



An
Bord
Pleanála

Inspector's Report ABP305930-19

Development	Permission for Alterations to building including façade, provision of vents, provision of a new balcony at 1 st floor level and the provision of new bike stands on site. Retention of change of use from car park to storage area, ventilation openings, block wall and pedestrian access ramps.
Location	Dun Daingean, Newcastle, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	19/249.
Applicant	Davy Holdings.
Type of Application	Permission or Retention of Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Refusal.
Appellant	Davy Holdings.
Observers	None.
Date of Site Inspection	22 nd January, 2020.
Inspector	Paul Caprani.

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1.0 Introduction

ABP305930-19 relates to a first party appeal against the decision of Galway City Council to refuse planning permission for alterations to existing building including the provision of vents, the provision of a balcony and bike stands and the retention of a change of use from car park to storage area and the retention of existing vents as constructed and the provisions of pedestrian ramps. Planning permission was refused for three reasons on the basis that the proposed balcony would give rise to undue overlooking, the proposal would result in insufficient car parking facilities to cater for the development and the provision of multiple bicycle parking stands would reduce and fragment the public open space available for the residential unit it serves.

2.0 Site Location and Description

- 2.1. The appeal site is located in the north-western environs of Galway City approximately 2.5 kilometres from the city centre. The site is situated within an existing residential estate, Dun Daingean Estate, which is located to the immediate south of the N59 National Secondary Route (Galway – Clifden). The site accommodates a small apartment block of 5 units which is located centrally within the site and overlooks a central area of open space to the immediate east. Approximately 25 houses which also form part of the Dun Daingean Estate also overlook this central area of open space. The apartment development is bounded to the east, south and west by internal estate roads. A generous private garden associated with a house to the immediate north is located along the northern boundary of the site.
- 2.2. The parent permission was granted for a two/three storey building containing five apartments over a basement car park under PL61.201145 in 2003 (see planning history below).
- 2.3. The three-storey element of the apartment block is located at the south-western corner. The building rises to a maximum height of just over 10 metres and incorporates a pitched roof.

2.4. The main entrance and vehicular entrance to the apartment block is located on the eastern side. The vehicular entrance leads to a basement car park beneath the building at lower ground floor level. The building accommodates a mixture of nap plaster finish and stone cladding. Two apartments (Apartments Nos. 1 and 2) are located at ground floor level with a further three apartments located at second and third floor level.

3.0 Proposed Development

3.1. The current application before the Board seeks to regularise a number of elements associated with the existing apartment block and planning permission is sought for a number of new elements which are described below.

3.2. Retention of planning permission is sought for the following:

- A change of use from part of the underground car park from car parking to storage area. The number of car parking spaces will be reduced from eight spaces to two spaces. The area of storage to be retained is 96 square metres constituting the southern part of the basement car park.
- To retain a small bin storage area at basement level.
- Retention of planning permission is also sought for existing ventilation openings at first floor level above the basement.
- A stainless-steel gas flue on the northern elevation.
- A reduced window size on the eastern elevation.
- A 100 millimetre block wall at ground floor level.
- A pedestrian ramp area along the southern elevation linking the ground and first floor level along the southern boundary of the site and a similar ramp adjacent to the basement car park entrance along the northern boundary of the site.
- The provision of concrete box planters on the patio area above the entrance to the car park and the retention of a slightly altered fenestration arrangement for the most northerly window at first floor level on the eastern elevation.

Planning Permission is sought for the following:

- The provision of four sets of new bicycle stands within the site.
- The provision of a new balcony and the replacement of two windows with glass doors opening out onto the balcony at the top floor level on the eastern elevation.
- Planning permission is also sought for the provision of an additional ventilation ducts at ground floor level over the basement area.

4.0 Planning Authority's Decision

Galway City Council issued notification to refuse planning permission for three reasons which are set out in full below.

