



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307367-20

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<b>Development</b>	Demolition of a semi - detached house. The division of the site into two sites and the construction of two houses.
<b>Location</b>	54 Fr. Burke Road, Claddagh, Galway
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	19223
<b>Applicant(s)</b>	Siobhan O'Shaughnessy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Damian McDonagh
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	28/08/20
<b>Inspector</b>	Adrian Ormsby

## **1.0 Site Location and Description**

- 1.1.** The site is located in an established residential area on the Father Burke Road, Claddagh approximately 1.2 km south west of Galway City Centre (Eyre Square). The site has a stated site area of 0.063 ha.
- 1.2.** The site is located at north western end of an unorthodox junction where the Fr Burke Road meets Saint Dominick's Road and St Ignatius Terrace to the east. There is also a local traffic only section of road set off the Fr Burke Road that re-enters the Fr Burke Road just to the south of the application site and to the front of neighbouring dwelling number 55.
- 1.3.** The western side of the Fr Burke Road is characterised by two storey dwellings mainly in terraces, however the dwelling at the application site is a two storey semi-detached dwelling. The dwellings opposing the site along the Fr Burke Road are single storey.
- 1.4.** There are gardens located to the front of the semi-detached dwellings 53 and 54 and the public footpath is bounded by a low level wall with pedestrian gates. Vehicular access and on-site parking is provided to the side and rear of the application site. It is noted that there are many breached entrances for car parking along the western side of the Fr Burke Road.
- 1.5.** The houses on the west side of the Fr Burke Road benefit from deep back gardens. The southern boundary of the site adjoins number 55 Fr Burke Road where there is a low level boundary wall from the front of the site to approximately the rear of the dwelling. From here the boundary is made up of post and wire/mesh fencing to the rear boundary. This fencing was also observed to the rear of the dwelling along the northern boundary with number 53. There is a plastered and capped block wall along the rear western boundary of the site. The Grattan Park residential estate is located to the rear of the site.
- 1.6.** On entering the site from the hard surfaced driveway, it is evident that there are considerable level differences from dwelling number 54, the side driveway and dwelling number 55 to the south of the application site. The land falls north to south. The side and much of the rear of the site to the rear is hard surfaced. A small garden

area at a higher level is located to the rear of the dwelling. There is an existing single storey garage style structure in the south west of the site.

## **2.0 Proposed Development**

**2.1.** The applicants have applied for-

- Demolition of a semi-detached dwelling at 54 Fr Burke Road
- Division of the site into two sites, Site 1- 0.18 ha, Site 2- 0.45 ha
- Construction of two new, two storey dwellings-
  - Dwelling 1 on Site 1- a four bed mid terrace style dwelling with stated floor area of 131 sq.m
  - Dwelling 2 on Site 2- a four bed end of terrace style house with stated floor area of 197.33 sq.m.
- Dwelling 2 will have a split level design given the ground level difference with between sites 1 and 2.
- Provision of a new vehicular entrance to the mid terrace dwelling 1.
- Use of the existing entrance for the end of terrace dwelling 2.
- 65.68 sq.m of private open space to rear of mid-terrace dwelling 1.
- 152.76 sq.m of private open space to rear of end of terrace dwelling 2.
- The two storey split level element of dwelling 2 will be 15 metres in length with the same ridge height when viewed along the southern elevation.
- Dwelling 2 will be located c. 1.31m from the southern boundary and c. 4m from its nearest point to existing dwelling number 55 to the south.

**2.2.** The response to Further Information revised the proposals as follows-

- The two storey split level element of dwelling 2 is now revised with a stepped down roof profile reduced by 1.35m and 1.84m over the 15 metres length of the side elevation.
- Revisions to fenestration and design to front elevation

- Omission of two of the three first floor windows to side elevation, new ground floor windows proposed.
- Boundary wall to rear to be plastered blockwork concrete, height will vary with levels to ensure 1.8m height.

### **3.0 Planning Authority Decision**

**3.1.** The Planning Authority decided to grant permission on the 06/04/20, subject to sixteen conditions of a standard nature, including the following:

**C.3** revised front elevation drawings incorporating fenestration design that assimilates with existing streetscape.

**C.4** a boundary treatment plan to be submitted and agreed, details of requirements provided.

**C.8** Construction Management Plan to be submitted and agreed, and thereafter the development to managed in accordance with same.

**C.11** Hours of construction / development activity

**C.12** First floor bedroom window to be obscure glazing

**C.15** A suitably qualified and bonded engineer to supervise all works to ensure neighbouring building is safeguarded. A report to be submitted on completion of works detailing that works have been carried out to best practice.

