



An
Bord
Pleanála

Inspector's Report ABP 308547-20.

Development	Demolition of shed and construction of two storey extension to include new window ope to first floor corner, velux roof light and internal alterations, a carport at ground level and, a roof terrace at second floor level, site works including landscaping.
Location	24 Canal Road Lower, (Bridge House) Galway.
Planning Authority	Galway City Council
P. A. Reg. Ref.	20/85
Applicant	Helena Lydon
Type of Application	Permission
Decision	Grant Permission
Type of Appeal	Third Party x Grant
Appellant	Carmel de Brun.
Observer	
Date of Site Inspection	30 th November, 2020
Inspector	Jane Dennehy

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1.0 Site Location and Description

- 1.1. The site of the proposed development is at the corner of New Road and Canal Road Lower in Galway and is that of a two-storey house early twentieth century house with a yard area and outbuilding to the side with access from New Road. Block walling to a height of circa 1.8 metres is located along the northern boundary of the rear garden of No 22 Canal Road the property to the north side of the appeal site which is the appellant party's property. The proposed location for the extension subject of the application is to the south west side of the existing building, infilling a gap between it and the adjoining building, to the west side which is in use as an electrical repairs and sales business (Conboy's Electrical) on the New Road frontage.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for Demolition of shed and construction of two storey extension to include new window ope to first floor corner, velux roof light and internal alterations, a carport at ground level and, a roof terrace at second floor level, site works along with landscaping. Relocation of an L/V pole on the public footpath to facilitate access to the proposed carport off New Road is also indicated. Shadow studies were lodged on, 20TH April 2020 as unsolicited additional information.
- 2.2. A multiple item request for additional information which included a request for the applicant's observations on concerns raised in objection lodged on behalf of the adjoining property owner at No 22 Canal Road, a statement to address possible structural implications for the adjoining property and, further details on screening proposals was issued on 7th July, 2020.
- 2.3. In the further information submission lodged with the planning authority on 10th September, 2020.

A statement on the design having regard to the standards in Design Manual for Urban Roads and Streets (DMURS)

Copies of land registry details.

Indicating confirmation that boundaries will remain unaffected, undertakings to implement any necessary repairs arising. Photographs are provided,

Written confirmation from the ESB to agreement to relocation of an L/V pole on the public footpath.

2.4. Planning Authority Decision

- 2.4.1. Following consideration of the further information submissions the planning authority decided to grant permission for the development subject to conditions.

Under Condition No 2 there is a requirement for a structural engineer to be appointed to supervise the works to ensure the fabric of the party wall with No 22 Canal Road is unaffected and to prepare a report following completion of the works. A compliance submission is required.

Under Condition No 3 there is a requirement for the gap between the extension at No 24 and No 22 to be sealed up. A compliance submission is required.

2.5. Planning Authority Reports

- 2.5.1. Further to consideration of the initial application and further information submissions including the shadow study the planning officer in his final report indicated satisfaction that no adverse overshadowing attributable to the proposed extension or overlooking would occur and that there is sufficient provision for setbacks from adjoining properties and that the height was considered acceptable within the streetscape. The density and intensity are also accepted it being noted that higher density is normally acceptable within City Centre land use zonings which it is stated the site straddles and confirmation that the structural impact assessment satisfactorily demonstrates that party boundary walls are unaffected.
- 2.5.2. The planning officer having taken into account the urban location and site constraints considered the roof garden which is to be screened acceptable in the subject instance in that it would not compromise the residential amenities of adjoining property and relatively unnoticed in streetscape views.
- 2.5.3. The supplementary report of the Transportation Department issued further to review of the further information submission indicated satisfaction with the proposed development.

2.6. Third Party Observations

- 2.6.1. The appellant party, occupant of No 22 Canal Road Lower lodged objections at application and further information stages in which issues raised as to adverse impact on residential amenities of the property are outlined in detail in the accounts of the appeal and supplementary submissions in Sections 6.1.1 and 6.1.4 below.

3.0 Planning History

- 3.1.1. There is a prior grant of permission for change of use from a hairdressing salon to additional residential use (at ground level) under P.A. Reg. Ref. 96/608.

