



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313765-22

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<b>Development</b>	Demolition of street facing building, removal of shipping container, construction of single storey extension, signage, car parking, new entrance gate and associated site works
<b>Location</b>	Modern Tyres, 166 Bohermore, Galway
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	21408
<b>Applicant</b>	Modern Tyres
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Michael Sheridan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	21 <sup>st</sup> December 2022

**Inspector**

Ian Campbell

## 1.0 Site Location and Description

- 1.1. The appeal site, 166 Bohermore, Galway, is located c. 500 metres north-east of the centre of Galway (Eyre Square). The sites to the immediate north and south accommodate terraced dwellings. The adjoining area is residential in character.
- 1.2. A tyre business/depot operates from the appeal site. A garage building (stated floor area c. 250 sqm) is located to the rear/east of the site. A single storey store is situated to the front of the appeal site providing frontage onto Bohermore. This building is positioned flush with the neighbouring property to the south, a two storey terraced dwelling. A palisade security gate/fence forms the front boundary of the appeal site onto Bohermore.

## 2.0 Proposed Development

- 2.1. The proposed development comprises;
  - Demolition of a store building (c. 43 sqm);
  - Removal of a shipping container<sup>1</sup>;
  - Single storey extension (c. 63 sqm);
    - accommodating a waiting area, office and staff area;
    - positioned flush with southern site boundary and attached to garage;
    - with mono-pitch roof, maximum height 3.3. metres.
  - 6 no. car parking spaces;
  - New entrance gate/front boundary treatment;
  - Signage to front/west elevation of garage building;
  - Changes to front/west elevation of garage building;
  - Associated site works.

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<sup>1</sup> At the time of my site visit there was no shipping container present on the appeal site.

2.2. A cover letter submitted with the planning application states that the proposed development is required as the existing customer waiting area, a shipping container, is substandard.

### 3.0 Planning Authority Decision

#### 3.1. Request for Further Information

Prior to the decision of the Planning Authority to GRANT permission for the proposed development, the Planning Authority requested Further Information.

##### 3.1.1. Further Information was requested on the 14<sup>th</sup> February 2022 as follows:

- Submit alternative design for the front boundary of the site.
- Submit CCTV of existing foul sewer and confirm whether the proposed building will be constructed over the foul sewer.

##### 3.1.2. Further Information submitted on the 29<sup>th</sup> March 2022 as follows:

- Front boundary treatment revised to a stone wall with decorative security railing atop and access gates.
- Details of existing drainage indicated on Drawing MT002, including invert levels following CCTV survey. Revisions to drainage proposal indicated on Drawing MT007.

#### 3.2. Decision

The Planning Authority issued a Notification of Decision to GRANT Permission on the 25<sup>th</sup> April 2022 subject to 11 no. conditions.

**C4** - requires details of a replacement foul sewer to be agreed with the Planning Authority.

#### 3.3. Planning Authority Reports

##### 3.3.1. Planning Reports

The first report of the Planning Officer includes the following comments;

- The site is zoned 'R' (Residential) and the existing use is a non-conforming use. Extensions to or improvements of premises accommodating non-conforming

uses may be granted where the proposed development would not be injurious to the amenities of the area.

- The proposed new gate and metal fence, which appears to comprise of palisade security fencing, would provide an unacceptable interface with the public realm and the applicant is requested to submit an alternative design. A stone faced wall as a base, with decorative security railings above is suggested.
- Irish Water have requested that the applicant provide CCTV of the existing foul sewer and to indicate whether the proposed building would be constructed over this sewer.

Further Information recommended.

3.3.2. The second report of the Planning Officer includes the following comments;

- Revised front boundary deemed acceptable, details to be agreed.
- Applicant's response to Further Information request considered acceptable to Irish Water.
- The proposed development would not have an adverse impact on residential amenity.

The report of the Planning Officer recommends a grant of permission consistent with the Notification of Decision which issued.

