



An
Bord
Pleanála

Inspector's Report

ABP-305589-19

Development	Construction of 9 apartments in 4 blocks with associated site services.
Location	Clybaun Road, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	18425
Applicant(s)	Abbeyclare Construction
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Michael Flaherty
Date of Site Inspection	15 th January 2020
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.56 hectares is located to the west of Galway City on the outskirts of the city. The appeal site is a vacant site, currently overgrown and neglected in an area characterised by housing development. Levels on the appeal site increase moving away from the public road as well moving in a north to south direction. Adjoining uses including an existing housing development to the south and east (Cartur Mor) with an existing apartment block located immediately south of the site and two-storey terraced dwellings located to the east. Immediately adjoining the site to the north is a single-storey dwelling whose gable adjoins the site boundary. Existing boundaries on site include walls along the southern and eastern boundary, existing evergreen trees along the northern boundary with part of this boundary also consisting of wooden fence and a wooden hoarding in poor condition along the road frontage of the site (western boundary).

2.0 Proposed Development

2.1. Permission is sought to construct 9 no. apartment in 4 no. blocks with associated site services. The proposal consist of 4 no. 1 bed units, 4 no. 2 bed units and 1 no. 3 bed units. Alterations were made during the course of the application in response to further information and clarification of further information with alterations to the internal layouts of units no. 8 and 9, a reduction in floor area by 18sqm and revisions to the position of balconies and an increase in the level of car parking on site from 14 to 17.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 22 conditions. The conditions are standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (08/02/19): Further information required including revisions required to comply with the national guidelines for apartments, deals with issues such as plot ratio, overlooking from proposed windows and balconies, provision of car parking in accordance with development plan standards, compliance with road widening proposals for the Clybaun Road, compliance with DMURS, provision of bicycle parking, details of boundary treatment and first safety measures.

Planning report (14/06/19): Clarification of further information including measures to deal with concerns regarding the layout of apartment no. 4 and the position of balconies in the context of their quality and usability, provision of car parking in accordance with Development Plan standards.

Planning report (09/09/19): The revised plans submitted were considered to be acceptable in the context of the visual amenities of the area, the amenities of adjoining properties, traffic safety and convenience, and in accordance with the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

Drainage Section (24/01/19): No objection subject to condition.

Irish Water (24/01/19): No objection.

Transportation (11/06/19): No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1 None.

3.4. Third Party Observations

3.4.1 Submissions were received from Michael Flaherty, Ave Marie, Clybawn Road, Salthill, Galway. The issues raised include the following...

- Overbearing impact, overshadowing/loss of light, overlooking, devaluation of property, construction impact, inadequate quality of residential development and overdevelopment of the site.

4.0 Planning History

08/711: Permission granted to construct 4 no. apartments and 3 no. townhouses in 3 no. blocks and associated site works.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Galway City Development Plan 2017-2023.

The appeal site is zoned R with a stated 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'.

5.2. Natural Heritage Designations

5.2.1 None in the vicinity.

5.3. EIA Screening

5.3.1 Having regard to nature of the development comprising of the construction of 9 no. apartments and associated site works, 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 A third party appeal has been lodged by Michael Flaherty, Ave Marie, Clybawn Road, Salthill, Galway.

- The appellant lives in the single-storey dwelling on the adjoining site to the north. It is considered that the proposal would impact adversely on the residential amenity and the future value of the appellant's property.
- The proposal is overdevelopment of the site with an excessive density having regard to its suburban location and excessive in the context of national policy (Apartment Guidelines).
- The proposal has been modified a number of times due to issues regarding quality of design. It is noted the proposal is still low quality in terms of the layout of the apartments, open space, the level of private open space and an inappropriate mix of units.
- The proposal entails significant excavation with bedrock underlying the site close to the surface. The appellant raises concerns about potential impact on his property as a result of extent of excavations required on site.
- The scale of the proposed development in close proximity to the appellant's dwelling will result in loss of light/overshadowing, be visually dominant and overbearing and cause overlooking. A shadow study should have been provided.

6.2. Applicant Response

6.2.1 Response by the applicant, Abbeyclare Construction.

- The plot ratio of the approved development is in accordance with Development Plan policy as is the level of both public and private open space. The density approved is compatible at what is an Intermediate Urban Location under the Department Guidelines. Permission was previously granted for 7 units on site with a similar floor area proposed and the current proposal being a better mix of to meet the housing requirement of the area.
- The design and layout of all apartment is in accordance with the Design Standard for New Apartments, Guidelines for Planning Authorities (March 2012). The aspect and orientation of units is in accordance with the aforementioned guidelines. It is noted that the proposed development represents an acceptable standard of design and layout in accordance with the relevant national guidelines and Development Plan policy.
- It is noted that condition no. 9 relates to construction management and the applicant will adhere to such condition and carry out construction in accordance with good practice for such.
- The approved proposal has adequate regard to the amenities of the adjoining dwelling in the layout of the balconies and the orientation of windows including a 1.8m high screen on the first floor balcony serving unit no. 4. It is noted that the scale of the approved development relative to the appellant's property would have a satisfactory physical impact and would not be overbearing or result in an acceptable level of overshadowing

6.3. Planning Authority Response

6.3.1 No response.

7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/development plan/national policy

Design, scale, and visual impact

Quality of design/residential amenity/development control objectives

Adjoining amenities

Appropriate Assessment

7.2 Principle of the proposed development/development plan/national policy:

7.2.1 The proposal entails the construction of 9 no. apartments. The appeal site is zoned R with a stated 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'. The provision of residential development is consistent with the zoning objective of the site and established uses on adjoining sites.