4.0 Policy Context

4.1. Development Plan

- 4.1.1. The operative development plan is the Galway City Development Plan, 2017-2023 according to which the site location 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 sustainable residential neighbourhoods.”*
- 4.1.2. According to section 11.3.1 (c) the total area of private open space should not be less than fifty percent of the gross floor area of a residential development.
- 4.1.3. According to section 11.3.1 (d) overlooking from residential units within eleven metres of private open space of land with development potential from above ground level is not acceptable.
- 4.1.4. According to section 1.3.2 (b) amenity standards of the CDP should be in accordance with standards for outer suburbs but allows for a reduction in standards to be considered in certain circumstances having regard to form and layout.

5.0 The Appeal

5.1. Grounds of Appeal

5.1.1. An appeal was received from Daniel Melia on behalf of the appellant who is the occupant of No 22 Canal Road which is to the north side of the application site on 30th October, 2020. It is stated that the development is a two-storey extension and roof garden in a rear yard. Although the boundaries are high perceptions of overlooking from the north and west sides would occur whereas the boundary to the south side with the adjoining property is eight feet high so there is some light to the garden from the south side and this is critical to the enjoyment of the garden.

5.1.2. According to the Appeal the further information proposals do not address the appellant's concerns and it is submitted that: -

- The two-storey extension and roof terrace will seriously affect residential amenities at the appellant property and it is inevitable that overlooking from the roof terrace will occur. Any windows on the north elevation would significantly overlook the appellant party's property.
- The private open space should be at ground level thus minimising impacts on the appellant's property and the requirement having regard to the CDP for the proposed development is 52.8% (Inner city developments require open space at 30% gross floor area.) An area of thirteen square metres is provided at the roof terrace and it is less than the estimated that the existing open space in the rear yard which is 18 square metres. Although there is scope for CDP standards to be relaxed under provision in the current proposal has negative impact and is inappropriate for the density of development at the site.
- The planning officer's conclusion that visual dominance and sense of enclosure are not an issue is not accepted. The extension will rise 1.45 m above the boundary wall to 5.55 metres with the setback of 2.4 metres relating only to the open yard area and this, and the screening proposed do address visual dominance, enclosure and significant overshadowing in mornings up until mid-afternoon, especially to the first-floor gable end window which is reached by light from the gap between the application site and the Conroy Electrical building.

- The proposed 1.7 m high screening is less than the minimum required of 1.8 metres and utilisation of trellis is inappropriate as a trellis is see-through. The total height of the development with the screens in place is 7.35 metres.
- The planning authority considers that use of flat roofs as gardens and terraces in the area at first floor level is contrary to residential amenities and the current proposal is for a terrace at second floor level. This is evident in the assessment of several planning applications
- The zoning standards are the same as for proposed development No 12 Cookes Terrace as it and the the subject application site are both outside the city centre zoning and twelve and fourteen minutes' walking distance from Eyre Square in the city centre. The site and planning application for No 12 Cookes Terrace are similar, though the proposed development is higher than the original proposal for Cookes Terrace (P. A Reg Ref 19/139.) A subsequent revised application under P. A. Reg Ref 20 /1070) is before the Board. Relaxation of standards is not appropriate for either site.
- There are conditions attached to the grants of permission excluding use of the flat roofs as balconies and terraces for the developments at. 44 New Road, (P. A. Reg. Ref. 18/322); 3 New Road, (P. A. Reg. Ref. 17/48);18 St Helen's Street (P. A. Reg. Ref. 20/45)
- The roof terrace would result in noise nuisance especially in evening times affecting residential amenities at adjoining properties.
- Considerable disruption would occur during the construction stage affecting the appellant's property. The appellant notes and does not have issues with Condition Nos 2 and 3 attached to the decision to grant permission.
- The appellant would consider that any development at th4 application site should be restricted to a low-level single storey extension with open space at ground level and no roof terrace.

5.2. Applicant Response

- 5.2.1. A submission was received from on behalf of the appellant on 30th November, 2020 which includes copies of photomontages images and visualisations which are stated

to be very detailed in demonstrating the 'contribution to the streetscape' and, the 'contribution to rear gardens' in pre- and post-development images.