3.3.3. Other Technical Reports

None received,

#### 3.4. **Prescribed Bodies**

Irish Water – report recommends CCTV survey of foul sewer and confirmation of whether proposed development will be constructed over foul sewer. The report of the Planning Officer refers to a second subsequent report stating no objection to the proposed development however there is no second report from Irish Water on the file.

### 3.5. **Third Party Observations**

None received.

## 4.0 **Planning History**

### Appeal Site

ABP. Ref. 313512-22 – Leave to appeal GRANTED to Michael Sheridan in respect of development comprising demolition of street facing building, removal of shipping container, construction of single storey extension, signage, car parking, new entrance gate and associated site works.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. The proposed development was considered by the Planning Authority under the Galway City Development Plan 2017-2023 however the Galway City Development Plan 2023-2029 came into effect on the 4th January 2023 and is now the relevant development plan.

5.1.2. The appeal site is zoned 'Residential' (R) under the Galway City Development Plan 2023 – 2029, 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*'.

5.1.3. The provisions of the Galway City Development Plan 2023-2029 relevant to this assessment are as follows:

Section 11.1 - Many legally established uses exist in locations where they do not conform to the designated land use zoning objective set out in the Plan. Extensions to or improvements of premises accommodating these non-conforming uses may be granted, where the proposed development would not be injurious to the amenities of the area, and would not prejudice the proper planning and sustainable development of the area.

## 5.2. Natural Heritage Designations

The appeal site is not located within or close to any European Site.

## 5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a third-party appeal against the decision to grant permission. The grounds for appeal can be summarised as follows;

- Potential impact on the structural integrity of 164A and 164B Bohermore arising from the works required to comply with Condition no. 4 of the grant of permission.
- Development entails the proposed building being constructed over the main public foul sewer for the Bohermore area, which also serves 164A and 164B Bohermore. Works to the existing manhole could potentially cause damage to the existing main sewer pipe which runs through 164A and 164B Bohermore.
- Existing clay foul sewer pipe incorrectly shown as 150mm diameter whereas the correct size is 225mm.
- Potential impact on the structural integrity of the adjoining property 164A and 164B Bohermore arising from the construction of the proposed extension along the boundary with 164A Bohermore. Specific concerns noted in relation to the proposal to demolish the existing store building and the resultant exposure of the side gable of 164A Bohermore, which it is stated comprises an un-plastered block wall, and the consequent potential for damage to occur to 164A Bohermore. Concerns also expressed in relation to the visual impact arising from this element of the proposal.

- Proposed boundary treatment is not keeping with the existing streetscape and will impact the value of 164A and 164B Bohermore. The original proposed design was more consistent with the existing streetscape. The design of the front boundary would result in rubbish being discarded on top of it.
- Proposed extension would de-value 164A and 164B Bohermore. Specific concerns noted in relation to the high level windows would result in overlooking of the rear garden of 164A and 164B Bohermore; that the slope of the roof of the proposed extension would result in rain water run-off into 164A Bohermore; refurbishment of the existing annex should be considered, and should a new building be built closer to the front of the site, its depth should match that of 164A and 164B Bohermore.
- Existing dividing wall between the appeal site and 164A Bohermore does not extent the full length of the boundary between both properties. The documentation submitted with the planning application does not indicate this wall being constructed out to the street/front building line.
- Potential for vehicle to reverse into the gable wall of 164A Bohermore.
- Access to the garage building will be restricted by the location of the proposed car parking spaces within the appeal site.
- Alternative design options suggested.
- Following conditions suggested;
  - Submission of structural report of 164A and 164B Bohermore in advance of development and requirement that an engineer supervise works to the gable wall with 164A Bohermore and of works to the sewer pipe.
  - The dividing wall between the appeal site and 164A Bohermore be extended to the street.
  - The proposed extension and front boundary should not be attached to 164A Bohermore.
  - No oversailing of 164A Bohermore;
  - Barriers to prevent vehicles damaging the gable wall of 164A Bohermore;



- Details of how run-off from the roof of the proposed extension is to be managed.
- Details of tyre storage.

