



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308039-20

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<b>Development</b>	Minor revisions to previously permitted redevelopment to provide for 4 No apartments comprising revisions to the access gate and varying of condition no. 4 of PL.61.248381.
<b>Location</b>	58 Shantalla Road, Galway
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	20153
<b>Applicant(s)</b>	Fort Eyre Development Limited
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Split Decision
<b>Type of Appeal</b>	First Party Vs Refusal
<b>Appellant(s)</b>	Fort Eyre Development Limited
<b>Observer(s)</b>	Desmond & Anne Mackey
<b>Date of Site Inspection</b>	17/11/20.
<b>Inspector</b>	Adrian Ormsby

## 1.0 Site Location and Description

- 1.1. The appeal site is c. 1.5km to the west of Galway City centre at No. 58 Shantalla Road. The site is a mid terrace two storey building with a slated pitch roof. The two buildings at either end of the terrace are three storey buildings providing a varied roof pattern to the streetscape. The eastern end terrace building is gable fronted to the road. The western end of terrace building is known as the Fort Eyre House and appears to be an apartment development which is accessed of Maunsells Road which meets Shantalla Road c. 40m west of the application site.
- 1.2. The application site is currently under development with hoarding to the public road and footpath. It has a stated area of 0.023ha. The rear of the site can be accessed by a laneway known as Short Road. The laneway wraps around the rear of the terrace of buildings from an existing entrance to Shantalla Road c. 50 m to the east of the site. The laneway appears to provide access to existing buildings and structures on both sides of the laneway. The proposed works are located on this laneway to the rear of the application site.
- 1.3. The application site is Recorded on Galway City Council's Record of Protected Structures as Ref 9203. The description provided is a three bay, 2 storey commercial building. The RPS records the site features as 'Part of C18th Spire House Complex and Chimney design'. Its special interest is given as 'Architectural'.
- 1.4. It is noted that the structures at No. 57 and 59 Shantalla Road are also recorded as Protected Structures with site features recorded as follows-
  - No. 57 Ref. 9202- Two Jostle Stones to front elevation of building- Special Interest Architectural/Technical.
  - No. 59 Ref. 9201- Spire House- Porch feature, 2 stone finials on gables and arched entrance. Special Interest Architectural.
- 1.5. The site is located directly opposite Scoil Bride Shantalla a Primary School.

## 2.0 Proposed Development

- 2.1. The proposed development comprises-

- Minor revisions to the previously permitted redevelopment of 4 No Apartments including-
- Revisions to the access gate arrangements onto the lane at the rear of the premises
- Varying of Condition No. 4 to construct a 1.8m high obscure glass block wall

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority decided to issue a Split Decision on the 29-07-20. They decided to-

- Grant Permission subject to 2 conditions for the revisions to the access gate arrangements onto the lane at the rear of the premises
  - The conditions are standard in nature and include details of external finishes to be agreed in writing.
- Refuse Permission for Varying of Condition No. 4 of Pl. Ref. No. 16/212 / ABP PL 61.248381, to construct a 1.8m high obscure glass block wall between the private open space of Apartment No. 3 and the adjacent laneway. Permission was refused for the following reason-
  - *'The development of an obscured glass block wall facing onto the laneway, if permitted, would be contrary to the requirements of a condition attached to an existing permission, PL.Ref.No. 16/212 by an Bord Pleanála. In addition the insertion of a glass block wall would be out of character with the prevailing pattern and architectural symmetry within the immediate area, thereby, seriously injuring the visual and residential amenities in the area by virtue of its design, appearance and location, contrary to the proper planning and sustainable development of the area. The wall approved on 6/12/19 should be provided with a block and plaster finish and pre-cast concrete capping as submitted on the 25/10/19.'*

## 4.0 Planning Authority Reports

### 4.1. Planning Reports

The recommendation of the Planning Officer (signed the 15-07-20 and the 20-Jul-20) reflects the decision of the Planning Authority.

The following is noted from the report:

- The repositioning of the pedestrian gate is a result of a legal action between the objector and the applicant. The repositioned gate appears to address these issues.
- The matters pertaining to title of property, including legal rights of way are not for the Planning Authority and An Bord Pleanála to determine. The parties can have recourse to the courts.
- The introduction of a 1.80m obscured glass wall would be out of character with the surrounding area. The obscured wall should be omitted and replaced by a conventional wall of 1.8m in height as agreed on 6/12/19.

### 4.2. Other Technical Reports

- Transportation Report- No objection subject to conditions.
- Environment Report-Waste from the development should be dealt with in compliance with all waste and environmental legislation. Condition recommended.