### **4.0 Planning Authority Reports**

#### **4.1. Planning Reports**

- The first Planner's Report requested Further Information to address the following-
  - revise the design having specific regard to the proposed narrow vertical glazing strip, the blank wall at first floor level and the existing streetscape.

- Concerns of visual dominance/massing from the scale, height, form and volume. This should demonstrate the human experience from the rear garden of number 55.
- Concerns of overlooking to rear garden of number 55 from first floor level windows on the southern elevation.
- A structural impact assessment on the implications for number 53.
- Confirmation that the proposed flat roof over kitchen/dining/living to Dwelling 2 will not be used as a terrace/balcony
- Details of proposed site boundaries.
- Drawings showing connection to existing public services.
- Northern side elevation drawings
- Following the receipt of further Information, the second Planner's Report considered the proposed development as acceptable subject to 16 conditions.
- The recommendation of the second Planners Report is consistent with the Notification of Decision to Grant Permission.

#### **4.2. Other Technical Reports**

- Transport, Planning & Physical Development- No objections subject to conditions

#### **4.3. Prescribed Bodies**

- None

#### **4.4. Third Party Observations**

Two third party submissions were received-

- Damien McDonagh of 53 Fr. Burke Road. The issues raised in this submission are similar to those issues raised in the grounds of appeal and are summarised in section 7.1.

- Seamus Joyce of 81 Grattan Park. This observer has not appealed the decision. Concerns raised include-
  - privacy as the proposed developments height and high level windows would look directly into bedroom windows and back garden of 81 Grattan Park, observers home.
  - Flat green roof could be used as a roof terrace or balcony
  - Raised garden at rear could cause overlooking
  - Removal of mature vegetation along Grattan Road has exposed the site. Screening should be considered to address overlooking
  - Scale of development to be considered in terms of overlooking and character of surrounding area
  - Obscure glazing requested to prevent overlooking
  - Working hours to be limited having regard to residential area
  - Work to be carried out from Father Burke Road.

## **5.0 Planning History**

5.1. There does not appear to be any planning history pertaining to the appeal site.

## **6.0 Policy Context**

### **6.1. Galway City Development Plan 2017-2023**

Zoning- The subject site is zoned 'R' Residential with an 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.”*

Section 11.2.8 states Residential is a use that is compatible with and contribute to this zoning objective.

Policy 2.7 Inner Residential Areas

*Protect the quality of inner residential areas including Claddagh, Shantalla and Newcastle (to Quincentenary Bridge) by ensuring that new development does not adversely affect their character and has regard to the prevailing pattern, form and density of these areas.”*

#### Policy 8.7 Urban Design

*“Encourage high quality urban design in all developments.”*

Section 11.3.3 details Development Standards for ‘Residential Development’ for “Inner Residential Areas” and refers to sections 11.31 and 11.32 with some exceptions.

## **6.2. Ministerial Guidelines**

### **6.2.1.** The following section 28 guidelines are considered relevant-

Sustainable Residential Development in Urban Areas (2009)- Section 5.9 Inner suburban/infill:

*“(i) 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.”*

## **6.3. Natural Heritage Designations**

### **6.3.1.** The site is located c. 300 m north of the Galway Bay Complex SAC (000268) and Inner Galway Bay SPA (004031)

## **6.4. EIA Screening**

Having regard to the limited nature and scale of the proposed development 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.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

The grounds of appeal include the original observation to the Planning Authority which can be summarised as follows-

- The complete demolition of 54 Father Burke Road and its impact on the number 53 Father Burke Road.
- The overwhelming concern is the impact of vibrations from the proposed development and potential for damage to his property.
- These houses were built in 1938 and local beach sand was used in constructing the walls. As such it can be difficult to hang shelves, drill into walls and to gain a secure point.
- The appellant details damp and loose masonry evident at number 53 as well as loose plaster to the rear of the property. This highlights an instability factor to the dwelling and raises concerns off further damage to his property from the proposed development. Photographs are supplied.
- Preliminary excavation works took place in the front garden in March 2020. The appellant describes shuddering to number 53 when the excavator stamped down the soil. The appellant describes observing a crack in a window that he does not recall being therebefore the preliminary excavation works. A photograph is supplied.
- There is a tree in the front garden of number 53 and no damage to it will be allowed. A photograph is supplied.
- The appellant is concerned that an Engineer cannot solve the situation once damage is done.



