



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305834-19

#### Development

Development consisting of change of use of an existing domestic garage and utility room to a yoga studio and meeting area, alterations to facades, internal modifications, and all associated ancillary works (A Protected Structure).

#### Location

Fairview (House), 19 Newtown Road, Waterford.

#### Planning Authority

Waterford City and County Council

#### Planning Authority Reg. Ref.

19/474

#### Applicants

Guy & Sinead Palmer

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

Third Party v Grant

#### Appellants

Liam & Audrey Hennebry

#### Dates of Site Inspection

29.01.2020 and 30.01.2020

**Inspector**

Anthony Kelly

## 1.0 Site Location and Description

- 1.1. The site is located on Newtown Road south east of Waterford city centre and just north east of De La Salle College which is on the opposite side of the road.
- 1.2. Fairview House, a detached three-bay three-storey house dating from c.1830 with a central projecting entrance bay, is located within in a line of three-storey terraced houses and set slightly further back from the building line of the line of houses to either side. There is a single storey coach house with a dormer attic dating from c.1880 attached to the north west of the house. This has a mono-pitch roof and a roller door vehicular entrance directly onto the public footpath/road.
- 1.3. The site has an area of 0.0043 hectares.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for a change of use of a domestic garage and utility room to a yoga studio and meeting area, alterations to facades, internal modifications and all associated ancillary works.
- 2.2. The structure has a stated floor area of 34.9sqm and it has a maximum height of approx. 6.5 metres.
- 2.3. The application was accompanied by a Conservation Report.
- 2.4. Further information was submitted in relation to additional detail of the operation of the yoga studio, a 'Method Statement for the repair of the existing four windows' document and a revised floor plan and elevation drawing.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to grant permission subject to 9 no. conditions including development contributions, construction practices, restrictions on signage, external finishes, repair of the windows and a revised entrance door detail.

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

3.2.1. The Planning Reports dated 20.08.2019 and 15.10.2019 are the basis for the planning authority decision. Following the submission of the further information response the Planning Officer considered, having regard to the nature of development proposed, the zoning provisions, and the type of development in the vicinity of the site that it would be in accordance with the proper planning and sustainable development of the area.

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

**Conservation Officer** – No objection subject to conditions following an initial further information recommendation.

### 3.3. **Prescribed Bodies**

**Dept. of Culture, Heritage and the Gaeltacht** – No objection in principle to the proposed adaptive reuse of the structure. Conditions recommended in order to preserve the character of the protected structure and its contribution to the streetscape.

**Health & Safety Authority** – Comments made; does not advise against the grant of permission.

### 3.4. **Third Party Observations**

1 no. submission was received from Liam and Audrey Hennebry, 18 Newtown Road. The issues raised are largely covered by the grounds of appeal with the exception of the following:

- The proposal to introduce a commercial use into a well-established residential streetscape appears to fly in the face of the protected structure status of this residential area.
- Council policy emphasising the need for living in the city must be backed up by protecting existing residential uses against the introduction of alien/alternative uses which would negatively impact on the quality of life of such residential areas.

- The proposed aluminium glazed door and side screen to replace the roller shutter is an unusual choice of material for a protected structure of this vintage.
- The commercial nature of the elevation is at total variance to the period residence style of the whole street.

## **4.0 Planning History**

4.1. None.

## **5.0 Policy Context**

### **5.1. Waterford City Development Plan 2013-2019**

- 5.1.1. The site is in an area zoned 'Developed Residential'. This zoned area aims to protect and improve existing residential areas and their amenities and provide for appropriate residential infill opportunities where feasible.
- 5.1.2. No. 19 Newtown Road is included in the Record of Protected Structures, RPS No. 327. (It is also included in the National Inventory of Architectural Heritage, Reg. No. 22830012).

### **5.2. Natural Heritage Designations**

The nearest area of natural heritage designation is the Lower River Suir SAC approx. 220 metres to the east.

## **6.0 The Appeal**

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

The grounds of appeal are submitted by Liam and Audrey Hennebry, 18 Newtown Road. The main issues raised in the appeal can be summarised as follows:

