



An
Bord
Pleanála

Inspector's Report ABP 313620-22.

Development	Change of use from retail and community use to residential use. Construction of a four bed two storey dwelling incorporating the existing cottage, replacement of roof and insulation. Removal of existing structure at rear of site and relocation of site entrance and associated works.
Location	Fairhill Road Upper, The Claddagh, Galway.
Planning Authority	Galway City Council
P. A. Reg. Ref.	22/6.
Applicant	Cathriona Walsh.
Type of Application	Permission.
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Patrick and Michael Lynskey
Date of Site Inspection	12 th September, 2022.
Inspector	Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The site has a stated area of 0.0685 hectares and is located in The Claddagh a mature residential area comprising former local authority housing within Galway. The stated floor area of the existing buildings which are located at the rear western end of the site is 169.5 square metres.
- 1.2. The site is relatively narrow in width and deep with the existing structure positioned towards the rear western end with curtilage parking to the front. Hedgerows are located along the site boundaries with a single storey corner site dwelling to the south side and an apartment development (Fairhill Court) to the north side. The western boundary is adjacent to rear gardens of residential development along St Dominic's Road. The area otherwise is characterised by one and two storey houses and cottages.

2.0 Proposed Development

The application lodged with the planning authority indicates proposals for: -

Change of use from retail and community use to residential use.

Construction of a four bed two storey dwelling incorporating the existing cottage, replacement of roof and insulation.

Removal of the existing structure at rear of site which adjoins the rear gardens of the properties on St. Dominic's Road,

relocation of site entrance and associated and ancillary site works.

The stated floor area of the existing structure (The former Craft centre) at the rear to be demolished is twenty-two metres, and that of the floor area of existing structure to be retained is 147.5 square metres. The stated floor area of the proposed new build is 172.3 square metres. The footprint of the dwelling extends from the front of the site at a setback of circa 4500 mm (providing for on-site parking,) as far as and incorporates and links into the existing cottage. The workshop/studio incorporates a working space internal floor area of 9900 mm x 5800 mm along with storage spaces at first floor and ground floor level and WC facilities and an attic level overhead.

- 2.1. The application was subject to a further information request which was issued on 22nd March, 2022 by the planning authority in respect of: -

- (a) The nature and extent of the proposed use of the accommodation having regard to the location within a Rent Pressure Zone and as to the possibility that the dwelling could be made available for short-term letting.

According to the response lodged on 1st April, 2022, the applicant does not intend to make the development available for short-term letting or for subdivision and that she proposes a single dwelling unit in which the existing cottage is to be used for a master-bedroom and nursery.

- (b) Confirmation as to the intended use of the workshop located at the rear of the site. According to the response be made available for short-term letting.

According to the response lodged on 1st April, 2022 the applicant intends to use the workshop as a quite private creative space for painting, and arts and crafts and that it not intended that it would be accessible by the public.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 28th April, 2022 the planning authority decided to grant permission for the proposed development.

Under Condition No 4, use for short-term letting is excluded.

Under Condition No 5, use of the workshop is confined to domestic use, commercial use and access by the public is excluded.

Under Condition No 13, exempt development entitlements are excluded.

3.2. Planning Authority Reports

- 3.2.1. The planning officer notes background to the site involving commercial and industrial uses and the planning history which includes a prior grant of permission for higher density residential development in his report, the CDP policies and objective for Inner Residential Neighbourhoods and the surrounding built environment and context which he discusses in detail. He considers the proposed development of a

four-bedroom dwelling interconnected with the existing structure to be acceptable and appropriate to the site, its environs and the streetscape although he remarks that that the dwelling and workshop is a sizeable development with a good site layout, acceptable private open space provision and satisfactory separation distances from boundaries.

- 3.2.2. In his supplementary report, the planning officer indicates satisfaction as to the adequacy of the details within the further information submission.
- 3.2.3. The reports of the Drainage Division and of Irish Water indicate no objection subject to conditions of a standard nature.