### 4.3. Prescribed Bodies

- None

### 4.4. Third Party Observations

One submission was received. The main issues raised can be summarised as follows-

- The submission supports the proposed design layout amendment to reposition the gate pier from No. 57.
- The submission objects to the proposed glass block wall. It is not in keeping with the character and historic nature of the laneway.
- Clarification of finishes to gate piers is required.
- There are discrepancies between the application and the Court Order.
- The submission objects to the material change of use of the gates.
- The submission details significant non-planning matters relating to Court Orders, rights of way at the site.
- The submission details a summary of the planning history of the area.

## 5.0 Planning History

This site-

- 16/212, ABP PL.61.248381- Permission for the redevelopment of No. 58 Shantalla Road, Galway City (RPS Ref: 9203). Construction of extension, to accommodate a total of 4 no. apartments. The proposed development will be integrated with the adjoining site of No. 57 Shantalla and Fort Eyre and will include all associated site works and services. 30/03/2017, Grant.

Condition 4 states-

*“There shall be no access from the private open space of Apartment 3 (as shown on Drawing Number 1408.PL.204 Rev A) to the adjacent laneway. A wall, 1.8 metres in height, shall be erected along the section of the site abutting the laneway. Details of the wall shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.*

*Reason: In the interest of orderly development.”*

- 400/97, ABP104232- Retention of alterations/extension to shop, change of use of ground/first floors, revised shop front and signage. 07/04/1998, Grant

Adjoining Site-

- 14117- Renovation of existing derelict buildings at No. 57 Shantalla Road (Protected Structure) and addition of new building to the rear, to form 7 No. residential units, the proposed development will be integrated with the adjoining site of Fort Eyre House. 16/10/2014, Grant

Site to south on opposite site of laneway-

- 15/323, ABP PL61.246946 Retention of existing elevations and basement of dwelling house and revised site boundaries, 17/10/16, Grant.

## 6.0 Policy Context

### 6.1. S.28 Ministerial Guidelines

6.1.1. Architectural Heritage Protection – Guidelines for Planning Authorities 2011

### 6.2. Galway City Development Plan 2017-2023

6.2.1. Zoning- The subject site is zoned R with an objective *“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 sustainable residential neighbourhoods.”*

Section 11.2.8 details-

*“Uses which are compatible with and contribute to the zoning objective, for example:*

- *Residential*

6.2.2. Chapter 8- Built Heritage and Urban Design

Policy 8.2 Built Heritage - Record of Protected Structures refers and states-

*Encourage the protection and enhancement of structures listed in the Record of Protected Structures.*

*Ensure new development enhances the character or setting of a protected structure.....*

### **6.3. Natural Heritage Designations**

6.3.1. None Relevant

## **7.0 The Appeal**

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

A first party appeal has been received. The grounds of appeal can be summarised as follows-

- The appeal is against schedule 2 of the split decision issued by Galway City Council. This refers to the refusal of the 1.8m high glass block wall.
- The application specifically sought to vary condition 4 of ABP PL.61.248381 and should be assessed on its own merits. The Boards condition was required before the proposal for an obscure glass block wall was presented. The applicants request this wall be assessed 'De Novo'.
- A proposal for a conventional block was submitted as compliance to the Planning Authority. However, the applicant has experienced difficulty in renting out ground floor apartments with limited natural light. This has prompted the applicant to seek permission for this alternative treatment. The construction of a block wall would be injurious to residential amenities of future occupants of Apartment 3 and would result in a substandard amenity space which would be greatly overshadowed. A wall of this height would appear as a drab and imposing structure as viewed from with apartment 3.
- Owing to the secluded location of the proposal together with the minor extent of the works, the Planning Authority's concerns that the proposed development are out of character with the surrounding area are somewhat questionable. The works are located at the end of a rear laneway which does not exhibit any remarkable architectural merit. The northern side of the laneway has always been characterised by expansive rear walls interspersed

rear service and emergency doors. The northern side of the laneway previously consisted of a metal roller door to serve the former Mace Shop on site at No. 58. This is shown on the drawings accompanying PI. Ref 16/212. Historical photographs of the laneway are submitted.

- Given the previous condition of the northern side of the laneway with no architectural merit or symmetry it would appear most unreasonable to refuse permission on this basis.
- Given the minor nature of the development, the end of laneway location, the obscure nature finish together with previous boundary treatments at this location the applicants fail to see how the proposal would injure the visual or residential amenities in the area.
- The applicants propose a ‘Seves – Arctic Clear 1919/8” Block wall with further specifications and images submitted. The proposal will result in a design enhancement and aesthetic improvement compared to what existed/ has been permitted.
- The proposal is more compliant with the 2018 Apartment Guidelines where section 3.35 provides that “Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking.

