



An
Bord
Pleanála

Inspector's Report ABP 312582-21

| | |
|--------------------------------|--|
| Development | Single storey rear extensions and additional ground floor side elevation windows to Appt Nos 01 and 02 |
| Location | So na Tra Apartments, 87 Salthill Road Lower, Salthill, Galway. |
| Planning Authority | Galway City Council. |
| P. A. Reg. Ref. | 21 357 |
| Applicant | Stephen Connolly. |
| Type of Application | Permission |
| Decision | Refuse Permission |
| Type of Appeal | First Party X Refusal |
| Appellant | Stephen Connolly. |
| Date of Site Inspection | 4 th May, 2022 |
| Inspector | Jane Dennehy |

Contents

| | |
|---|---|
| 1.0 Site Location and Description | 3 |
| 2.0 Proposed Development | 3 |
| 3.0 Planning Authority Decision | 4 |
| 3.1. Decision | 4 |
| 3.2. Planning Authority Report | 4 |
| 3.3. Third Party Observations | 4 |
| 4.0 Planning History..... | 5 |
| 5.0 Policy Context..... | 5 |
| 5.1. Development Plan..... | 5 |
| 6.0 The Appeal | 6 |
| 6.1. Grounds of Appeal | 6 |
| 6.2. Planning Authority Response | 7 |
| 7.0 Assessment..... | 7 |
| 8.0 Recommendation..... | 9 |
| 9.0 Reasons and Considerations..... | 9 |

1.0 Site Location and Description

- 1.1. The application site comprises two areas to each side of a lane which extends from Salthill Road Lower to the side rear of the building and continues northwards. The larger site area which is that a two-storey building on the site has a stated area of 3,120 square metres. There are two ground floor apartments (Nos. 1 and 2) and one first floor apartment (No 3) with a balcony within the building. There is access through patio doors to the rear private open space with steps down to the private open space. The rear of the site is under artificial grass covering and there is access via a gate at the south east corner of the lane. At the time of inspection, a car was parked within the rear private open space area.
- 1.2. On the opposite side of the lane to the rear south west end of the site there are five carparking spaces, the stated area of which is sixty-eight square metres and there is a front garden with a separate pedestrian entrance at the frontage onto Lower Salthill Road with a footpath to the front door.
- 1.3. The adjoining property to the north side at No 85 Lower Salthill Road is also a detached two storey building with front and rear gardens which at present is unoccupied and has been subject to some alterations. It is noted that a planning authority decision to refuse permission for retention of the dwelling on revised boundaries was upheld following appeal. (P. A. Reg. Ref 19/338 / PL 306763 refers.) There are no walls, fencing or hedgerow along the rear and side boundaries and the rear gardens had been cleared at the time of inspection. The property at No 83 to its east side is occupied as a dwelling unit which has been extended to the rear.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for single storey rear extensions to two ground floor apartments, Nos 1 and 2 along with new side elevation windows at ground floor level for both units. The stated floor area of the proposed extensions is thirty-three square metres whereas that of the existing building is 169 square metres. A one metre wide separation distance at the centre between the two extensions is also shown on the drawings. The side elevation windows are to be located mid-way along the side elevation for each ground floor

apartment to provide light to kitchens. The rear extensions would accommodate an additional bedroom for each unit and a utility room off a lobby at the rear.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 17th December, 2021 the planning authority decided to refuse permission based on two reasons.

According to Reason No 1, the rear communal space would be reduced in size and this would be contrary to the grant of permission under P. A. Reg. Ref 99/333 and, to section 11.3.1.(c) of the CDP according to which adequate private amenity space is required. The size scale and overall extent of the extensions would leave insufficient useable functional private amenity space at the site and would seriously injure residential amenities and depreciate value or properties.

According to Reason 2, the height mass and scale of the proposed development is excessive due to proximity to the northern boundary. The structure would be overbearing and would generate shadowing northwards on the amenity area of an adjoining dwelling resulting in serious injury to residential amenities and depreciation of value of property.