3.3. Third Party Observations

- 3.3.1. Submissions were lodged by four parties including the Appellant Party who lodged submissions in connection with the application submission and on the further information submission in which the objections raised relate to the footprint, scale and intensity of development and the nature of use concerns being expressed in relation not the use of the workshop studio and as to possible intentions for subdivision or short term letting, the substitution of one carparking space for the four existing carparking spaces, presence of a swallow hole within the site and need for archaeological investigation due to the Claddagh's historic location .

4.0 Planning History

There is no extant grant of planning permission for the site which has a planning history extending back to the 1980s. There is a more recent planning history extending back to 2008 according to the planning officer report. Under P. A. Reg. Ref. 08/253 Permission was refused for a detached house and three town houses, a pedestrian entrance and subsequently permission was granted for a detached house and two town houses, a pedestrian entrance under P. A. Reg. Ref. 09/81

Under P. A. Reg. Ref. 13/176 Permission was granted for change of use of the existing building from industrial to retail and community use including a craft shop and coffee dock. The duration of the grant of permission was limited to a three-year period with expiry on 31st December, 2016.

Subsequently under P. A. Reg. Ref. 15/008 Permission was granted, for a limited period with expiry on 31st December, 2016, for reconstruction in a traditional model of a Claddagh Cottage for use as a visitor centre in conjunction with the existing heritage and craft use permitted under P. A. Reg. Reg. 13/176.

Under P. A. Reg. Reg. 16/296 Permission was granted for retention of the Claddagh Craft/Arts Centre and Katies Cottage and Permission refused for additional activities.

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.”*

5.1.2. The location is also within an area designated under section 2.7 as *“Neighbourhood- Inner Residential Areas”* whereby infill should have regard to scale and proportions of existing buildings, building lines and height and mass in relation to the street.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was lodged by Patrick Lynskey, in conjunction with Michael Lynskey of No 22 Fairhill Road Upper on his own behalf on 20th May, 2022. According to the appeal: -

- The reply regarding the applicant’s use of the proposed workshop is vague. The design is very adaptable. The floor area at 322 square metres is excessive for normal domestic use and the number of external doors and the design give rise to concerns. The curtilages of the adjoining properties should not be put at risk by the excessive footprint. The quality of open space is affected by the footprint and, a concrete platform replacing the existing landscaped gardens

- There are errors in the planning officer report in that he indicates a site size with an additional five square metres and as a result the plot ratio is outside the 0.46:1 figure provided in the CDP as it is 0.47:1. The development should have been reduced in size.
- The ability to comment on the further information was hindered by the planning authority in that there was only a fourteen-day period in which observations could be submitted. This interfered with the appellant's democratic rights.

6.2. Applicant Response

6.2.1. A response to the appeal was received from KMF Design on 16th June, 2022 on behalf of the applicant in which it is claimed that the appeal is without substance and that those issues raised were addressed by the planning officer in his assessment. According to the appeal:

- The applicant does not intend to make the dwelling available for short-term letting which along with subdivision has been precluded under the conditions attached to the planning officer decision.
- The modular form which breaks down the mass of the dwelling is a carefully considered design response to the surrounding context. It mediates between the single storey dwelling and the apartment block, responds to the two storey dwellings opposite and maintains the established building line. The single storey elements at the rear respond to the single storey dwellings which include the cottage. A well-defined courtyard is provided which benefits planting retention and amenities. It responds to section 2.7 of the CDP, *"Neighbourhoods and Inner Residential Areas"* and Policy 9.5 *"Sustainable Building Design and Construction"*.
- The cottage which is to be retained as a creative space/ workshop for the applicant's own use, the option for removal of it having been considered and rejected for cost reasons and to ensure protection from damage for adjoining properties.

- The contention that the stated plot ratio (0.47:1) is incorrect is rejected. It is a reasonable plot ratio and of note is the exclusion of extensions under Condition No 13 without a prior grant of permission. The CDP plot ratio, (0.46:1) in section 11.3.1.(a) is not to be applied as an exact figure with higher densities being appropriate to some inner residential areas and established suburbs depending on context. The adjoining apartment complex has a plot ratio of 0.86:1
- The contention in that the appellant was not promptly notified of the further information submission which was not deemed significant with the planning authority not being statutorily required to do so.