## 7.2. Applicant Response

A response to the appeal has been received on behalf of the applicant. The response makes the following comments-

- Proposed development will not impact on the existing tree as no excavation is proposed near the tree.
- The preliminary excavation works were carried out as part of the Structural Impact Assessment FI request and were carried out on the 23<sup>rd</sup> – 24<sup>th</sup> of January 2020. Applicant was not made aware of the ‘window cracking’ until the appeal.
- Applicant will endeavour to engage with owner of no 53 prior to demolition / construction works
- The works will be designed, supervised, monitored and carried out in accordance with best practise standards as advised by appointed chartered engineer.
- In relation to existing internal wall dampness and damage to no.53 a full Structural Condition Report of 53 is proposed to be carried out at the applicants expense prior to works commencing. The owner of 53 is advised to appoint their own engineer to carry out an independent report and advise accordingly.
- A suitably qualified engineer will monitor the demolition and construction works and advise if propping will be required for the party wall. A bored piled foundation as the best solution to negate vibration, deep excavation that could impact no. 53.
- Works will be carried out in accordance with the grant of planning permission and attached conditions i.e. Galway City Council condition 15.
- Proposed development will make a positive contribution and will enhance the character and setting of the area and will not affect amenity and structural integrity of existing neighbouring unit.

- An updated Engineer's letter and section drawing is also submitted in response to the appeal detailing experience in the area and justifying the proposed foundation type.

### **7.3. Planning Authority Response**

- None received.

### **7.4. Observations**

- None

## **8.0 Assessment**

### **8.1. Main Issues**

**8.1.1.** I have examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance. I consider that the main issues for this appeal are as follows-

- Principle of Development
- Structural Impact on No. 53
- Design
- Residential Amenity
- Appropriate Assessment

### **8.2. Principle of Development**

**8.2.1.** The site is zoned 'R' Residential with an 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"*.

Residential development is a use which is compatible with and contributes to the zoning objective as per section 11.2.8 of the Development Plan. The development is therefore considered acceptable in principle.

### **8.3. Structural Impact on No. 53**

- 8.3.1.** I note the appellant's concerns are largely related to the structural integrity of number 53 Fr Burke Road and the impacts that are likely to result from the demolition of number 54 directly to the party wall, vibrations that may result from the development and damage to tree within the appellants property.
- 8.3.2.** Following the Further Information request the applicant has submitted a Structural Impact Assessment. This assessment determined poor ground conditions and a lack of proper foundations exist at the site. The assessment proposed the installation of a ground slab and beams over bored piled foundations. The assessment highlights the advantages of this type of foundation which includes for minimal vibration and noise. This proposal was accepted by the Planning Authority and it is noted that condition 1 requires the works to be in accordance with the Further Information submission and condition 15 requires a suitably bonded and qualified engineer to supervise all works to ensure the fabric of neighbouring buildings is safeguarded while works are been carried out.
- 8.3.3.** The concerns of the appellant are understandable given the proximity of the development to his home. The applicant has applied to develop her property and has submitted a Structural Impact Assessment prepared by suitably qualified and chartered engineer who has put forward reasonable proposals to safeguard against the concerns of the appellant. The Planning Authority have applied a condition ensuring the development is supervised by suitable engineer. I do not consider there to be any reason to refuse the development on the grounds of the structural impact on No.53.
- 8.3.4.** I consider the Planning Authority's conditions number 1 and 15 to be reasonable to address the appellants concerns and if the Board decides to grant permission, they should in my opinion be reaffirmed.

## **8.4. Design**

- 8.4.1.** Following a request for further information the applicant has submitted revised proposals to address the visual dominance/massing from the scale, height, form and volume of proposed dwelling 2 as well a revised front elevation design.
- 8.4.2.** Condition 3 of the Planning Authority's grant of permission requires revised front elevation drawings to incorporate a fenestration design that assimilates with the existing streetscape.
- 8.4.3.** In this regard it is noted the front elevation submitted at Further Information stage attempts to address the narrow vertical glazing strip and blank wall at first floor level originally submitted. The revised proposal includes three narrow vertical windows at first floor with a larger window that stretches from c. 1m above ground level to the roof level and wraps around the roof to provide a roof light feature. It is acknowledged the Planner's Report consider this design does not assimilate well into the existing streetscape and provides a radical deviation from same.
- 8.4.4.** In my opinion the revised design submitted at Further Information stage addresses a poor solid to void ratio to the front elevation of the original design that would not have assimilated well into the streetscape. In my view the revised proposal will not adversely affect the character of Fr Burke Road and has regard to the prevailing pattern and form along the road. It will provide a contemporary design that contributes to and assimilates with the existing streetscape and would be in keeping with Policy 2.7 Inner Residential Areas and Policy 8.7 Urban Design of the City Development Plan.
- 8.4.5.** Should the Board decide to grant permission for the development it is my view that a condition requiring alterations to the front elevation is not required.