## 6.2. **Planning Authority Response**

None received.

## 6.3. **Observations**

None received.

## 7.0 **Assessment**

7.1. I consider the main issues in relation to this appeal are as follows:

- Principle of Development
- Impact on Residential Amenity
- Impact on Visual Amenity/Streetscape
- Other Issues
- Appropriate Assessment

## 7.2. **Principle of Development**

7.2.1. The appeal site is zoned 'Residential' (R) under the Galway City Development Plan 2023 – 2029. The appeal site accommodates a tyre business and as such the existing use is a non-conforming use in the context of the prevailing land-use zoning. In respect of non-conforming uses, Section 11.1 of the Galway City Development Plan 2023-2029 provides that, where established uses do not conform to the designated land use zoning objective, extensions/improvements may be granted where the proposed development would not be injurious to the amenities of the area. Having regard to the nature and extent of the proposed development I consider the principle of the proposed development to be acceptable. Potential impacts of the proposed development on the amenity of the area are addressed in detail below.

### **7.3. Impact on Residential Amenity**

- 7.3.1. I consider that the main potential impacts from the proposed development arise in terms of overlooking and overbearance on 164A Bohermore from the proposed single storey extension.
- 7.3.2. In respect of overlooking, the third party raises concerns in relation to the 2 no. proposed windows on the side/south elevation of the proposed single storey extension. I note that these windows serve an office and a staff room, have a lower cill level of 2.47 metres, and will be positioned marginally above the boundary wall between the appeal site and 164A Bohermore. Notwithstanding the high level nature of the windows, given their location in proximity to the rear garden of 164A Bohermore I consider that a perception of overlooking exists. It is also unclear based on the information submitted whether these windows are openable. Should the Board be minded to grant permission for the proposed development, I recommend that the 2 no. high level windows on the side/southern elevation of the proposed extension be omitted. I note that these rooms are not served by any windows on the northern elevation and in order to provide light/ventilation roof lights may be provided to serve these rooms.
- 7.3.3. Noting the single storey nature of the proposed extension and the extent to which it projects above the boundary wall between the appeal site and 164A Bohermore, i.e. c. 1 metre, I do not consider that the proposed development would result in any significant overbearance of 164A Bohermore.
- 7.3.4. Given the location of the proposed extension on the appeal site I do not consider that there is any potential for significant impacts on the property to the immediate north of the appeal site, or any other property in the vicinity. I do not consider the proposed signage, alterations to the front elevation of the garage, front boundary treatment or car parking to give rise to any significant impacts on the residential amenity of adjacent property. Additionally, an assessment of the impact of the use of the site on the amenity of adjacent property is not necessary noting the existing established commercial use of the site, and importantly the extent of the proposed development, which I do not consider would result in a significant intensification in the use of the site.

#### **7.4. Impact on Visual Amenity/Streetscape**

- 7.4.1. In my opinion the scale and design of the proposed extension is acceptable and would represent an improvement in the context of the wider streetscape compared to the existing annex. Similarly, I consider that the removal of the security fence and replacement with a stone wall with railings mounted atop will also improve the appearance of the site within the immediate streetscape. I consider the signage and elevational changes to the garage to be acceptable noting the commercial nature of the use which is accommodated on the appeal site. In summation, I do not consider that the proposed development would have any significant negative impacts on the visual amenity of the area, or on the streetscape in the immediate vicinity of the appeal site.

#### **7.5. Other Issues**

##### **7.5.1. Replacement of Foul Sewer**

Concerns are raised by the third party regarding the works which are required on foot of Condition no. 4 of the grant of permission, specifically that a replacement foul sewer is provided. Based on the information on the file it appears that there is a foul sewer located within the appeal site which serves the appeal property and also adjoining properties, as is commonly the case with established development in urban areas. The replacement sewer required under Condition no. 4 will be located within the confines of the appeal site and as such it is unclear how damage would be caused to third party property. Should the Board be minded to grant permission for the proposed development I recommend that a condition is attached requiring details of appropriate haunching for any replacement pipe which is to be located beneath the extension, with detail to be agreed with the Planning Authority prior to commencement of development.