## 7.2. Planning Authority Response

The Planning Authority’s response to the grounds of appeal can be summarised as follows-

- Having regard to the setting and character of the area the introduction of a 1.8m obscured wall was considered to be out of character with the surrounding area and not in compliance with ABPs requirements for the erection of a ‘wall’, and the city Council refused it on this basis.
- If the Board are satisfied the proposed glass block wall satisfies the terms of the original condition No 4 in preventing access from the private amenity space of Apartment 3 to the adjacent laneway, and does not materially impact on the character of the area then given that the glass block wall will prevent



access and a loss of privacy while allowing diffuse light through this section of wall, which was previously served by a roller shutter, the Planning Authority would have no further objections.

### 7.3. Observations

One observation has been received on behalf of Desmond & Anne Mackey. The issues raised can be summarised as follows-

- The area is of significant heritage to Galway City with the site hosting a numerous old Manor houses such as Fort Eyre and Spires House, along with the observers property which was previously stables and later a chapel. The observers laneway abuts all these properties.
- The proposed glass wall is not in keeping with the historic character of the area and shall have a significant visual impact on the observers property.
- The permitted revisions in this application to the gate design has substantially reduced the overshadowing resulting from the original design proposed under previous permission 16/212.
- The appeal presents a somewhat skewed representation of the area. No 58 has been in a poor state of repair for well over a decade. The site was previously a shop granted planning retention by An Bord Pleanála. To present this property as representative of the development character of the area is somewhat disingenuous.
- Alternative photographs/images are submitted showing the laneway from circa 2017 and 2014 before the developer arrived in the area.
- The laneway adjoins the observers property which they continue to renovate and restore stables and chapel features into a family home. The laneway serves access to Spires House and a photograph from circa 1920 is provided to further show the significant historic character of the area.
- An Taisce and the Heritage Officer suggested the surrounding buildings should be protected and not negatively impacted by the development of RPS: Ref: 9023 under PI Ref. 16/212. Balconies were never a feature of this

complex of buildings and are obtrusive and affect the character of the site. Copies of this are also submitted.

## 8.0 Assessment

8.1. I have examined the application, appeal details, the Observation received and all other documentation on file including planning application PL.61.248381. I have inspected the site and had regard to relevant policies and guidance. The applicants have appealed only the second schedule refusal element of the planning application. However, it is appropriate that the overall development should be considered on a 'De Novo' basis. The main issues in this regard are as follows-

- Zoning
- The Proposed Development
- Impact of the Glass Block Wall on the Protected Structure and the Character of the Area
- Appropriate Assessment

## 8.2. Zoning

8.2.1. The site is zoned R 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'*.

8.2.2. The application is for access gate arrangements and a rear boundary treatment to an area of private amenity space of a residential development. The proposed development is consistent with this zoning objective.

## 8.3. The Proposed Development

8.3.1. The Planning Authority granted permission for revisions to the previously permitted redevelopment of 4 No Apartments at the site to include the access gate arrangements onto the lane at the rear of the premises. These revisions appear to be required in order to comply with the terms of settlement of a court order. It is considered that the reasons behind these revisions are civil matter to be resolved

between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act. In this regard no weighting is give to them in this assessment and the application will be assessed solely on its planning merits.

- 8.3.2. The proposal involves repositioning of a pedestrian gate northwards from that permitted under PL61.248381 which was inserted into the originally permitted vehicular entrance gate. The vehicular entrance gate will now be 1.9m wide reduced from c. 3m in the original permission. The new pedestrian gate will be 1.8m high. These amendments are considered relatively minor in nature and as such they are considered acceptable.
- 8.3.3. The Planning Authority refused permission for the varying of Condition No. 4 to construct a 1.8m high obscure glass block wall. This was refused as it would be contrary to the requirements of a condition 4 of the parent permission as per An Bord Pleanála Order PL 61.248381, and because the proposal was considered be out of character with the prevailing pattern and architectural symmetry within the immediate area.
- 8.3.4. Condition 4 of PL 61.248381 required a wall, 1.8 metres in height, to be erected along a small section of the site abutting the laneway. Details of the wall were to be agreed in writing with the planning authority prior to commencement of development. The applicants have stated in their appeal that a proposal for a conventional block wall was submitted as compliance to the Planning Authority and this appears to have been agreed. The reason given for condition 4 was *'in the interest of orderly development'*.
- 8.3.5. The proposal is for a 1.305m wide and 1.8m high glass box wall. Details and specifications of this wall type have been submitted with the appeal. The applicants detail that this type of wall will allow for more diffuse light to the area of private amenity space. This is considered a reasonable justification.
- 8.3.6. There does not appear to be a southern elevation drawings submitted to show the proposed glass wall in the context of the overall elevation. The drawings do provide photos labelled 'Architectural Precedent' of similar glass walls and the proposal is clearly understood. In the absence of this elevation drawing I have reviewed the elevation drawings permitted under PL 61.248381 and having inspected the site I am satisfied I can form a reasoned judgement on the proposed glass wall.

