2 Urban Design Manual – A Best Practice Guide

### **5.2 Development Plan**

5.2.1 The Galway City Development Plan 2017-2023 refers. The site is zoned residential. The Zoning Objective seeks “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”.

5.2.2 Taylor’s Hill is an established suburb. It is recognised that these areas are dynamic and that potential still exists for some additional residential development which can avail of existing public transport routes, social and physical infrastructure. It is the priority of the council to ensure that new development will not adversely affect the character of these areas. Infill should not be of such a scale that represents a major addition to, or redevelopment of, the existing urban fabric. In this respect, infill development will have regard to the existing pattern of development, plots, blocks streets and spaces. Such development will also have regard to the scale and proportion of existing buildings. Building lines, massing and height of buildings in relation to the street.

5.2.3 General Development Standards and Guidelines for Residential Development are set out at 11.3. At 11.3.2 it is noted that in the interests of sustainability and urban design, higher densities may be appropriate when new residential development or commercial / community development has regard to the prevailing pattern form and density of these areas.

- Car parking Standards require 1 on site space per dwelling and 1 grouped visitor per 3 dwellings or 1 space per dwelling if grouped.

- Amenity Standards require communal recreation and amenity space at a rate of 15% of the gross site area.
- Private open space exclusive of car spaces shall be provided at a rate of not less than 50% of the gross floor area of the residential unit. In certain conditions provision of private open space may be made up of areas of communal open space, balconies or terraces.
- Apartment Development shall adhere to the private open space standards set out in Sustainable Urban Housing: Design standards for New Apartments (DECLG 2015)

### **5.3 Natural Heritage Designations**

Galway Bay Complex SAC Site Code 000268

Inner Galway Bay SPA Site Code 004031

## **6 The Appeal**

### **6.1 Grounds of Appeal**

6.1.1 The appeal is submitted by Frances Kavanagh, John Donogue and Máire Harrison on behalf of Devon Court Residents Association. Grounds of appeal are summarised as follows:

- Appellants concerned to preserve open low-density aspect of the area as consistently outlined in submissions in respect of development proposals in the area.
- Exacerbation of the already severely congested traffic in the area. Inadequate set down and parking areas for the local schools results in indiscriminate parking of cars along the networks of roads. Daily chaos on this link road evident at peak school times.
- Proposal will result in the loss of the open aspect and will be out of character with the pattern of development in the area. Open space requirements that applied to the original 14 apartments should continue to apply.

- Refute assertion within the planning report that the proposal improves the vista from existing apartments.
- Original permission was granted on the basis that it was a self-contained apartment complex with a gated entrance and internal parking provision and is now being reinvented into an open complex with on street car parking. Significant impact on security and amenity of residents and is not an appropriate or equitable infill.
- Noise and amenity impacts to established dwellings.

## **6.2 Applicant Response**

6.2.1 The first Party did not respond to the grounds of appeal.

## **6.3 Planning Authority Response**

6.3.1 The Planning Authority did not respond to the grounds of appeal.

## **7 Assessment**

7.1 Having examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions, I consider that the key issues arising in this appeal can be considered under the following broad headings.

- Principle of development
- Quality of design and layout.
- Impact on Established Residential Amenity.
- Traffic and Access



- Appropriate Assessment, Environmental Impact Assessment Screening & other matters.

## **7.2 Principle of development**

7.2.1 As regards the principle of development, the site is zoned Residential the objective seeks 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. I note that the site is well-located in close proximity to all amenities and to public transport and therefore the proposal is in accordance with the general policy desirability to increase densities within serviced urban areas in the interest of efficient land use resources and economies of scale. I note that having regard to the planning history on the site and in particular permission 228438, densification of the site for residential use has been deemed to be appropriate. Therefore the focus for assessment is on the detailed nature of the development with particular reference to impact on the streetscape, impact on established residential amenity and traffic impact.

## **7.3 Quality of Design and Layout**

7.3.1 Reviewing the residential amenity of the proposed dwelling units, I note that the floor areas of the proposed dwellings meet and largely exceed the minimum standards in terms of floor areas and private open space provision and provide for an adequate standard of residential amenity. All units are dual or triple aspect (a notable contrast from established single aspect units on the site). As regards the proposed design, the scheme draws from its context, with the use of red brick and provision for hipped roof linking the development to the established blocks on the site. I note the positive impact of the provision of an active façade to address the cul de sac streetscape providing for passive surveillance and opening up of an existing gated development and this presents positively to the public realm. I have however some concerns with

regard to the scale and height of the building in the context of the established character of the area.