7.2.2 The appellant is of the view that the density of the development is excessive and the mix and form of housing proposed inappropriate at this location. The proposal provides for 9 no. units on a site with an area of 1560sqm with a density of 57 units per hectare. The appeal site is a suburban location however is an infill site in an established residential area. The Guidelines on Sustainable Residential Development in Urban Areas 2009 note the following in relation to Inner Suburban. Infill sites and in particular infill residential development.

"In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should set out the planning authority's views with regard to the range of densities acceptable within the area. The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and

its amenities, i.e. views, architectural quality, civic design etc. Local authority intervention may be needed to facilitate this type of infill development, in particular with regard to the provision of access to backlands”.

7.2.3 In regards to density it is also noted in the Guidelines the appropriate density for outer suburban areas is between 30-50 and should not be lower than 30. The appeal site is an infill site in an established area where there is a mix of housing types including suburban style housing estates, apartment development and one-off dwellings. In relation to infill sites there is no clear indicator in the national guidelines in terms of a minimum or maximum density for such determined by a need to have regard to the protection of adjoining amenities and the character of the area. Permission has previously been granted on site for a development 7 no. apartment units and there is an existing apartment development on the adjoining site to the south. I would consider that the density proposed is not unacceptable purely on the basis of its numerical value and is based on the overall physical impact in relation to visual amenity, impact on the amenities of adjoining properties and the overall quality of the residential development proposed. These are all aspects of the proposal to be explored in the following sections of this report.

7.3 Design, scale, and visual impact:

7.3.1 The appellant raises concerns regarding the scale and proximity of the development to his property in the context of it having an overbearing impact and resulting in a loss of light, privacy and subsequent erosion of residential amenity and property value. The approved development is laid out in the form of four blocks located to the south of the appellant's dwelling. The 2 no. blocks to the front visible from the public road are three-storey with the second floor contained within a curved monopitch roof (reduces in height moving north and south) with 2 no. blocks to the rear being two-storeys and featuring a pitched roof. The proposal entails an alteration of the levels on site with levels being reduced. There is already a change in levels between the site to the south which is at lower level and the site to the north, which is at a higher level due to the topography of the area, however it appears. The ground floor level of the proposed block will be at a lower level than the finished floor level of the appellant's dwelling to the north.

7.3.2 I would consider that the overall design, scale and ground levels proposed is such that the proposal would be acceptable in the context of adjoining development. The finished floor level of the proposed blocks is much lower than that of the appellant's property. The scale of the three-storey block nearest the appellant's property reduces in height along its northern elevation due its monopitch roof and the two-storey block to the rear has a ridge similar to that of the appellant's property to the north due to the lower ground levels proposed on site. I would consider that the overall scale and layout of the proposed blocks relative to the adjoining property to the north, south and west is satisfactory and would have no overbearing impact. In relation to overshadowing I would note that the scale of the proposed development relative to the adjoining property is acceptable and would not result in excessive overshadowing or loss of light. It would note that the majority of the northern boundary has a very high line of evergreen trees that has a much stronger physical impact on light levels to the appellant's property than the proposed development. It is acknowledged that there is gap in this tree line coinciding with the southern gable of the appellant's dwelling and there are two windows on the southern gable that appear to serve the living space of the existing dwelling. I would be of the view that light levels to these window will not be diminished excessively and it is notable that the rooms on this side of the appellant's dwelling are also served by windows on the eastern and southern elevation.

7.3.3 In relation to the issue of privacy the number and cill height of windows on the northern elevation is such that the proposal would have no significant impact on privacy at the appellant's dwelling. The approved development was amended with relocation of balcony areas including the provision of a balcony serving unit 4 on the eastern elevation of block. I am satisfied that change of levels on site mean that the balcony area in question is not elevated relative to the adjoining property to the north and the proposal also entails the provision of screen along the northern edge of the balcony area. The existing boundary along the southern gable of the appellant's property at present is a weak boundary with gap in the tree line and an open wooden fencing. I would consider that subject to adequate boundary treatment and having regard to the layout and proposed finished floor levels, that the proposal

would be acceptable in the context of the amenities of the adjoining property to the north. I would recommend a condition requiring details of boundary treatment to be agreed prior to the commencement of development. I would consider that having regard to the design and layout of the proposed development, and subject to certain conditions, the approved development would be satisfactory in the context of the amenities of all properties in the vicinity.

