



An
Bord
Pleanála

Inspector's Report ABP-303420-19

Development	Construction of metal security fencing and gateways around Mart complex. Retention of wall, with upper fence and signage at the new main entrance (at Church view).
Location	Townparks 2nd div. Tuam, Co Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	181464
Applicant(s)	Tuam Co-Op Livestock Mart, LTD.
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Tuam Co-Op Livestock Mart,
Observer(s)	Cormac Precision Instruments Alan Talty
Date of Site Inspection	27/03/2019
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site refers to a large Mart in the centre of Tuam, Co. Galway. The mart has access from the Galway Road and Church View and is bound to the east by the railway line. The remaining boundaries are all against residential properties. The site comprises a large area of hard-standing with parking, storage etc and a large property that comprises open pens for animal storage, offices and a shop.

2.0 Proposed Development

- 2.1. On the 17th October 2018 planning permission was sought to retain metal security fencing and gateways around parts of the perimeter of the mart and a wall with upper fence and signage at the entrance.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 10th December 2018 the Planning Authority issued a notification of their intention to refuse permission for the following reason:

“Having regard to the location of the palisade security fencing and gate on a heavily trafficked main thoroughfare going into Tuam town and in a residential area in the town, the nature of the proposal which is visually obstructive and does not complement the character of the area in terms of materials used it is considered that the proposed development at this location would fail to integrate into the urban environment and would be visually obtrusive in this area. It is considered therefore that the proposed development if permitted would materially contravene Objective UD-1 High Quality, contextually Sensitive Design in Tuam LAP 2018-2022 and would depreciate the value of property in the area. Therefore the proposed development would be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

- 3.2.1. **Planning Report:** Development in a prominent location is unsightly, does not complement the wider area and would materially contravene Objective UD-1 of the Tuam LAP. Refusal recommended.

3.3. Prescribed Bodies

- 3.3.1. **Transport Infrastructure Ireland:** No observations to make.

3.4. Third Party Observations

- 3.4.1. Two objections to the subject development were submitted to the Planning Authority. The two third-parties have submitted Observations to the Board.

4.0 Planning History

- 4.1.1. None on the subject site.

5.0 Policy and Context

5.1. Tuam Local Area Plan 2018-2022

- 5.1.1. The Tuam Local Area Plan 2018-2024 was adopted on 22nd October 2018 in accordance with Section 20 of the Planning and Development Act 2000 (as amended). The Plan is effective from 19th November 2018. The decision of the Planning Authority was made on the 10th of December 2018. The plan was amended following ministerial direction in January 2019. None of the amendments affect the subject site.
- 5.1.2. The subject site is zoned **C1 Town Centre / Commercial** in the LAP. Objective LU1 seeks to “Promote the development of the Town Centre as an intensive, well connected, high quality, well-landscaped, human-scaled and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail, services, facilities and amenities to the local community and visitors. The town centre and associated main streets shall remain the primary focus for retail and service activity within Tuam.
- 5.1.3. **Objective UD 1** – High Quality, Contextually Sensitive Design seeks to ensure that new developments are responsive to their site context and in keeping with the character, amenity, heritage, environment and landscape of the area. New development proposals will be required to complement the existing character of the area in terms of scale, height, massing, building line, urban grain and definition and through high quality design proposals for buildings/structures/shop fronts, the use of

high quality, appropriate materials and the provision of appropriate signage, lighting, landscaping proposals and other such details.

5.2. Natural Heritage Designations

5.2.1. The subject site is located 2.1km from Lough Corrib SAC.

5.3. EIA Screening

5.3.1. Having regard to nature of the development comprising the retention of a small scale commercial development in an urban area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An agent for the first party has appealed the decision of the Planning Authority to refuse permission. The appeal provides some background to the making of the application for retention, namely that security concerns required that the multiple entrances be better controlled. Permission was granted under Planning Authority reg. ref. 16/1280 for the demolition of derelict structures and the formation of a new entrance at Church View, the closure of the existing entrance at Church View with a bollard and a wall and the restriction of the entrance at Vicar Street.

6.1.2. The grounds of the appeal can be summarised as follows:

- The Planning Authority assessed the application under the Tuam LAP 2018-2014 as it is a draft plan. The application should have been assessed under the 2011-2017 LAP. It is submitted that the validity of the refusal is debatable.
- The subject palisade fencing projects above the permitted wall by 630mm, an overall height of 2.4m. This is necessary to prevent unauthorised access. Palisade fencing aids visibility at night.
- The palisade fencing and gateway at Vicar Street are necessary to define and secure the Mart lands. The obscuring of the directional road sign is unintentional. The fence can be reduced by 400mm to aid visibility.