1. *The Galway City Council Development Plan Section 11.3.1(d) requires that "residential units shall not directly overlook private open space or land with development potential from above ground level by less than 11 metres minimum and in the case of development exceeding two storeys in height, a greater distance than 11 metres will be required depending on the specific site characteristics". In this the proposed development, proposed balcony cannot meet the above policy/standard requirements and if permitted, would give rise to undue overlooking of adjoining properties thus detract from the residential amenity and would be injurious to future occupiers of the dwelling and would be contrary to the proper planning and sustainable development of the area.*
2. *The proposal submitted for retention do not provide sufficient off road car parking facilities to serve the existing development. The development is located within an established residential development positioned on a bend close to a junction. The proposed development, if permitted, would be likely to induce illegal and dangerous parking. The proposed development if permitted would, accordingly, generate roadside parking which would create a traffic hazard and endanger public safety by reason of obstruction.*
3. *The development of multiple bicycle parking spaces within an area designated for communal usage for apartment development would result in undesirable fragmentation of this communal open space, would reduce the level of public open space available for the residential units it serves. The proposal would*

allow for the establishment of piecemeal development of such communal spaces, which if permitted, would seriously injure the amenities of property in the vicinity and would establish a precedent for similar developments and would be contrary to the proper planning and sustainable development of the area.

4.1. Documentation Submission with the Planning Application

- 4.1.1. A planning letter was submitted with the application on behalf of the applicant from MKO Consultants. It sets out details of the proposed development and also sets out details in relation to the planning policy relating to the site. It is noted that the application site is zoned for residential purposes. It is stated that the provision of a balcony should not result in any overlooking. It is also stated that the reduction in car parking spaces is appropriate as the site is located c.2 kilometres from Galway City Centre and is located adjacent to the N59 which is a significant public transport corridor and is within walking distance to nearby services. It is argued that the reduction in car parking spaces would be fully in accordance with the Sustainable Urban Housing Design Guidelines for New Apartments (2018). Finally, it is also noted that the Board granted planning permission for a similar type development for four apartments with no parking proposed on the Upper Newcastle Road in Galway under Reg. Ref. 302364.

4.2. Planning Authority Assessment

- 4.2.1. The development management planning report prepared by Galway City Council notes the planning history associated with the site and further notes that no valid objections were received in relation to the application. The report details the proposed development. It notes that the proposed balcony is positioned less than 11 metres from the northern boundary and would overshadow the windows of the apartment below which would adversely impact on the residential amenities of that residential unit. It is also considered that the applicant is proposing four new bicycle racks to cater for 13 bicycles and while the inclusion of such facilities are welcome, it is considered that there is a significant overprovision in respect of the current development before it. It is also note that the bicycle racks are within areas of communal open space and are not designed to be secure or weatherproof facilities

and therefore should be refused. It is noted that the Dublin City Development Plan and Apartment Guidelines require the provision of at least one space per residential unit and one visitor space per three or four units. In this instance the applicant shall provide at least six spaces on site. The proposal if permitted will encourage illegal parking outside the site and may generate a traffic hazard and for this reason this element of the development should also be refused.

- 4.2.2. Galway City Council issued notification to refuse planning permission for the three reasons set out above on 22nd October, 2019.

5.0 Planning History

- 5.1. One history file is attached under Reg. Ref. 61/201145. An Bord Pleanála granted planning permission for the demolition of an existing dwellinghouse and outhouses and the construction of five apartments (one no. 3-bed apartment, 3 no. two-bed apartments and 1 no. one-bedroomed apartment) in a two/three storey block with basement car parking.
- 5.2. The planner's report also makes reference to Reg. Ref. 13/337 where planning permission was refused for a front extension comprising of an extension of a living room and a kitchen at ground floor level and a balcony area at first floor level.

6.0 Grounds of Appeal

- 6.1. The decision of Galway City Council was the subject of a first party appeal which is summarised below.
- 6.1.1. The grounds of appeal set out the introduction and overview of the project before detailing the site location and context, the proposed development and the planning policy context as it relates to the site. Section 5 of the submission specifically addresses the Planning Authority's three reasons for refusal.