3.2. Planning Authority Report

- 3.2.1. According to the planning officer who recommends refusal of permission and who notes the planning history and prior refusal of permission, (See section 4 below) for alterations to the private amenity space at the rear the reduction in private amenity space would be contrary to the original grant of permission, to CDP standards and would cause obstruction of sunlight at adjoining building to the north due to proximity and height of the extension taking into account the finished floor level and projection beyond the rear building line to the north.

3.3. Third Party Observations

Objections were lodged by two parties in which issues of concern raised are that of potential for exacerbation of flooding of rear gardens in the area, visual

obtrusiveness associated with encroachment of rear building lines, overlooking from the proposed side elevation windows, potential for further subdivision resulting in additional units and increased demand for parking in the area.

4.0 Planning History

P. A. Reg. Ref. 99/333: Permission was granted for the subdivision of the building into three apartments.

P. A. Reg. Ref. 07/625: Permission was granted for retention of alterations at the rear of the roof and refused for alterations to the rear amenity area based on detrimental impact in the reduction of the private amenity space and alterations to the boundaries of the site on amenity of residents at the development and at adjoining properties.

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 subject to the zoning objective R: *“To provide for residential development and for associated support development which ensures protection of existing residential amenity and contribute to sustainable residential neighbourhoods.”*. The location is within the *“Established Suburbs”* the provisions for which are set out in section 2.6. There is recognition of potential for additional residential development subject to a suitable and compatible standard taking the proportions, character and amenities of existing development into account.
- 5.1.2. 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.
- 5.1.3. Development management standards are set out in chapter 11 and those for private open space are in section 11.3. and in section 11.3.1(c) provides for space which is in excess of a minimum of fifty per cent of the gross floor area of the residential unit and that it should, if practicable relate directly to the unit it serves. In certain

conditions private open space may be in in communal open space or private open space made up of communal open space balconies or terraces, at apartments. For extensions, an adequate level of private open space to to be retained on the site.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was lodged on behalf of the applicant on 24th January, 2022 in which it is requested that both reasons for the decision to refuse permission be overturned and that permission be granted. According to the appeal:

- In response to Reason 1, it is submitted that provision of additional internal accommodation for the two apartments should take precedence over private amenity space and that the proposal accords with section 11.3.1 (c) of the CDP. The existing ground floor two bed apartments are substandard at forty-three square metres in floor area each. The proposed extensions allow for an increase in floor areas for each unit to sixty square metres. As a result, the residential quality would be increased by the additional space and the units would comply with required minimum sizes for two bed apartments.

The private amenity space to be retained at the rear and which is enclosed by a 1.8 m high fence would be sixty-one square metre in area which is equivalent to 30.5 square metres for each unit. A subdivision can be provided if required and the double gates onto the lane can be replaced by two pedestrian gates. The private open space for the first-floor unit is provided in the form of the balcony. As parking is provided independently there is no requirement for this space to be used for parking. The space used for parking is in the ownership of the applicant. Revised site layout drawings are provided.

- In response to Reason 2 it is stated that the there is a level difference of 1.3 metres from the front to the rear of the site and that extensions are to be built at the same finished floor level as that of the existing ground floor and that the difference from the external ground level is 1.5 metres. The proposed extension adjoining the dwelling to the north side has a floor area of 16.62

square metres, overall height of 5.32 from the external ground level and 3.82 metres from the external ground level. The extension is small and would not generate significant overshadowing onto the amenity area of the adjoining dwelling.

6.2. Planning Authority Response

There is no submission from the planning authority on file.

7.0 Assessment

7.1. The issues within the two reasons for refusal of permission are assessed separately below having regard to the appeal followed by Environmental Impact Assessment Screening and Appropriate Assessment Screening.