- The boundary adjoining the railway line is a like-for-like replacement of an original fence. The new palisade fence blocks the older easily accessible fence.
- The entrance at Church view was closed in accordance with planning reference 16/1280.
- It is submitted that the objection to palisade fencing is perplexing as Galway City Council has erected such fencing on Galway Road, which has much greater visibility.
- The Applicant is willing to paint the fencing green if the Board requests it.
- It is submitted that the works undertaken by the Applicant are a substantial improvement to the area. The development has opened up a new view towards St. Mary's Cathedral and has removed two derelict buildings.

6.1.3. The appellant responds to the third-party Observations as follows:

- The railings clarify the extent of the Applicants lands. Letter from Applicants solicitor confirming that Cormac Precision Instruments never had a right over these lands. A fire tender can access any part of the building in an emergency.
- The railway line is not a greenway. It is the subject of unauthorised trespass which has necessitated security fencing. The pedestrian footpath remains the same.
- There is no protected view through the Mart in the Tuam LAP 2011-2017. The only protected view of from the junction of Purcell / Stockwell road at Vicar Street.
- A fully sheeted gate would not facilitate visibility and would get caught with wind.
- The wall erected adjoining Mr Talty's property does not have any fencing, as per agreement reached with Mr Talty.

6.1.4. The Board is requested grant permission.

6.2. **Planning Authority Response**

6.2.1. None on file.

6.3. Observations

6.3.1. Alan Talty, Church View

- Area is primarily residential. Materials used are visually obtrusive and not in keeping with the area.
- Metal fencing visually separates the residential area from the Town Centre and discourages residents from accessing the town centre on foot.
- Objects to the height of the fencing. Notes that there is strong local objection to the fencing around the railway line and this should not be used as a precedent.
- If retention permission is granted metal spikes may be erected on the fencing.
- The subject development affects property prices in the area.
- The fencing blocks views of St Mary's Cathedral from the main road in and out of town.
- Requests the Board to refuse permission to retain.

6.3.2. Cormac Precision Instruments

- The appellant stores fertiliser against the railing which poses a fire risk to the Observers property.
- This storage blocks the Observers property from access by emergency vehicles.
- The fencing obscures directional signage.
- The applicant has not indicated how safer access to Tuam Farm Supplies on Vicar Street will be achieved.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the single issue raised is that of the principle of the development to be retained.

7.2. Principle of Development

7.2.1. Noting that the Planning Authority have determined that the proposed development materially contravenes the objectives of the Tuam LAP, I am satisfied that the Board

may grant permission for the proposed development in accordance with section 37(2)(b)(ii) as objectives regarding the retention of security fencing are not clearly stated and also under section 37(2)(b)(iv) having regard to the pattern of development in the area.

- 7.2.2. Regarding the observation that the subject fencing “discourages residents from accessing the town centre on foot”, it is not clear if the mart site is used as a short-cut to reach the town centre. Noting that the subject site is both a working commercial site and private property, I am satisfied that the use of the subject fencing to address security concerns is a reasonable and proportionate response.
- 7.2.3. I do not accept that the use of the subject fencing blocks views towards the town centre of St Mary’s Cathedral given that the inherent characteristic of fencing is that is opaque.
- 7.2.4. With regard to Objective UD 1, I note that the policy refers to new developments. The subject mart is a long-established use in the centre of the town. I fail to see how the use of security fencing in a colour that is complementary to the existing boundary treatments or the signage at the entrance could be considered to contrary to the existing character of the area or visually obtrusive. The subject fencing is in keeping with the nature of the site (commercial use) and is visually inconspicuous. I am satisfied that the fencing, wall and signage to be retained do not contravene objective UD1.
- 7.2.5. The use of sections of the site for storage of materials is a matter for the enforcement section of the Planning Authority and not within the remit of this application for retention.
- 7.2.6. I note the submission of the Applicant / Appellant to reduce the height of the fencing by 400m to avoid obscuring the adjoining road sign. This can be achieved by way of condition should the Board decide to grant permission.

7.3. **Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development in a built-up urban area, no appropriate assessment issues arise, and it is considered that 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

- 8.1.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1 Having regard to the zoning objective of the area, the design, layout and scale of the proposed development to be retained and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development to be retained would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission to retain is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained 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.

Reason: In the interest of clarity.

2. The palisade fencing in the eastern-most corner of the subject site, currently obscuring the adjoining Road signage at the junction of Church View and the railway line shall be reduced by a height of no less than 400mm or such that is required to provide a direct and unimpeded view of the road signage.

Reason: In the interest of traffic safety.

Gillian Kane
Senior Planning Inspector
17 April 2019