6.2.2. It is submitted that the proposal respects existing built forms and is appropriate to the context and streetscape, involves reuse of an existing structure and provides an additional dwelling and does not cause overlooking or overshadowing,

6.3. **Planning Authority Response**

6.3.1. There is no submission from the planning authority on file.

7.0 **Assessment**

7.1.1. It is noted from the planning officer report on the application lodged under P. A. Reg. Ref 16/296 that the site has formerly been in a range of non-conforming uses, initially as Coxes Garage and subsequently in various retail and community uses and it also has an extensive planning history. The current proposed use, as a single dwelling unit with an ancillary non-commercial use of the workshop solely by the occupant as a creative arts studio is in principle consistent with the zoning objective and can be regarded as an infill residential development were close to adjacent residential uses.

7.1.2. The appellant's concerns with regard to the proposed studio workshop incorporated into the development are considered reasonable. The floor area dedicated to working space and the extent of storage space is more indicative of an intensity greater than that which would be associated with a sole non-commercial creative arts type use as described in the further information submission. There is no objection in principle to a small-scale studio use by an occupant of the dwelling

which is ancillary to the residential use and not separated from or sublet and or operated on a commercial basis. As such the applicant's statement does appear at variance with the amount of the studio workshop and storage space to be provided.

- 7.1.3. There is no objection to the residential dwelling which although considerable with a relatively large footprint can be accommodated with private open space of an adequate size, layout and amenity value on the site without undue negative impact on residential amenities of adjoining properties with no issues as to undue overlooking or overshadowing arising. Contentions as to excessive plot ratio in the appeal are not considered to be at issue in that while the plot ratio may slightly exceed the 0.46:1 provided for in the CDP (Section. 11.3.1) there is no substantive qualitative of other planning basis that would warrant reconsideration of the proposed development in this regard. To this end, there is no objection to the form, mass and height, a landing window which could be at issue being fitted with obscure glazing. It is agreed with the planning officer that visually the structure is a compatible an appropriate insertion between the single storey dwelling to the south and apartment building to the north as well as being compatible within the surrounding area comprising mainly single and two storey dwellings.
- 7.1.4. The remarks of the appellant with regard to late notification of the lodgement of the further information submission by the planning authority is noted but it is considered that the appellant party was not disadvantaged or in any way precluded from participation in the planning process at application stage.
- 7.1.5. On review on a de novo basis, there are no concerns as to any other considerations regarding the proposed development.

7.2. Environmental Impact Assessment.

- 7.2.1. 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.

7.3. Appropriate Assessment.

- 7.3.1. 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

- 8.1. In view of the foregoing, while there are reservations about the size of the space proposed for the studio workshop use and as to the sufficiency of details of the applicant's proposals in this regard, it is considered that permission can be granted restrictions imposed by condition which are similar to those attached to the planning authority decision based on the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the Galway City Development Plan 2015-2021 according to which the site location is within a Neighbourhood Residential Area and subject to a zoning objective for residential development, to the established pattern and character of development in the area and to the planning history for the site it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of residential development in the area or the visual amenities of the area 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 1st April, 2022 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 proposed studio/workshop use shall be confined to use which is ancillary to the residential use of the main dwelling by the occupant and shall exclude commercial use or subletting or sale separately to third parties without a prior grant of planning permission from the planning authority or An Bord Pleanala following appeal

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

3. The dwelling shall be occupied as a single dwelling unit only and it shall not be subdivided and or used for short-term letting without a prior grant of planning permission from the planning authority or An Bord Pleanala following appeal and, if and when it is no longer required for such occupancy, the use shall be confined to use associated with the residential use of the main dwelling.

Reason. In the interest of clarity, the protection of the supply of housing stock for long term residential occupation, having regard to the location within a designated Rent Pressure Zone, residential amenities and the proper planning and sustainable development of the area.

4. The developer shall submit to, and agree in writing with, the planning authority details of all the materials, textures and colours for the external facades including fenestration and shall implement the agreed works within six months of the date of this order.

Reason: In the interest of residential amenities.

5. 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.

6. 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.

7. 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
20th September, 2022