#### **7.4 Impact on Established Residential Amenity.**

**7.4.1** Appraising the relationship of the proposed development to the established dwellings on Devon Court it must be noted that the appeal site is elevated (circa 2m) over Devon Court. Whilst the separation distance involved (back to back distance 26m) is generous, I note that the proposal provides for first floor balconies to three apartments within 11m of the common boundary giving rise to overlooking of established rear gardens resulting in significant negative impact on established residential amenity. I further note that the design of the building at roof level does little to mitigate the actual and perceived overlooking arising. I note that the previous proposal permitted by the Board provided for roof terraces to the front of the building thus mitigating overlooking impacts. In my view the proposal by reason of its design would give rise to overlooking noise and other disturbance which be out of character with the established pattern of development and would be detrimental to established residential amenity.

**7.4.2** As regards impact on the established residential amenity of the existing Taylor's Court residential units on the site, I note that the largely single aspect nature of these units means that the current outlook to "open" area is of significant benefit and therefore amendments to the overall site layout will give rise to significant change. This is particularly notable with regard to units within the western block overlooking the proposed car parking where the existing outlook is to open landscaped area. In my view the proposed development has not demonstrated that the residential amenity of existing units on the site has been appropriately mitigated.

#### **7.5 Traffic and Access.**

**7.5.1** The issue of traffic is a key concern raised in third party appeal influenced clearly by the school day peak time traffic issues arising from proximity to the Dominican

College and Scoil Naisiúnta Róis. The appellants consider that any densification will give rise to further traffic hazard and congestion. While the intensity of peak periods is acknowledged, ultimately, I consider that that traffic can be appropriately managed and that the proposed development will not have a significant negative impact on the network. I consider that issues arising in connection with the local schools are more appropriately addressed as part of the wider traffic and transport management strategy. As regards the proposed parking layout I note concerns raised with regard to access to parking spaces particularly with regard to the established units on the site. In my view however the issue of traffic and parking can be appropriately managed and does not per se present as an impediment to further residential development on the site.

## **7.6 Appropriate Assessment & Environmental Impact Assessment Screening & Other Matters**

- 7.6.1 As regards servicing, technical reports on file raised no specific concerns in terms of public sewer capacity and public water supply. The decision of the Planning Authority required disposal of surface water to soakaways.
- 7.6.2 On the matter of appropriate assessment, having regard to nature and scale of the proposed development, the fully serviced nature of the site and proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.
- 7.6.3 On the issue of EIA Screening having regard to the limited nature and scale of the proposed development, nature of the receiving environment and remove from any sensitive locations or features there is no likelihood of significant effects on the environment arising from the development proposed. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.6.4 On the matter of legal interest in the site I note that the applicant claims ownership of the site however existing dwelling units on the site appear to be in private separate ownership. I noted on the date of my site visit that one of the units was advertised for sale. I note that this is a new issue which is not addressed on the appeal and in any case, I would refer to Section 34(13) of the Planning and Development Act 2000, as amended as follows: *“A person shall not be entitled solely by reason of a permission under this section to carry out any development.”*

## **RECOMMENDATION**

Having considered the contents of this appeal in detail, the planning history on the site, the decision of the planning authority, the provisions of the Development Plan, the national guidelines, the grounds of appeal, my site inspection and my assessment of the planning issues, I consider it appropriate to recommend to the Board that permission be refused for the following reason:

## **REASONS AND CONSIDERATIONS**

1. Having regard to the existing pattern of development in the area and the neighbourhood character, it is considered that the proposed development by reason of its excessive scale and design vis a vis existing residential blocks on the site and established dwellings in Devon Court to the south would constitute an inappropriate design response to the existing context of the site, would result in discordant development which would seriously injure the established residential and other amenities of properties in the vicinity. The proposal would therefore be contrary to the proper planning and sustainable development of the area.

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Bríd Maxwell

Planning Inspector

23<sup>rd</sup> October 2018