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Bord  
Pleanála

## Inspector's Report ABP 307678-20.

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<b>Development</b>	Alterations to front and side of dwelling previously approved under P. A. Reg. Ref. 18/55.
<b>Location</b>	64 Shantalla Road, Galway.
<b>Planning Authority</b>	Galway City Council
<b>P. A. Reg. Ref.</b>	20/112
<b>Applicant</b>	Gerard and Winfred Joyce
<b>Type of Application</b>	Permission for Retention.
<b>Decision</b>	Grant Permission for Retention.
<b>Type of Appeal</b>	First Party X Condition No 2.
<b>Appellant</b>	Gerard and Winfred Joyce
<b>Date of Inspection</b>	21 <sup>st</sup> October, 2020.
<b>Inspector</b>	Jane Dennehy.

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## 1.0 Site Location and Description

- 1.1. The application site which has a stated area of 500 square metres is that of a two-storey detached house which has been extended to the front and to the side. The front curtilage is gravel surfaced and the entrance on the front boundary has been widened. It has a total stated floor area of 166 square metres which has been extended to the front, side and rear. The entrance width (excluding gate piers) is three metres and the area within the front curtilage is estimated at circa 170 square metres based on examination of the plan on sheet 4 of the set of drawings submitted with the application.
- 1.2. On the opposite side of the road there are parallel parking spaces whereas along the side of the road at the entrance to the application site there are road markings comprising continuous double yellow lines along the kerbside and horizontally on the road surface divided by the words; "Caution, Children Crossing".

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicate proposals for permission of retention of alterations to the front and side extension for which permission was granted under P. A. Reg. Ref. 18/55. (See planning history under section 4 below.)

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority, by order dated 1<sup>st</sup> July, 2020, decided to grant permission for retention subject to two conditions.

According to Condition No 2, (the appealed condition)

*"A landscaping plan shall be submitted for the front garden area this shall provide parking space for two vehicles. The remainder of the front garden area shall be suitably landscaped, the details of which shall be submitted to the Planning Authority for written agreement within three months of the*

*issuing of the final grant of permission. The agreed landscaping plan shall be implemented within six months of the agreement date.*

*Reason: To comply with the requirements of planning legislation.”*

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

- 3.2.1. The planning officer notes in his report that the removal of the entire front garden area is in material conflict with Condition No 4 of the grant of permission under P. A. Reg. Ref. 18/55. and that there is serious concern about the appearance of the front garden and impact on visual amenities.

The report of the Roads Department indicates no objection.

### **4.0 Planning History**

**P. A. Reg. Ref. 18/55.** Permission was granted for a front and side extension at the house. According to Condition No 4, *“the front garden shall not be fully removed, two car parking spaces 2.6 metres in width and five metres in length shall be provided, a revised site layout plan shall be submitted to the planning authority for written agreement prior to commencement of works. Reason: In the interest of protecting the visual amenity and the proper planning and sustainable development of the area.”*

**P. A. Reg. Ref. 05/809:** Permission was refused for a two-storey extension to the rear, alterations and conversion to four one-bedroom apartments.

### **5.0 Policy Context**

#### **5.1. Development Plan**

- 5.1.1. The operative development plan is the Galway City Development Plan 2017-2023 according to which the site is within an area subject to the zoning objective: *R: To provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainably residential neighbourhoods.”*

5.1.2. According to Section 11.3.1 (g) front curtilage parking spaces are 2.5 m x 5 m, the width of the entrance should not exceed three metres, with the maximum extent of front boundary being retained and front gardens should not be completely dedicated to parking with the balance of the space being suitably landscaped.

## **6.0 The Appeal**

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

6.1.1. An appeal against Condition No 2 of the decision to grant permission was received from the applicant on 21<sup>st</sup> July, 2020. Attached are some photographs. Mr and Mrs Joyce state that their ages are in the eighties and that Ms. Joyce holds a Disability card for parking. According to the appeal:

- If a landscaping plan is to be prepared the carparking space in the front garden would be restricted and the applicants would find it difficult to maintain this landscaped area. The ground floor front extension has reduced the size of the space in the front garden and therefore, extending the landscaping reduces the turning space which allows for avoidance of reversing a vehicle out into the road.
- Shantalla Road is heavily trafficked and particularly dangerous for people crossing the road as no parking is allowed on the same side of the road as the applicant's property,. Parking spaces on the opposite side of the road are usually occupied particularly at weekends. Visitors and services vehicles and other visitors to the house need to park in the front garden area as Mr and Ms Joyce do require back up and support at home.