- The appellants understand that the home-based economic activity referenced in the 'Existing Residential' schedule of land uses in the Development Plan allows a householder to operate a very low key business e.g. counselling or tutoring on an appointment basis, and not an entire business operation attracting groups of clients.
- This change of use goes far beyond reasonable interpretation of the Schedule of Land Uses. Two primary uses are proposed on site rather than a primary and secondary use as envisaged in home-based economic activity.
- The application is not specific regarding opening hours. Early hours cited are not acceptable for a residential area. It is also stated that it is intended to grow the business which could mean any number of sessions. The Council did not apply any restrictions on hours of business.
- A commercial venture will add value to the applicants' property but will devalue the appellants' home. Notwithstanding Condition 4 of the permission, the grant would establish the principle of other uses in the same use class e.g. gymnasium, keep fit, dancing, group recreational activities. That flexibility could prove attractive to a purchaser but off putting to someone thinking of buying a neighbouring house.
- Noise nuisance in a residential area from people arriving and departing at the same time and the access is directly onto the footpath where patrons could congregate.
- Noise nuisance through the party wall. Noise and activity is currently regularly heard from the garage area.
- Most residents in the vicinity have no off-street car parking and no opportunity to do so. The applicants' off-street car parking potential will be lost. There is just about enough room for residents' parking at present, though not always. There are also two large secondary schools on Newtown Road and these generate traffic and parking problems on a regular basis. The permission to extend Waterpark College will generate even more traffic.

## 6.2. Applicants' Response

The main points raised can be summarised as follows:

- The current Development Plan actively supports home-based economic activity. This was supported in principle by the local authority.
- The definition of home-based economic activity does not limit the type of business, only its practical scale such that it remains subordinate to the main dwelling.
- The studio will be operated as a sole trader with initial hours of operation being flexible so not to be affected by the school rush hours. The area is not only residential. There are several professional offices in the immediate vicinity, two large schools and significant retail and commercial uses 500 metres from the site.
- There is little evidence to suggest that a commercial activity of this scale will have any positive or negative impact on the value of adjacent properties. The local businesses outlined have been long established and along with the schools, add to a significant mix of uses with a Newtown Road address.
- The proposed project will be carefully and sensitively integrated into the fabric of the current property and wider context. The yoga studio space is modest in size but justifies the significant expenditure required to refurbish and restore the garage.
- There is non-designated on-street car parking along Newtown Road. Flexibility of operating hours outside peak times should ensure no significant impact on the current parking situation.

## 6.3. Planning Authority Response

None received.

## 7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Reports and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of the Development
- Impact on Adjacent Residential Amenity
- Protected Structure
- Appropriate Assessment

### 7.1. Principle of the Development

- 7.1.1. The grounds of appeal state that the proposed use goes far beyond that envisaged in the Development Plan and that it is not appropriate in a residential area.
- 7.1.2. Chapter 12.16 (Schedule of Land Uses) of the Waterford City Development Plan 2013 indicates the nature of new uses that are generally acceptable in principle in the relevant zones. In the zoned area whose objective is to protect and improve existing residential areas and their amenities and provide for appropriate residential infill opportunities where feasible, a yoga studio is not specified. Section 12.12 (Permitted Uses in Various Zones) states that development involving uses not listed will be considered on their merits. The test is to determine whether such uses would 'materially' contravene the development objectives for the area, having regard to factors outlined e.g. traffic generation, parking provision or noise nuisance. The list of normally permitted uses includes home-based economic activity, use by the owner occupier of a dwelling as a studio and recreational facilities and buildings.
- 7.1.3. The Development Plan does not contain a relevant definition of home-based economic activity. Though referenced in Section 9.3 (Home-Based Economic Activity) of Variation No. 1 of the Development Plan as small-scale activity carried out by residents of a house, being subordinate to the use of the house as a single dwelling unit it is, however, contained within Section 9.0 (Rural Development) of Variation No. 1 which is not pertinent to the site subject of the appeal.



- 7.1.4. Therefore, the application is to be considered on its merits. I consider that the proposed use would be subordinate to the main use of the site as a residential property. Chapter 12.12 of the Development Plan states that the principles of sustainable development would encourage the development of mixed-use areas. Though the immediate vicinity of the subject site comprises residential houses there are commercial and community uses within a short radius. Within 100 metres to the south there is the Waterford Teachers' Centre, an architectural practice and De La Salle College. There are also a number of non-residential uses north of the site closer to the city centre. Therefore, this area cannot be considered exclusively residential and the proposed use would increase the mix of uses which is supported in principle by the Plan.
- 7.1.5. Having regard to the foregoing I consider that, in principle, the provision of a yoga studio would be acceptable at this location.

## **7.2. Impact on Adjacent Residential Amenity**

- 7.2.1. The grounds of appeal reference impacts on adjacent residential amenity as a result of, in particular, noise and car parking.
- 7.2.2. The site is located on Newtown Road which is one of the primary routes into and out of the nearby city centre. It is a busy road with normal associated noise. There are existing non-residential uses in close proximity. The floor area of the structure is relatively small and yoga is not an activity that generates much in the way of noise e.g. amplified music. Therefore, I do not consider that noise from the use would be excessive. Associated noise from patrons arriving or departing would emanate from the public footpath. I consider this noise to be normal in an urban area and, in the context of Newtown Road, will not be significant. Notwithstanding, the proposed hours of operation are vague and there is potential for classes outside of hours whereby ambient noise in the general area may be relatively low. I consider that it would be reasonable to include hours of operation outside of which classes may not take place, and also to restrict the use of the structure to yoga as opposed to possible uses that may include amplified music, in the interest of adjacent residential amenity, should permission be granted.

