



An
Bord
Pleanála

Inspector's Report ABP 308344-20.

Development	Construction of two storey house with access from Palmyra Avenue, connection to septic services and site works and to retention of existing entrance.
Location	Palmyra Avenue, at Rear of No 28 St. Mary's Road, Galway.
Planning Authority	Galway City Council.
P. A. Reg. Ref.	209.
Applicant	Castlecarra Development Ltd.
Type of Application	Permission and Permission for Retention.
Decision	Grant Permission and Permission for Retention
Type of Appeal	Third Party X Grant
Appellant	Niall Connaire.
Date of Inspection	30th November, 2020
Inspector	Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The site has a stated area of 135 square metres and is formed from land at the rear of a two-storey house at No 28 St. Mary's Road and it has frontage onto Palmyra Avenue at the rear. The ground level falls from the north west towards the south east with the level on St. Mary's Road being considerably higher than Palmyra Avenue which has no pedestrian footpaths on either side and poor alignment. There are residential properties and some garage structures with up and over doors along the northern side of Palmyra Avenue and a combination of cottages and terraced houses from the nineteenth and earlier twentieth centuries on the south side.
- 1.2. The application site is located between a garage on the west side and a two-storey house (Avila) set back from the street frontage with a rear garden on the east side. There is a hardcore surface within the site and walling along the rear and side boundaries. (The front boundary wall has been removed.) A container was located on the site at the time of inspection.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for:
 - The retention of a vehicular entrance (created through removal of the front boundary) onto the Palmyra Avenue,
 - Construction of a two-storey detached house with a stated floor area of 95 square metres set back circa two metres from the site frontage. The stated plot ratio is 0.70:1 A recessed parking space beneath a first-floor level terrace with a door to the front and a yard amenity space circa forty-three square metres in area is shown at the rear the depth of which is circa six metres.
- 2.2. The further information submitted in response to request for additional information, issued by the planning authority indicated omission of the proposed on-site carparking space along with proposals to reinstate the site frontage boundary, modifications to footprint and dwelling design with a minor reduction in floor area, to ninety square metres, an amenity area of 53 square metres and, a written undertaking to reinstate the boundary wall and gate pier adjacent to the appellant property.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 9th September, 2020, the planning authority decided to grant permission for the proposed development, as amended in a further information submission, subject to conditions. Under Condition No 1 there are requirements for compliance submission relating to the treatment on the frontage onto Palymyra Avenue, fenestration and boundary wall construction. Under Condition No 8, exempt development entitlements are removed, Under Condition No 9 there is a requirement for a landscaping scheme and details of the front boundary to be submitted for agreement with the planning authority.

3.2. Planning Authority Reports

- 3.2.1. The initial report of the **planning officer**, further to consideration of the recommendation in the technical reports indicated a recommendation for the multiple item further information request. Further to consideration of the submitted further information, a grant of permission and permission for retention was recommended.
- 3.2.2. The report of the **Transportation Planning Division** on the original application indicates concerns with regard to the proposed access having regard to the alignment of Palymyra Avenue. It is recommended that the applicant be required to provide details of a sight visibility triangle with consistency with DMURS standards being demonstrated.
- 3.2.3. The report of the **Heritage Officer** indicates objection to the removal of the front boundary.
- 3.2.4. There is no objection from **the Drainage Section** or from **Irish Water** with regard to services.

3.3. Third Party Observations

- 3.3.1. An observation was submitted the appellant party, Mr. Connaire occupant of the adjoining residential property on the east side of the site. He objects to the interventions which have taken place at the front boundary and he contends that the

proposed development is overdevelopment with poor sightlines at the proposed entrance.

4.0 Planning History

- 4.1. There is no record of planning history for the site.
- 4.2. The planning officer in his report notes a prior refusal of permission for construction of a house on the adjoining land at the rear of No 29 St Mary's Road for reasons of substandard overdevelopment with serious injury on amenity of property and the amenities of the area and insufficient parking provision. (PA, Reg., Ref. 9/282 refers.)