- With regard to 'contribution to the streetscape', Viz A – B (looking westwards) show the extension fitting well and breaking down the hip roof at No 24 to the gable roof of Conboy Electrical. Viz C looking north west along New Road shows the extension fitting into the streetscape with quality finish drawing the eye towards the canal side setting.
- With regard to 'contribution to the rear gardens', Viz E, F and G (generated from the appellant party's rear garden) show the profile of the development and mitigation inherent in the design. It is carved away from the boundary and steps down and to the front against the line of Conboy's Electrical gable wall and there is one rooflight.
- With regard to other planning applications referred to in the appeal, each proposal should be considered with regard to its specific circumstances. Images are provided in the submission to illustrate overlooking potential from the application site and from Nos 3 New Road, 44 New Road, 18 St Helen's Street and 12 Cookes Terrace for which there are grants of permission.
- The rooftop extension at Cookes Terrace was implemented without planning permission and the applicant did not intend to design a roof garden. The other roof extensions in the locality referred to in the appeal are single storey and the terraces use as a roof garden are not proposed. The examples are in continuous terraces and definable as mid terrace. The flat roof extensions are into rear garden space along the terrace with overlooking and overshadowing concerns whereas the current proposal is to the front street side in an infill position or 'gap site'. It is simply an extrusion of the gable form of the adjoining Conboy Electrical building similar to infilling a street creating continuity at roof level. The separation distance of 4330 mm from the boundary is more than sufficient having regard to the vertical elevation and angle of view with screening mitigating overlooking. The height of the screen can be increased from 17990 m to 1800 mm. The design responds to the unique site characteristics.

- The application site is only 200 metres from the city centre area at Pump Lane and 550 from MainGuard, the start of the pedestrian one.
- The level of density within the building will be revised down to one household from the current from three bedsits at first floor level and a two-bed maisonette over the ground floor.
- An expanded shadow study is included showing details for each of the four equinoxes at 9.30 am, 12 noon, 2pm and 4 pm. Based on the study it is stated that there is minor or negligible shadow effect on the appellant party's property relative to those cast by existing buildings. or no additional shadow effect and that the development is reasonable for an 'intown' urban proposal.
- The applicant property's rear yard (private open space is enclosed on four sides by high walls restricting sunlight access and it is poor quality amenity space whereas the proposed garden at the roof level benefits from light and sunlight and is a high-quality amenity space.
- With regard to overlooking the screen proposed at 1.7 metre height is effective but the height can be increased to 1.8 metres if required. There will be an artificial foliage barrier inside the trellis providing a second layer of screening. Different forms of screening were discussed with the applicant but no feedback was received.
- Contrary to the assertion in the appeal there are no windows proposed in the north elevation.
- Noise nuisance is not at issue and there is no greater risk of noise from a roof terrace than from a ground floor courtyard.

5.3. Planning Authority Response

5.3.1. According to the submission received on 4th December, 2020, in which it is requested that the decision to grant permission be upheld. According to the submission:

- The site straddles the City Centre Residential zoning and is predominantly in an urban context (Fig 2.1 of the CDP 'Neighbourhood Areas in Galway' refers.)

- Conditions are usually attached in respect of use of flat roofs as balconies. Conditions can be attached for the purposes of clarification that use of a flat roof as balcony does not have the benefit of a grant of planning permission. If this is the case with the current proposal an application for use as a balcony would be assessed and decided accordingly.

5.4. Further Responses

5.4.1. A further submission was received from Daniel Melia on behalf of the appellant on 3rd January, 2020 in response to the applicant's submission. According to it:

- It is not agreed that the roof terrace and screening is in keeping with the streetscape.
- Profile timbers erected by the applicant to show the screen's height are not accurate in the submitted image. (Viz-G) The screening (1.7m high) above the green hedge is not included in the photographic image. It will be close to the top of the doorway visible in the image. Profile timbers erected show the screen located close to the underside of the chimney at gable wall of Conroy electrical as shown in the image included in the appeal and re-submitted. These profiles are not consistent with the images in the applicant's submission.
- The refusal of permission (and permission for retention) at 12 Cookes Terrace is not comparable. It is very clear that the planning authority considers a balcony or terraced area at first floor level contrary to residential amenity in that it specifically conditions them out.
- The applicant's references to mid terrace developments at 44 New Road, (P. A. Reg. Ref. 18/322); 3 New Road, (P. A. Reg. Ref. 17/48); 18 St Helen's Street (P. A. Reg. Ref. 20/45) and 12 Cookes Terrace as the proposed flat roof/terrace is not to the rear and is to the front street side and in an infill position directly overlooking the appellant's property to the side.
- The two-storey extension in effect would create a three-storey structure at a high level enclosing the appellant property's garden.