- 8.3.7. The presence of a roller shutter door in the general area of the proposed glass wall is noted in the drawings of PL 61.248381. As are the details and pictures submitted with the applicant's appeal and the submission of the Observers. The comments of the Planning Authority in their response to the appeal are particularly noted.
- 8.3.8. The proposed wall will enclose a small part of the private open space to Apartment 3 and is located directly to the west of the rear boundary wall of Apartment 3. The wall will link with the proposed pedestrian gate thereby enclosing the private amenity space from the laneway. The wall is located at the very end of the laneway and adjoins a newly erected extension to No. 58 Shantalla Road. The glass wall by way of its siting, width and height is considered a very minor revision to the area of the new extension and overall development and as such is considered acceptable.

#### **8.4. Impact of the Glass Block Wall on the Character of the Protected Structures and on the Area**

- 8.4.1. The Planning Authority considered that the insertion of a glass block wall would be out of character with the prevailing pattern and architectural symmetry within the immediate area, thereby, seriously injuring the visual and residential amenities in the area by virtue of its design, appearance and location.
- 8.4.2. The Planning Authority do not appear to consider the glass wall would negatively impact on any of the Protected Structure Ref. No's 9201, 9202 and 9203.
- 8.4.3. The proposed wall is located to the side of the permitted extension element to No 58 Shantalla Road and as such would not in my opinion have a physical or visible relationship to the recorded site features of 9203- Spire House Complex and Chimney design. In this context I am satisfied that the propose development will not impact negatively on the character of Protected Structure 9203.
- 8.4.4. I inspected the site and walked through the apartment development at Fort Eyre House along the laneway to Shantalla Road. I observed the arched entrance and gable finials that are recorded as the site features of Protected Structure 9201 Spire House No. 59 Shantalla Road. This structure is recorded for its Architectural Interest. The arched entrance is located on the southern side of the laneway and appears to provide access to the buildings on the opposite side of the laneway and the application site. Both these features are located c. 20-30m to the east and at the

opposite end of laneway to which the proposed glass box wall is to be located. Neither feature will be easily visible from the proposed glass block wall nor will the glass box wall be easily visible from either feature. The proposed glass wall will also not be visible from any public areas.

- 8.4.5. I acknowledge the architectural significance of these features as recorded on the RPS. I also note the presence of other buildings that may be considered of architectural and/or historical significance on the laneway. However, these are not recorded on the RPS nor is the laneway a designated Architectural Conservation Area.
- 8.4.6. A 1.8 m wall is permitted by way of Condition 4 of PL 61.248381. The reason for this condition was '*in the interest of orderly development*'. It is my view that the proposed glass wall could comply with this condition and the reason therefor. This was a matter for the Planning Authority to determine.
- 8.4.7. The proposed glass wall by way of its width, height and siting along the rear boundary of the permitted extension to No 58 Shantalla Road and at the end of the laneway is considered a minor revision to the overall permitted development. It would clearly not impact upon the recorded site features of RPS No's 9201, 9202 or 9203 (the application site) and their stated Special Interests. Overall, the proposal would not negatively detract from the character of the area. In this context I do not share the Planning Authority's view that the proposal will '*seriously injuring the visual and residential amenities in the area by virtue of its design, appearance and location*'.

## 8.5. **Appropriate Assessment**

- 8.5.1. Having regard to the nature and scale of the proposed development within an urban area and the distance 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

## 9.0 **Recommendation**

- 9.1. I recommend that permission is granted subject to the following conditions-

## 10.0 Reasons and Considerations

Having regard to the provisions of the Galway City Development Plan 2017-2023, the existing and permitted development in the area and the minor nature and scale of the proposed development, it is considered that the proposed glass block wall would not adversely affect the character and setting of Protected Structures 9201, 9202 and 9203 and the architectural and historical significance of the laneway and other properties in the area. It is further considered that the proposal would not seriously injure the visual or residential amenities of the area or properties in the vicinity. Subject to compliance with the conditions set out below, 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 on the 09<sup>th</sup> day of June, 2020 and by the further plans and particulars received by An Bord Pleanála on the 07<sup>th</sup> day of September, 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. The developer shall comply with all conditions of the parent application 3991/17 save for amendments made by this application.

Reason: In the interest of clarity.

3. The external finishes of gate piers shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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Adrian Ormsby  
Planning Inspector

24<sup>th</sup> November 2020