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 location is within the "*Inner Residential Area*" for which there is a requirement for compatibility with the scale, proportions, character and amenities of existing development. Policies and objectives for mews house developments are set out in section 2.11 accord to which there are limited opportunities for mews development and it is required to be coordinated and to have no adverse impact on residential amenities. Mews development is not permissible in advance of a coordinated plan for identified areas suitable for mews housing requirements for compatibility with the built form and character of areas, open space, access and parking standards.
- 5.1.2. The site is close to but not within the Crescent/Sea Road Architectural Conservation area is to the south.
- 5.1.3. Section 8.7 provides for reinforcement of the distinctive character of the city by way of a high standard in the built environment through urban design good place making ensuring a high-quality built environment and creation of sustainable neighbourhoods.

5.1.4. According to section 11.3.1 (g) vehicular entrances should not normally exceed three metres in width and where feasible the maximum extent of boundary wall and hedge should be retained.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received from Niall Connaire of Avila, the property to the east side of the application site on his own behalf on 6th October, 2020 and included is a copy of the objection lodged at application stage, a set of drawings and its appendices. He states that the site which is formed from mature rear gardens for no 28 St. Mary's Road was cleared and surfaced with hard core and a container was brought into it. The front boundary wall was removed and part of the party wall with Mr. Connaire's property was damaged. Mr Connaire claims that there is ongoing anti-social behaviour attributable to the occupants of No 28 St Mary's Road. He contends that the proposed dwelling is an intended high density rental property.

6.1.2. According to the appeal:

- The works to the site which have been undertaken has seriously affected the residential amenities of Avila, most especially the rear garden.
- The proposed development is excessive for the restrictive site and incompatible with the pattern and character of development in Palmyra Avenue and Palymra Park.
- However, if permitted the size should be reduced to eighty square metres (from 90 square metres). This should reduce the negative impact of the proposed development's impact on his property. The footprint should be similar to the front and rear building lines of Mr. Connaire's property.
- There is no provision for parking for the development.
- A permanent wall or similar structure should be constructed along the boundaries between the application site and his property.

6.2. Applicant Response

6.2.1. A submission was received from Feeney McMahon on behalf of the applicant on 4th November, 2020 according to which:

- The works at the frontage are subject of the application, (for retention and the container is a temporary structure that the applicant will be removed.
- The applicant has offered to rebuild the shared boundary wall and to re pave areas at the front driveway of at the appellant property.
- As regards overlooking, the front of Avila is a parking space which is not overshadowed by the proposed development. (The wall is to be made good and capped.) The space at the rear of Avila is 5.5 metres in depth and significantly overshadowed by the house at Avila. In the further information submission, the revisions show the proposed house stepped away from the party boundry and reduced in height at the rear eaves in order to reduce the massing impact.
- The applicant confirms the intention to construct a two-bed dwelling with a floor area of ninety square metres. Reduction to a floor area of eighty square metres would be below the minimum threshold for a two-bedroom dwelling.
- In the response to the further information request a parking space on site is omitted. The location benefits from connectivity to transport, pedestrian and cycle facilities.
- The applicant is willing to construct a masonry wall between the appellant property and the applicant site property as sought by the appellant to address his concerns about anti-social behaviour.

6.3. Planning Authority Response

6.3.1. A submission was received from the planning authority on 3rd November, 2020 in which it is requested that the decision to grant permission be upheld. according to the submission, the details in the further information demonstrate that the proposed development is satisfactory and does not adversely affect the amenities of surrounding properties of the street.

- adequate open amenity space provision consistent with CDP standards for the existing and proposed dwellings.
- The building alignment accords with two properties to the north west but is 1.2 metres forward of the front building line and behind the rear building line of Avila and the width is reduced providing for a one metre separation from the boundary. The proposed infill development is appropriate in this regard for the city centre location.
 - The dwelling is compatible with the existing development in proportions, building lines, massing and height and design and the proposal relates to the eaves and ridges. Overlooking from the rear bedroom has been addressed by screening and decks are omitted.
 - The omission of the car space which was included in the initial proposal proposed accord with the CDP polices for the Inner-City Residential Area.