- 4.3 metres separation distance, for the terrace is close to the appellant party's property and is not a buffer, eleven metres separation distance from first floor windows usually being required. The proposed marginal increase in height for the screen to 1.8 metres further increase the sense of enclosure.
- With regard to the references to the development at 44 New Road, it is very clear that the planning authority considers roof terraces and balconies not in keeping with development in the area.
- The roof terrace would set dangerous precedent for similar development in the area.
- The proposed development will inevitably lead to overshadowing of the appellant property including shadow halfway along the garden in September. With regard to the shadow studies and 3D model it is confirmed that a meeting took place with the applicant and applicant's agent in advance of the application and the objections were made clear.

6.0 Assessment

- 6.1. The application is for two storey extension with a roof garden overhead and a carport with access of New Road at ground level. The proposed extension would infill space at the south western side of the 'Bridge House' a detached house on a corner site, with frontage onto the public footpath at the New Road and forward of the building line of the terraced houses along Canal Road Lower. The appellant is the occupant of No 22 Canal Road Lower, to the north of the appeal site and which incorporates No 23 Canal Road Lower adjacent to the application site.
- 6.2. The issues considered central to the determination of the decision are that of impact on residential amenities of the adjoining property at No 22 Canal Road occupied by the appellant party as considered under the following subheadings: -

Density and intensity of development and adequacy of private open space provision,

Overshadowing

Overlooking

Overbearing Impact.

Visual Amenities of the Area

Structural integrity.

Entrance arrangements and parking

Precedent.

Environmental Impact Assessment Screening

Appropriate Assessment Screening

6.3. Density and intensity of development and adequacy of private open space provision.

- 6.3.1. It is understood that the existing house had a former retail use at the ground floor which is now in use as one dwelling unit and that the upper floor is subdivided into three bedsits. The current proposal provides for a single residential dwelling unit, albeit relatively large, which incorporates the proposed extension which has a stated floor area of fifty square metres. As such the argument in the appeal as to increased density is not persuasive.
- 6.3.2. The proposed extension within the space to the side, (with the outbuilding removed) would result in an increase in plot ratio and site coverage with the proposed development *in situ* within the site open amenity space adjacent to the north western end (over three metres length) of the party boundary to a depth of 2.5 to 2.6 metres would be available in addition to the proposed roof terrace which has a stated floor area of thirteen metres. The total floor area of private open space provision is deficient, as pointed out in the appeal and planning officer report, having regard to CDP standards.
- 6.3.3. However, it is considered reasonable for the planning authority applied the flexibility provided for in the CDP with regard to quantum of private open space provision, for a high quality, innovative proposal, particularly given the restricted alternative scope for private open space with amenity potential to be provided. In this regard the view taken by the planning officer as to “urban context” having regard to the residential zoning within “*Neighbourhood areas in Galway*” and close proximity to the “*City Centre*” is also considered reasonable. Subject to the proposed development’s roof garden being acceptable as a solution in all other respects, rejection of the proposal

on grounds solely of insufficient quantum of private open space in the established inner urban area is regarded as being particularly onerous and excessive.

6.4. Overshadowing

- 6.4.1. The proposed footprint of the proposed extension is to the south and south east of the appellant party's property and external amenity space. The shadow study submitted with to the Board on 20th November, 2020 satisfactorily demonstrates that other than a minor increase morning time shadow over the adjoining property from the March/September equinoxes the overshadowing impact directly attributable to the proposed development would be minimal. The gardens at the appellant party's property would continue to receive sunlight from the south and southwest over the existing buildings and the proposed extension. Furthermore, it is not apparent that any principle habitable rooms in any adjoining properties would be affected.

6.5. Overlooking

- 6.5.1. With regard to overlooking, the proposed position of the proposed extension, infilling the space between the existing house and the adjoining property to the south west on the New Road frontage is not directly 'back to the back' at the rear of the appellant party's property thus rendering any references to standardised eleven metres' separation distances for back-to-back properties with regard to overlooking irrelevant. To this end, given the set back from the party boundary and, the orientation of the proposed extension relative to adjoining property to the north and north west it can be established that potential for overlooking from the roof terrace space over to private open space to the northwest is negligible, subject to satisfactory screening proposals. However, likelihood of some perception of overlooking, and intrusiveness on privacy at the adjoining property, when the terrace is in use cannot be eliminated.
- 6.5.2. However, there is some reservation as to the adequacy of the proposed screening entailing, according to the further information submission an artificial foliage buffer above treated plinths inside plastered and capped blockwork and composite timber trellis to a height of 1.7 metres as regards standards of structural integrity. Substitution of a low maintenance screening in the form of a fixed structure such as an opaque glazed privacy screens for balconies is recommended for the perimeter of the roof terrace. Given the separation distance from the party boundary and use of

translucent glazing, issues as to perceptions of sense of enclosure at the adjoining property, should not arise. This matter could be addressed by condition but consultation with the parties by way of section 132 notification may be appropriate prior to determination of a final decision.