In relation to the first reason for refusal which relates to the proposed balcony, it is stated that due to the nature of the refusal from Galway City Council, the applicant is willing to omit the proposed balcony from the application. A revised layout which omits the proposed balcony accompanies the grounds of appeal. On this basis it is

argued that the proposed development without the balcony would not give rise to undue overlooking and would not be injurious to surrounding residential amenity.

In relation to the second reason for refusal, it is argued that the proposed development will not create a traffic hazard. It is stated that all residents of the apartment complex are either employees of the University Hospital Galway or students of the National University of Ireland. Due to the proximity of these institutions, the majority of residents do not own a car and rely on more sustainable forms of transport including cycling, walking or public transport to get around. As such, the basement level was historically underutilised. It is further noted that there is a parking space located adjacent to the entrance and therefore there are currently three car parking spaces in the development. The application is proposing additional bicycle racks to accommodate bicycles at the request of the residents. It is noted that there are no parking control restrictions within the vicinity of the site. The site is also located along public transport corridors (Bus Eireann Route 404) and cycle lanes. Reference is also made to the Sustainable Urban Housing Design Guidelines for New Apartments which seek to encourage the minimisation of car parking provision in the case of apartment developments. Sustainable Urban Housing Guidelines therefore seek a relaxation in the parking requirement when considering applications for apartment developments.

In relation to the third reason for refusal which argues that the proposed bicycle stands would result in an undesirable fragmentation of communal open space the applicants have prepared a revised layout drawing which accompanies the application placing the bicycle stands to the rear of the property adjacent to existing services underneath the access stairs and adjacent to a disabled parking bay. The revised locations represent the most accessible and secure locations and would not result in any undesirable fragmentation of communal open space.

Finally, it is not accepted that there is an oversupply of bicycle stands for the development. The provision of bicycle stands represents the promotion of a sustainable use of transport which should be encouraged. Reference is again made to the Sustainable Urban Housing: Design Guidelines for New Apartments which states that as a minimum there should be one cycle space per bedroom and visitor cycle parking should also be provided at a standard of one per two residential units.

There are 10 bedrooms within the complex and the proposal therefore would be in accordance with the standards set out in the Design Guidelines for New Apartments.

7.0 Appeal Responses

Galway City Council have not submitted a response to the grounds of appeal.

8.0 Observation

No observations were submitted in respect of the application and appeal.

9.0 Development Plan Provision

- 9.1. The site is governed by the policies and provisions contained in the Galway City Development Plan 2017 – 2023. The subject site is zoned for residential use. The zoning objective is as follows:

“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 application site is located in an area classified as “*an established suburb*” the objective of which is to ensure a balance between the reasonable protection of residential amenities and the character of established suburbs and the need to provide for a sustainable residential development.

9.2. Sustainable Urban Housing: Design Standards for New Apartments

- 9.2.1. In relation to car parking the above Guidelines state that the quantum of car parking or the requirement for any such provision for apartment developments will vary having regard to the types of locations in cities and towns that may be suitable for apartment development broadly based on proximity and accessibility criteria. In larger scale in higher density developments comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for a car parking provision to be minimised, substantially reduced, or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly

accessible areas such as in or adjoining city cores or at the confluence of public transport systems such as rail and bus stations located in close proximity. These locations are most likely to be located in the city especially in or adjacent to (i.e. within a 15 minutes walk) of city centres or centrally located employment locations. In suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net Planning Authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.

- 9.2.2. In relation to bicycle parking the guidelines note that cycling provides a flexible, efficient and attractive transport option for urban living and the guidelines require that bicycle transport mode is fully integrated into the design and operation of all new apartment schemes. The accessibility to and secure storage of bicycles is a key concern for apartment residents and apartment proposals. A general minimum of one cycle storage space per bedroom shall be applied. Visitor parking shall also be provided at a standard of one space per two residential units. Any deviation from these standards shall be at the discretion of the Planning Authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement/enlargement etc.