### **6.2. Planning Authority Response**

6.2.1. A submission was received from the planning authority on 13<sup>th</sup> October, 2020 in which it is stated that the appeal grounds are not accepted, that the planning authority's assessment is unchanged and, that it is requested that the decision of the planning authority be upheld.

- 6.2.2. It is pointed out that the garden is within public views, should be landscaped in accordance with Section 11.3.1 (g) of the CDP and, that works at No 67 Shantalla Road referred to in the Appeal is the subject of enforcement proceedings.
- 6.2.3. It is confirmed that the applicant did not appeal Condition No 4 attached to the grant of permission under P. A. Reg. Ref. 18/55 and did submit a compliance submission which was agreed with the planning authority.

## 7.0 Assessment

- 7.1.1. There is no objection to the proposed retention of the extensions as constructed and it is considered reasonable that the appeal be determined having regard to the provisions of section 139 of the Planning and Development Act, 2000 as amended, in that *de novo* consideration is unwarranted.
- 7.1.2. Condition No 2, the appealed condition is the same as Condition No 4 attached to the original grant of permission for the extensions to the house under P.A. Reg. Ref. 18/55, which in effect is carried forward and attached to the planning authority's decision on the current proposal. As such, there is no doubt that omission the requirements of Condition No 2 would be in material conflict with Condition No 4 attached to the prior, original grant of permission, in respect of which a compliance submission was lodged with the planning authority according to the response to the appeal. As stated in the submission of the planning authority, contrary to the provisions of section 11. 3. 1 (g) of the CDP with regard to the requirement that front gardens should not be completely dedicated to parking with the balance of the space being suitably landscaped.
- 7.1.3. In view of the foregoing it is agreed with the planning authority that Condition No 2 cannot be omitted.
- 7.1.4. Furthermore, it is separately considered that the requirement with regard to incorporation of soft landscaping is reasonable. As stated in the planning officer, the front curtilage is visible from the public realm. It is relatively prominent in views by virtue of the location at the end of the row slight elevated above the road level, on Shantalla Road facing the junction with O'Connaire Road.

- 7.1.5. The size of the front curtilage, is quite considerable and, based on visual inspection of the site and, it is estimated from examination of the lodged plan drawing that its area is approximately 170 square metres in area (circa 11.85 X 14 metres.) It is considered that there is scope some soft landscaping could be provided for within the curtilage without seriously impeding use for front curtilage parking for two cars. Manoeuvres in and out of the entrance are facilitated in that the entrance is unobstructed by stationary traffic on account of the road markings and, there is good visibility in both directions along Shantalla Road.
- 7.1.6. It is noted that the planning authority is engaged in enforcement proceedings with regard to the front curtilage surface, parking and entrance at No 67 Shantalla road which is referred to in the appeal. As this development does not have the benefit of a grant of planning permission, it cannot be taken into account for the purpose of establishing relevant precedent.

## **7.2. Environmental Impact Assessment Screening.**

- 7.2.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **7.3. Appropriate Assessment Screening.**

- 7.3.1. Having regard to the scale and nature of the proposed development and to the location, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. In view of the foregoing, it is recommended that Condition No 2 be attached, based on the reasons and considerations which follow.

## 9.0 Reasons and Considerations

The omission of Condition No 2 would materially contravene Condition No 4 of the prior grant of permission under P. A. Reg. Ref. 18/55, would be contrary to Section 11.3.1 (g) of the Galway City Development Plan, 2017-2023 according to which front curtilage of front gardens at residential properties should not be completely dedicated to parking with the balance of the space being suitably landscaped, and would be contrary to the proper planning and sustainable development of the area.

**Jane Dennehy**  
Senior Planning Inspector  
23<sup>rd</sup> October, 2020.