##### **7.5.2. Gable Wall**

The third party raises concerns in relation to the potential for damage to occur to the gable wall of 164A Bohermore during the course of the proposed works. The existing annex appears to be constructed flush with the gable wall of 164A Bohermore. The

proposal entails the construction of a wall on the inner side of the site boundary, extending the entire length of the site up to the interface with Bohermore. Given the nature of the proposal, and specifically the proximity of development to the gable wall of No. 164A Bohermore, I recommended that a pre and post construction survey be submitted to the Planning Authority in advance of development. I note that the issues raised by the third party, specifically the issue of development/guttering etc. oversailing 164A Bohermore, and the potential exposure of the gable wall of 164A Bohermore after the annex is demolished to be civil issues to be resolved between the applicant and appellant having regard to the provisions of Section 34 (13) of the Planning and Development Act 2000, as amended, and as such are outside the scope of this appeal.

#### 7.5.3. Surface Water Run-Off

The potential for run-off from the roof of the proposed extension to enter the third parties property is raised. The roof of the proposed extension slopes towards the boundary with 164A Bohermore and in this regard I note that it is unclear how run-off from the roof of the extension is to be managed. Should the Board be minded to grant permission for the proposed development I recommend that a condition is attached requiring the disposal of all run-off from the roof of the extension to be disposed of within the appeal site.

#### 7.5.4. Barriers

The third party has expressed concerns in relation to potential damage to occur to the gable wall of 164A Bohermore from vehicles parking along the southern site boundary. I note that vehicles regularly park and manoeuvre in proximity to boundary walls and buildings and I do not consider that it is necessary to require the proposed development to incorporate barriers at the interface between areas of car parking and third party property.

### 7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and limited scale of the proposed development, to the serviced nature of the site, the developed nature of the landscape between the site and European sites and the lack of a hydrological or other pathway between the site

and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

## 8.0 Recommendation

8.1. Having regard to the above it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

## 9.0 Reasons and Considerations

9.1. Having regard to the existing use of the site, and to the provisions of the Galway City Development Plan 2023-2029, including Section 11.1 in relation to non-conforming uses, and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would, therefore, 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 plans and particulars submitted to the Planning Authority on the 29 <sup>th</sup> March 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.  <b>Reason:</b> In the interest of clarity.
2.	Prior to commencement of development the applicant shall submit revised floor plans and elevations to the Planning Authority for its written agreement indicating the omission of the 2 no. windows serving the office and staff room

	<p>on the south elevation of the extension. 2 no. roof lights may be provided in lieu of these windows if desired and details of roof lights shall be agreed with the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> To protect the amenity of adjoining property.</p>
3.	<p>Prior to commencement of development the applicant shall submit to the Planning Authority for its written agreement, a pre and post construction survey of the gable wall of No. 164A Bohermore carried out by an suitably qualified engineer.</p> <p><b>Reason:</b> To record the condition of the gable wall of No. 164A Bohermore prior to and post development.</p>
4.	<p>Prior to commencement of development the applicant shall submit the following to the Planning Authority for its written agreement</p> <p>(i) Details of the replacement 225mm clay foul sewer.</p> <p>(ii) Details of protective haunching for any section of foul sewer pipe which is to be located beneath the extension.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the Planning Authority for such works and services. Surface water run-off from the roof of the extension shall be disposed of within the site.</p> <p><b>Reason:</b> In the interest of public health.</p>
6.	<p>Details of the front boundary wall and railings shall be agreed in writing with the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
7.	<p>With the exception of the signage hereby permitted, no additional signage shall take place on/above the garage building, extension, or on the front boundary without a prior grant of planning permission.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>

8.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
9.	<p>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.</p> <p><b>Reason:</b> 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.</p>

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Ian Campbell  
Planning Inspector

7<sup>th</sup> March 2023