9.3. **EIAR Screening**

The development before the Board which in the main relates to the retention of a change of use as well as some ancillary alterations to the existing building for which planning permission and retention of planning permission is sought, do not constitute a class of works for which an EIAR would be required.

10.0 **Planning Assessment**

- 10.1. I have read the entire contents of the file and visited the site in question and have had particular regard to the Planning Authority's reasons for refusal and the rebuttal of these reasons set out in the grounds of appeal.
- 10.2. Planning permission and retention of planning permission is sought for a range of minor and sundry works as part of the current application and appeal. These include:
- The retention of the stainless steel flue outlet.

- The retention of a reduced window size on the eastern elevation at first floor level.
- The retention of concrete planter boxes.
- The retention of a small 100 millimetre block wall.
- The retention of new pedestrian ramps from lower ground floor to first floor.
- The retention of a small bin store.
- The retention of a number of vents serving the basement area at ground floor level.

10.3. None of these issues were assessed in the Planning Authority's report but did form part of the overall application for planning permission and retention of planning permission.

10.4. For the sake of completeness, I am satisfied that the minor sundry works for which planning permission and retention of planning permission is sought, referred to above are acceptable in principle and do not result in any adverse impact on the visual or residential amenities of the occupants of the existing apartment units or the occupants of any residential dwellings in the vicinity.

10.5. On this basis, I consider that the Board can restrict its further deliberation of the planning application and appeal to the three issues raised in the Planning Authority's reasons for refusal namely:

- The provision of an additional balcony at first floor level and the associated change of windows to doors opening out onto the balcony area
- The change of use in the basement from car parking to storage
- The provision of cycle parking stands within the curtilage of the apartment block

10.6. With regard to the issue of the balcony the applicant has indicated in the grounds of appeal that he is willing to omit this aspect of the proposed development. The Board are therefore requested to deliberate on the appeal in the absence of the proposed balcony. I would have concerns in relation to the provision of the proposed balcony primarily on the basis that the proposed balcony could inhibit the development potential of adjoining lands to the north. The lands to the north of the immediate site

form part of a large garden associated with a single dwelling. The site on which the dwelling is located is relatively large at 0.3 hectares. It remains a possibility that this infill site could be developed at some future date. Having regard to the national policies in the National Planning Framework and the more local policies in the Galway City Development Plan which seek to develop infill and brownfield sites at more sustainable densities, it would be appropriate that any surrounding development would not in any way inhibit the development potential of the said lands through excessive overlooking which could arise from the provision of a balcony at this location.

- 10.7. Furthermore, the provision of a balcony which is 2.5 metres in width immediately above apartment No. 1 at ground floor level would further exacerbate problems in terms of daylight and sunlight penetration for the ground floor apartment immediately beneath the balcony. The incorporation of a balcony at first floor level would therefore adversely impact on the residential amenities of Apartment No. 1 through the reduction of daylight and sunlight penetration particularly for the windows serving the kitchen/dining area of Apartment No. 1.
- 10.8. For these reasons I would recommend that the Board, if it was minded to grant planning permission, it should omit the proposed balcony to serve the first floor apartment.
- 10.9. In relation to car parking the applicant argues that there is no requirement for eight car parking spaces to serve the apartments. The applicant argues that the existing occupants of the apartments are either students in NUIG or work in the National University Hospital both of which are located in relatively close proximity to the subject site being located in the north-west of the city. As a result, it is argued that the occupants of the apartment blocks currently use more sustainable modes of transport including public transport, cycling and walking. Having inspected the site I noted that three cars were parked on site (see photographs attached). Two cars were parked on the hardstanding area to the front of the apartment block adjacent to the entrance whereas one car was parked in the underground car park with one space vacant. There were no cars parked along the roadway in the vicinity of the site.