## **8.5. Residential Amenity**

- 8.5.1.** In assessing residential amenity regard must be had to the layout of the site, the orientation of proposed dwelling 2 and existing dwelling number 55 to the south of the site, proposed boundary treatments as well as the changes in levels across the site.

- 8.5.2.** Revised proposals were submitted at Further Information stage to address concerns of visual dominance/massing from the scale, height, form and volume of dwelling 2 having regard to the proximity and human experience from no. 55. I concur with the Planning Authority view that the revised proposals adequately address these concerns.
- 8.5.3.** The Planning Authority has attached conditions to address overlooking, impacts on privacy through boundary treatment and the use of flat roofs. These are condition 4, 12 and 13.
- 8.5.4.** The Planning Authority through condition 4 (b) have stated a timber screen shall be attached to the 1.8m block wall to the southern boundary where ground windows are located to prevent overlooking, unless otherwise agreed. Notwithstanding the level differences on site and proposed high level window to the kitchen/living/dining area it is considered that a 1.8m boundary wall along the length of the boundary, when measured from within the site is adequate to suitably protect residential amenity of both no. 55 and proposed dwelling 2. A wall or screen higher than this would in my view be visually obtrusive to the residents of no. 55 having regard to the lower garden level of this property and from the areas of the public realm where it would be visible.
- 8.5.5.** Condition 12 states the first floor window serving Bedroom 1 shall be obscure glazing. I concur with the Planning Authority that as this room is also served by windows to the front elevation that the side window could be of obscure glazing. However, I recommend that this window should also be non-openable in order to further prevent overlooking of the private open space to number 55.
- 8.5.6.** Condition 13 of the Planning Authority details that no part of the roof of both dwellings shall be used as a balcony / terrace or similar. It is noted that a flat green roof is shown on the drawings for Dwelling 2. For the interest of clarity, I have no objection to a 'flat green roof' as a means of sustainable urban drainage and it is noted the rear elevation windows to bedroom 3 and first floor sitting room do not appear to provide easy access to the proposed 'flat green roof'. Use of this space as a balcony, terrace or roof garden should therefore not be permitted by way of a condition.

**8.5.7.** Having regard to all of the above I am satisfied that subject to appropriate conditions the proposed development will not adversely impact on the residential amenity of the area.

## **8.6. Appropriate Assessment**

Having regard to the nature and small scale of the proposed development and the distance from 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.

## **9.0 Recommendation**

**9.1.** I recommend that planning permission should be granted, subject to conditions as set out below.

## **10.0 Reasons and Considerations**

**10.1.** Having regard to the provisions of the Galway City Development Plan 2017-2023, the existing pattern of development in the area, 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 not seriously injure the amenities of the area or the property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 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 the 11<sup>th</sup> day of March 2020 and by the further plans and particulars received by An Bord Pleanála on the 20<sup>th</sup> day of July, 2020, 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. Prior to the commencement of development on site the developer shall submit for the written agreement of the Planning Authority revised drawings showing the following-
  - a. site boundary walls to the side and rear of the dwelling(s) as follows-
    - i. 1.8 metres in height above ground level, on all side and rear boundaries when measured from inside the application site.
    - ii. The southern boundary walls shall be no higher than 1.2 metres forward of the front building line of the permitted dwelling(s).
    - iii. All boundary walls shall be constructed in concrete block and suitably capped and rendered on both sides in a finish that matches the external finish of the dwelling(s).
  - b. The first floor window serving bedroom No.1 to dwelling 2 shall be non-openable and permanently of obscure glazing.
  - c. No part of the roof of either Dwelling No.1 and 2 shall be used as a balcony / terrace/ roof garden.
  - d. Details of the materials, colours and textures of all the external finishes to the proposed dwelling(s).

Reason: In the interest of residential and visual amenity.

3. A suitably qualified bonded engineer must supervise all works so as to ensure that the fabric of neighbouring buildings is safeguarded while the works are being carried out. On completion of works, the structural engineer shall submit

to the Planning Authority a report detailing that works have been carried out to best practice.

Reason: To ensure that the quality of the development and works commensurate with the protection afforded to the structure.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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 [residential] amenities of property in the vicinity.

6. 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.

Reason: In the interest of sustainable waste management.

7. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.



8. 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.

9. 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, 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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Adrian Ormsby  
Planning Inspector

18<sup>th</sup> of September 2020