7.0 Assessment

- 7.1. The issues central to the determination of the decision which are considered below are that of potential impact on residential and of adjoining properties and the visual amenities of Palymyra Avenue, consistency with relevant development plan objectives and standards for the proposed infill dwelling and, parking provision and vehicular and pedestrian public safety at the entrance.
- 7.2. It is agreed with the planning authority that the modified proposals in the further information submission are both consistent with relevant CDP requirements and standards and acceptable in terms of the interests of the protection of residential amenities and the visual amenities and established pattern of development in the area.
- 7.3. The revised design, footprint, form, height and roof profile provide for a dwelling that is similar and compatible with adjoining residential development facing, onto and appropriate to the streetscape at Palymyra. It is shown in the further information submission that there is sufficient private open space provision for the existing and proposed dwellings, with adequate amenity potential, along with appropriate setbacks from boundaries, and that potential for overlooking has been addressed.

An appropriate written undertaking has been given for the construction of a wall along the boundary with the adjoining property, the original wall having previously been damaged.

7.4. The issues as to substandard sightlines and hazard at the proposed entrance have been eliminated through the omission of the initially proposed onsite parking space. Given the convenient inner city location for the site location close to services and facilities and the city centre, it is considered that the omission of onsite parking can be accepted although the situation is not ideal having regard to the poor width of the public road and lack of footpath provision.

7.5. The proposal in the further information submission for a timber screen at the front boundary incorporating a pedestrian gate area is visually appropriate at the site frontage notwithstanding the possibility of a visual barrier effect.

7.6. It can be concluded that the proposed development as shown in the further information submission would not seriously the residential amenities of the adjoining property and is considered acceptable. However, if permission is to be granted, it is recommended that (a) a condition be included providing for implementation of the front boundary treatment and for the completion of construction of the wall at the boundary prior to occupation of the dwelling, for the purposes of clarity and orderly development and (b) inclusion of a condition as provided for in the planning authority's decision order, in which the exempt development entailments are removed, so as to allow for planning review in the event of possible further development given the confines of the site.

7.7. **Other matters.**

7.7.1. It is noted that the appellant considers that there are and potentially may be issues as to anti-social behaviour at the existing and proposed property but these matters are outside the planning remit and have not been taken into consideration.

7.8. **Environmental Impact Assessment Screening.**

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.

7.9. Appropriate Assessment.

Having regard to the planning history for the site, the zoning objective, the location of the site is on serviced land, and, to the nature and scale of the proposed development, 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

In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld, and that permission be granted based on the reasons and considerations and subject to the conditions overleaf:

9.0 Reasons and Considerations

Having regard to the Galway City Development Plan, 2017-2023 according to which the site is located within the “*Inner Residential Area*” for which there is a requirement for compatibility with the scale, proportions, character and amenities of existing development, and to the established pattern and character of development in the area it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of adjoining properties and the visual amenities of the area would be acceptable in terms of pedestrian and vehicular safety and convenience and, would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars lodged on 22nd 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. A masonry wall, to a maximum height of two metres shall be constructed along the east site boundary of the adjoining property, (Avila) and completed prior to the occupation of the dwelling. Full details in plan form and inclusive of materials and finishes shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity and the residential amenities of the area.

3. The following requirements shall be provided for and adhered to in the development:

(a) Full details for the proposed front boundary screen and gate which shall not exceed a height of 1.8 metres in height and of the proposed materials and finishes shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

(b) Full details for the proposed hard and soft landscaping for the space at the front and the amenity space at the rear of the dwelling shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

(c) No additional fenestration shall be fitted unless otherwise authorised by a prior grant of planning permission.

Reason: In the interest of clarity and visual and residential amenity.

4. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

5. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

8. 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.

Jane Dennehy
Senior Planning Inspector
29th January, 2021