6.6. Overbearing Impact

- 6.6.1. At the party boundary with the appellant party's property, the proposed extension is setback by the 2.6 metres deep open area in the north west corner of the site and the two-storey extension which is stated to be 5.86 metres' in height up to the flat roof garden level along the southwest perimeter of which the trellis and artificial foliage screening is proposed. Given the position infilling the gap on the New Road frontage, orientation of the proposed extension relative to the adjoining properties, the footprint, form, height and the separation distance from the party boundary as discussed it is not agreed that the proposed development would result in sense of enclosure of the adjoining property. Any such impact would be negligible.

6.7. Visual Amenities of the Area

- 6.7.1. It is agreed with the planning officer that the proposed extension, is compatible with the streetscape and that the proposed roof garden would be relatively unnoticeable in streetscape views. There is no objection to the proposed development in this regard.

6.8. Structural Integrity.

- 6.8.1. It has been satisfactorily demonstrated in the further information submission that the structural integrity of party walls would not be affected. However, the inclusion of condition, if permission is granted for the works to be carried out under the supervision of a structural engineer who is to prepare a report on completion and, for sealing up of the gap further to construction, with compliance submissions being required is noted as being acceptable to the appellant.

6.9. Entrance arrangements and parking.

- 6.9.1. Vehicular access to a carport at ground level within the site is proposed in the application. It is noted that the Transportation Department has indicated satisfaction with the proposed arrangements for a replacement entrance on the New Road frontage including the sightlines in each direction and the agreed arrangements for

relocation of an L/V pole in the footpath. The proposals are acceptable in this regard.

6.10. Precedent.

6.10.1. The developments at 12 Cookes Terrace, Nos 3 and 44 New Road and No 18 St Helen's Street subject of planning applications referred to in the submissions in connection with the application and the appeal by the parties are not of direct relevance to the current proposal given the site configurations and position and form of the proposed extensions. As previously pointed out, the position of the developments referred to are to the rear, in rear gardens of terraced houses as opposed to infilling a gap between buildings on the street frontage a corner site location. It is agreed that the appellant that the planning authority has not been disposed towards favourable consideration for roof terraces at the rear of back-to-back properties or properties in rows along a street. The current proposal as previously indicated is not comparable, owing to the site configuration relative to adjoining properties and the proposed position and design of the proposed extension.

6.11. Environmental Impact Assessment Screening.

6.11.1. Having regard to the minor nature and scale of the development proposed and its inner urban location in an 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.

6.12. Appropriate Assessment Screening.

6.13. Having regard to the nature and scale of the proposed development within a serviced area and separation 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 the conservation objectives of any European site.

7.0 Recommendation

- 7.1. In view of the foregoing, it is recommended that planning authority decision to grant permission for the proposed development be upheld based on the reasons and considerations and conditions set out below.

8.0 Reasons and Considerations

Having regard to the site location within the established inner urban context of Galway city, the site layout, and proposed footprint between the existing building and the adjoining building on the New Road frontage, the separation distance from the adjoining property to the north to the adjoining properties, and to the height, form and design of the proposed extension including the proposed roof garden 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 in the vicinity or the amenities of the area and, would be in accordance with the proper planning and development of the area.

9.0 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 with the planning authority on 10th 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 artificial foliage buffer above treated plinths inside plastered and capped blockwork and composite timber trellis for the proposed roof terrace shall be omitted and replaced with a fixed opaque glazed privacy screen to a height of 1.8 metres. Prior to the commencement of development, the

applicant shall submit and agree in writing a specification and roof plan, section and elevation drawings. The privacy screen shall be erected prior to occupation of the extension.

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

3. Full details of the proposed arrangements for cycle and refuse storage shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of public safety and visual and residential amenity.

4. Site development and building works shall be carried only out 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. The use of the extension shall be confined to use ancillary to the residential use of the main dwelling as a single dwelling unit. No subletting or commercial use shall be permitted without a prior grant of planning permission.

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

7. The entrance to the carport shall have inward opening or sliding gates only and the footpath and kerb shall be dished at the applicant owns expense to the satisfaction the planning authority.

Reason: In the interest of public safety and convenience and orderly development.

Jane Dennehy

Senior Planning Inspector

6th February, 2021