- 10.10. While the applicant argues that the demand for car parking is low due to the nature of the residential tenants within the apartment block. The nature of the tenancy is likely to change over time and therefore future occupants of the development may not necessarily work or study in such convenient locations proximate to the subject site. Were families to move in to the apartment block, the demand for off-street car parking may become desirable.
- 10.11. Notwithstanding this point, the Design Standards for New Apartments are clear and unambiguous in seeking to minimise car parking requirements for apartment blocks in urban areas which are in close proximity to services and good public transport connections. The subject site is located in close proximity to a relatively good bus service (Route 404) which runs at a frequency of approximately every 30 minutes. Furthermore, the apartment block is located in close proximity to centres of employment and to local services. For these reasons it is my view that the Board could consider allowing the reduction in car parking spaces having regard to the site's location in relatively close proximity to the city centre and the need to reduce car dependency and the need to encourage more sustainable modes of public transport. The fact that there are no on-street car parking restrictions on the roadways within the estate would also ensure that any potential parking overspill could be accommodated within the estate should it arise. On this basis I consider that the Board should reject the reduction in car parking as a bona fide reason for refusal.
- 10.12. The last issue raised in the Planning Authority's refusal relates to the location of the proposed bicycle parking stands on the basis that it would result in an undesirable fragmentation of communal open space and public open space for the residential units on site.
- 10.13. It is my considered opinion that the public open space provided as part of the proposal particularly at ground floor level provides limited amenity value. It comprises of a paved area which incorporates little or no landscaping. The applicant in his response to the grounds of appeal reallocates the bicycle parking to include six bicycle parking spaces on the pedestrian ramp at the south-eastern corner of the site and also to provide two cycle spaces beneath the stairwell leading to the first floor apartments and separate bicycle parking is also located to the immediate south of the pedestrian entrance at the western end of the site (four bicycle parking spaces).

The provision of the number of bicycle parking spaces is in my view appropriate however such bicycle parking should be located within the basement area, where it would be more secure and sheltered from the weather. It is likely that the provision of parking stands outdoor in the communal areas would be less likely to be used, and bicycles will be stored in the apartments instead. For this reason such cycle parking should in its entirety be relocated to the basement area, out of public view. This issue in my view can be addressed by way of condition.

11.0 Conclusion and Recommendation

Arising from my assessment above, I consider the proposed development to be acceptable. It is considered that the proposed car parking and bicycle parking arrangements are acceptable and are in accordance with the Design Standards for New Apartments issued by the Department of Housing, Planning and Local Government (March 2018) particularly in relation to car parking and cycle parking arrangements. Furthermore, subject to the omission of the proposed balcony at first floor level to serve Apartment No. 3 the proposed development will not adversely impact on the residential amenities of the area or occupants of the apartment block and would be otherwise in accordance with the proper planning and sustainable development of the area.

12.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the 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.

13.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

14.0 Reasons and Considerations

It is considered that the retention of planning permission for alterations to the existing apartment block including the retention of the change of use from car parking to storage area, the retention of ventilation openings, the block wall, the pedestrian access ramp and the other sundry works indicated in the drawings submitted with the application together with the permission for the alterations to the building including the provision of vents and new bicycle parking would, subject to conditions set out below, not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 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 drawings received by An Bord Pleanála on the 18th day of November, 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 the 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. For the purposes of clarity, the proposed balcony on the eastern elevation of the apartment block at first floor level serving No. Apartment No. 3 shall be omitted.

Reason: In the interest of residential amenity and to protect the development potential of lands in the vicinity of the subject site.

3. A total of 13 bicycle parking spaces shall be provided and shall be re-located within the basement area of the proposed development.

Reason: In the interest of providing adequate, secure cycle parking to serve the proposed development.

4. Water supply and drainage arrangements, including the attenuation of all surface water, shall be in accordance with the requirements of the planning authority.

Reason: In the interest of public health.

. Paul Caprani,
Senior Planning Inspector.

24th February, 2020.