7.2.3. Car parking is an issue in most urban centres. In this case the site inspection on 29.01.2020 occurred in the afternoon when car parking and traffic congestion associated with the schools was clearly apparent. However, this was transient. On the site inspection on the morning on 30.01.2020, after the school rush, there was no issue with car parking or traffic congestion. There is on-street car parking available along this side of Newtown Road and I do not consider that the proposed use would attract such additional car parking requirement that would result in any notable increase in congestion or car parking issues. The Planning Report based on the further information response notes that the Roads Section of the planning authority raised no objection to the proposed development.

7.2.4. Therefore, I do not consider the impact of the proposed development on the residential amenity of neighbouring properties to be significant.

### 7.3. **Protected Structure**

7.3.1. The proposed development relates to alterations and change of use of a Protected Structure (Reg. Ref. 327) in the Development Plan. The former coach house is currently a garage and utility room. It has 4 no. south elevation windows, including 2 no. dormers, and a roller shutter directly onto the footpath.

7.3.2. The application was accompanied by a 'Conservation Report'. It was proposed to replace the windows and provide a new glazed external door to the southern elevation and replace the roller shutter door with an entrance door and glazing. The Report concluded that the works proposed, including internal alterations, were minor and would have minimal effect on the existing building fabric. Both the Department of Culture, Heritage and the Gaeltacht and the planning authority's Conservation Officer provided reports on the initial application. The further information request recommended by the Conservation Officer reflected the main issues in the Department's report i.e. retention of the existing windows, the removal of aluminium as a material and an alternative approach to the proposed entrance to Newtown Road. The Department suggested partially glazed timber boarded double doors and Conservation Officer's second report also suggested double doors. The further information response generally addressed the window retention and aluminium issues but the door opening to Newtown Road was not satisfactorily addressed.

- 7.3.3. With regard to the proposed front elevation I concur that the proposed extent of glazing as the replacement for the roller shutter is visually incongruous at this location and would not positively enhance the streetscape. A condition such as Condition 9 of the planning authority's decision is considered to be appropriate.
- 7.3.4. I consider that, overall, the proposed change of use is beneficial in terms of the continued use of the protected structure and consistent with Section 7.3 (Keeping a Building in Use) of the Architectural Heritage Protection Guidelines for Planning Authorities, 2011.

#### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, 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**

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

### **9.0 Reasons and Considerations**

Having regard to the provisions of the Waterford City Development Plan 2013 and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the provisions of the Plan in terms of land use and would not seriously injure the residential or visual amenities of the area. 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, as amended by the further plans and particulars submitted on 19.09.2019, 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 interest of clarity.

2. (a) The existing coach house/garage windows shall be repaired and the original glass shall be retained unless otherwise agreed in writing with the planning authority. All works to the windows, sill and lintels shall be carried out in line with best conservation practice as set out in the Department of Arts, Heritage and the Gaeltacht Advice Series 'Windows – a guide to the repair of historic windows', 2007.  
(b) Prior to the commencement of any development on site, revised details of the entrance door to Newtown Road, providing a double door or a door with side lights shall be submitted to, and agreed in writing with, the planning authority, and shall include details of glazing pattern, material, fitting and finishes. The timber door/window shall be painted and any glazing pattern shall replicate the glazing pattern on the windows of the main house.

**Reason:** In the interest of visual amenity and protection of the built heritage.

3. (a) All works to the protected structure shall be carried out in line with best conservation practice as set out in the Architectural Heritage Protection – Guidelines for Planning Authorities, 2011 and the relevant volumes of the Department's Advice Series publications.  
(b) All works to the protected structure, shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

(c) All works shall be undertaken by skilled and experienced conservation contractors and specialists with relevant experience of historic materials and techniques.

(d) The conservation professional in (b) shall sign off on completion that the works have been carried out in line with best conservation practice and shall prepare a report recording the works carried out and submit this to the planning authority and the Department of Culture, Heritage and the Gaeltacht.

**Reason:** In the interest of the protection of built heritage.

4. (a) This permission relates to yoga classes only.

(b) Classes shall only take place between 07.00 hours and 22.00 hours Monday to Friday and between 08.00 hours and 19.00 hours on a Saturday. There shall be no classes on Sundays or public holidays.

**Reason:** In the interest of the residential amenities of property in the vicinity.

5. Any signage shall be agreed in writing with the planning authority prior to the operation of the yoga studio.

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

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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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Anthony Kelly  
Planning Inspector  
10.02.2020