7.2. Reason No 1.

- 7.2.1. With regard to Reason 1 attached to the decision to refuse permission, it is noted that it is acknowledged in the appeal that the existing units at ground floor level are substandard having regard to minimum standards provided for in the CDP. Increasing the quantum of internal space within the two units is not a justification for a reduction in the shared or communal private open space provision for the two units in this instance. (The quantum is circa fifty-five square metres.) A deterioration in quantum and quality of private open space is a particular concern.
- 7.2.2. The availability of private open space is considered to be particular importance and value if internal habitable accommodation is cramped and poor in amenity potential. This would be a particular concern where the occupancy includes small children and or residents who are based at home full time. It is also noted that the proposed insertion of side elevation windows, if not permitted would result in the units being highly dependant on artificial light for the interior if the proposed extensions are constructed.
- 7.2.3. The proposed development in which the two units at ground floor level would gain some additional space and would be reordered in layout would not mitigate and ameliorate the substandard accommodation to a satisfactory level. Furthermore, the

private space at the rear shared by the two dwellings is surrounded along the side and rear by a public laneway and as such it lacks privacy.

7.2.4. The applicant's proposed option for subdivision providing for separate spaces for each unit would not result in improved amenity. It is considered that proposed development constitutes substandard overdevelopment with poor amenity potential for the occupants. Furthermore, as pointed out in the report of the planning officer, the current proposal would be contrary to the split decision on the development proposed under P. A. Ref. Ref. 07/625 in which permission was also refused for changes that would have resulted in a reduction in the private open space provision for the ground floor units having regard to the original grant of permission under P. A. Reg. Ref. 99/333.

7.2.5. In view of the foregoing, it is agreed that permission should be refused based on Reason 1 attached to the decision of the planning authority on grounds of material contravention of the prior grant of permission under P. A. Reg Ref 99/333 and the section 11.3.1. (c) providing for adequate private open space in that insufficient functional private amenity space would be retained on the site resulting in serious injury to residential amenities and depreciation of property value.

7.3. Reason No. Two.

7.3.1. With regard to Reason 2 attached to the decision to refuse permission it is agreed with the planning officer that the proposed development, constructed at the floor level of the existing property, would lead to significant overshadowing of the property to the north resulting in diminution of the amenities of the rear private open space. Furthermore, it is considered that the extension for Unit 1 close to the party boundary line over considerable depth of the rear garden would be visually obtrusive and overbearing in views from the rear private open space of the adjoining property causing a sense of enclosure effect on the adjoining property.

7.3.2. It is noted that this adjoining property, No. 85 Lower Salthill Road, which is unoccupied at present but is a residential dwelling has been subject to alterations and that permission has been refused for retention of the dwelling on the site with revisions to the alterations to the boundaries as mentioned in para 1.3 above. (P. A.

Reg. Ref 19/338 / PL 306763 refers.) In terms of impact of the proposed development the effects on this property have been considered in the context of the zoning objective and its prior use and occupation as a residential dwelling which is not a lapsed or ceased use.

- 7.3.3. In view of the foregoing, it is agreed that permission should be refused based on Reason 2 attached to the decision of the planning authority on grounds of excessive height, mass and scale and overshadowing effect which is seriously injurious to the residential amenities of the adjoining dwelling and would depreciate its property value

7.4. Environmental Impact Assessment.

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

7.5. Appropriate Assessment.

- 7.5.1. Having regard to the scale and nature of the proposed development and to the location removed from any European Sites 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 refuse permission be upheld based on the following Reasons and Considerations

9.0 Reasons and Considerations

Having regard to the resultant reduction in quantum and quality of the private open space provision to serve the ground floor apartment units and, to the scale, mass and height of the proposed extensions, taking into account the depth along the rear garden close to the boundary, it is considered that the proposed development constitutes substandard overdevelopment with insufficient private open space being

retained on the site, an overbearing impact and which would overshadow the adjoining property to the north to an undue degree. Therefore, the proposed development would materially contravene the original grant of permission under P. A. Reg Ref 99/333, would be contrary to section 11.3.1. (c) of the Galway City Development Plan 2017-2023 providing for an adequate area of private open space in that insufficient functional private amenity space would be retained on the site. As a result, the proposed development would seriously injure the residential amenities of the existing residential units on the site, the residential amenities of the adjoining property to the north, would depreciate property value and would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
17th May, 2022.