7.3.4 In relation to the issue of visual amenities, the appeal site is located in an area where there is mix of unit types with most of the properties being two-storeys in height. There is a mixture of apartment development (located to the south), suburban housing and one-off dwellings. I would consider that the design and scale of the proposal has adequate regard to the visual amenities of the area and would be not out of character at this location.

7.3.5 In relation to construction impact and the level of excavation proposed, I would be of the view that appropriate construction management is sufficient to ensure no adverse impact on the adjoining properties. I would recommend the application of a condition requiring a construction management plan to be prepared and agreed prior to the commencement of development.

7.4 Quality of design/residential amenity/development control objectives:

7.4.1 The proposal is for 9 residential units with a mixture of one, two and three bed units. The relevant and most up to date standards for apartment development are the Sustainable Urban House: Design Standard for New Apartments (March 2018). In relation to minimum apartment size the requirement is 45sqm, 73sqm and 90sqm for 1, 2 and 3 bed apartment units respectively (SPPR3). All units proposed exceed the minimum standards and in a lot cases are in excess of the minimum standards.

7.4.2 Under the same guidelines "it is a policy requirement that apartment schemes deliver at least 33% of the units as dual aspect in more central and accessible and some intermediate locations, i.e. on sites near to city or town centres, close to high quality public transport or in SDZ areas, or where it is necessary to ensure good street

frontage and subject to high quality design. Where there is a greater freedom in design terms, such as in larger apartment developments on greenfield or standalone brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments. I am satisfied the approved development meets these requirements.

7.4.3 Appendix 1 contains minimum standards for private amenity space with a requirement of 5sqm, 6sqm and 9sqm for 1, 2 and 3 bed apartment respectively. A minimum depth of 1.5 metres is required for balconies, in one useable length to meet the minimum floor area requirement under these guidelines. These standards are met in all cases. The apartments also meet all relevant standards in relation of internal storage space, ceiling heights, room dimensions outlined in Appendix 1 of the guidelines.

7.4.4 The guidelines note that “communal amenity space may be provided as a garden within the courtyard of a perimeter block or adjoining a linear apartment block. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year. Roof gardens may also be provided but must be accessible to residents, subject to requirements such as safe access by children. These facilities offer a satisfactory alternative where climatic and safety factors are fully considered, but children’s play is not passively supervised as with courtyards. Regard must also be had to the future maintenance of communal amenity areas in order to ensure that this is commensurate with the scale of the development and does not become a burden on residents”. It is also noted that that “for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality”. The City Development Plan (Section 11.3.1(c)) notes in relation to communal open space that that in new residential developments communal recreation and amenity space is required at a rate of 15% of the gross site area. The provision of public open space is 404sqm and is well in excess of the required standard.

7.4.5 The approved development provides for 17 car parking spaces to serve 9 apartment units. Parking standards for established suburbs is under Section 11.3.2 of the City Development Plan with the requirement being 1 on-site per dwelling and 1 grouped visitor per 3 dwellings or 1 space per dwelling if grouped. The level of parking provided is in excess the required standard.

7.4.6 I would consider that the design and layout of the proposal after alterations in response to further information and clarification of further information requests provides for a development of adequate quality in terms the amenities of future occupants. In regards to the appellant's claims that the proposal is overdevelopment of the site, I would note that the approved proposal meets the maximum plot ratio standard (0.46:1 Section 11.3.1(a)) set out under City Development Plan and as noted above provides in a level of parking and public open space in excess of the minimum requirements. The proposal development is an acceptable level of development at this location and would be satisfactory in the context of the proper planning and sustainable development of the area.

7.5 Appropriate Assessment:

7.5.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would 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. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

Having regard to:

- (a) The provision of the Galway City Development Plan 2017-2023,
- (b) Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (March 2018),
- (c) The existing pattern of development at this location,
- (d) The design, scale and layout of the proposed development, and
- (e) The submissions and observations on file,

It is considered that, subject to the compliance with the conditions set out below, the proposed development would be in accordance Development Plan policy, would not detract from the visual amenities of the area, would be acceptable in the context of the amenities of adjoining properties and be satisfactory in the context of traffic safety and convenience. The proposed development 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, and as amended by the further plans and particulars received on the 18th day of April 2019 and the 18th day of July 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity.

2. Details of materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of visual amenity.

3. Prior to the commencement of development details of boundary treatments for perimeter of the site shall be submitted and agreed in writing with the Planning Authority prior to the commencement of development.

Reason In the interests of orderly development.

4. The streets and footpaths within the development shall comply with the requirement and specifications of the Design Manual for Urban Roads and Streets (DMURS) issue in 2013.

Reason: In order to comply with the guidance give in the Design Manual for Urban Road and Streets.

5. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will 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.

6. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of permission.

Reason: In the interest of visual amenity.

7. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

8. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

9. Drainage requirements 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.

10. 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, including traffic management, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and the amenities of the area.

11. 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.

12. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

Reason: To provide for the future maintenance of this private development in the interest of residential amenity and orderly development.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the

planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

15. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Colin McBride
Planning Inspector

21st January 2020