



An  
Bord  
Pleanála

## Inspector's Report ABP 313795-22.

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<b>Development</b>	Demolition of granny flat at rear and construction of two storey extension along with alterations to elevations roof and grounds.
<b>Location</b>	No 16 Canal Rod, Galway.
<b>Planning Authority</b>	Galway City Council.
<b>P. A. Reg. Ref.</b>	22/70.
<b>Applicant</b>	Jakki Rocca
<b>Type of Application</b>	Permission
<b>Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Tamas Nemeth
<b>Observer</b>	
<b>Date of Inspection</b>	9 <sup>th</sup> September, 2022.
<b>Inspector</b>	Jane Dennehy

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## **1.0 Site Location and Description**

1.1. No 16 Canal Road is a two-storey terraced house which has been extended at the rear and at which there is a granny flat at the rear on a site with a total stated area of 200 square metres. It is located the west side of Canal Road Lower and the Eglinton Canal which is a popular amenity area and pedestrian route. The dwellings within the immediate vicinity to either side are similar two storey houses many of which have been extended to the detached structure at the rear. There are front gardens, some of which have been converted for front curtilage parking and there is parallel is on street parking along Lower Canal Road.

## **2.0 Proposed Development**

2.1. The application lodged with the planning authority indicates proposals for demolition of the existing granny flat structure at the rear and construction of an extension along with alterations to the existing dwelling. The extension to be constructed comprises a part two storey and part single storey extension with a mono pitch roof which has height rising from circa 2.7 metres to the north side to circa 3.5 metres at the south side. It extends to a distance of 8.5 metres beyond the rear building line. The footprint is just inside the party boundary with No 15 to the north side and a setback from the party boundary to the south the separation distance of which, at its nearest point is circa one metre. The first-floor element which includes alterations to the existing has an approximate floor are of eight square metres whereas the ground floor extension has a stated floor area of forty-four square metres. The total stated floor area for demolition is 47.5 square metres with an area of 117 square metres of the total stated floor area of 164.5 square metres for the existing buildings

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated, 18<sup>th</sup> May, 2022 the planning authority decided to grant permission subject to conditions which include the following requirements:

Condition No 2: Works adjacent to party walls which are to include propping up, to be supervised by a suitably bonded engineer who is to submit a report as to best practice following completion for written agreement with the planning authority.

Condition No 3: A landscaping plan, to include mitigation for loss of foliage at granny flat, tree protection and soft and hard landscaping to be submitted for written agreement with the planning authority.

Condition No 4: A certificate of satisfactory completion of the landscaping works to be submitted for written agreement with the planning authority.

Condition No 11: Exclusion of use of the dwelling for short-term letting purposes.

Condition No 12: Exclusion of exempt development entitlements.

### **3.2. Planning Authority Reports**

- 3.2.1. The planning officer notes the plot ratio would increase from 1.72:1 for the existing development to 1.74:1 there being a net increase of five square metres to 170 square metres in total floor area if permission is granted. He considers the private open space provision which includes a patio to be satisfactory but that a landscaping plan is warranted. The design, scale, height and form to be acceptable in assimilation with the existing dwelling and compatibility with surrounding development. An increase in early morning overshadow effect on the property at No 15 to the north that would result from the proposed development is stated to be insignificant taking the existing development into account. The planning officer notes that there is no potential for overlooking. The employment of a structural engineer to ensure protection of the party and boundary walls and provided certification is recommended.

### **3.3. Third Party Observations**

Objections were lodged by the occupants of the adjoining properties to either side. The issues raised include contentions as to excessive site coverage, height, scale, impacts on and risk to party boundaries, potential for adverse impact due to loss of planting adjacent at the granny flat to be demolished.

## 4.0 Planning History

There is no record of planning history for the site.

## 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

An appeal was lodged by Tamas Nemeth of the adjoining property at No 15 Lower Canal Road on his own behalf on 21<sup>st</sup> April, 2022 in which it is stated that there is no objection in principle to development of an extension, but the proposed development is not acceptable. According to the appeal:

- The proposed development is excessive in height and in length and is overbearing in impact on the appellant party's property. The two-storey extension is completely out of character for the area. The length and height as proposed has not been permitted elsewhere along the terrace. The structure at the rear at No 15 is a small granny flat with a length of seven metres. It is not a detached garage. The original characteristic of two storey blocks with a floating concrete roof has been retained in the terrace. There is no two-storey extension at No 15 and there are no two storey extensions beyond the bathroom blocks or increase in height above the eaves line.

- The first-floor rear extension, due to height would have an overbearing and tunnel effect between the two properties. It would have an overshadowing effect on private amenity area and living room at No 15 and the extension at first floor level to the rear and towards No 17 is unacceptable in impact.
- The proposed development is excessive in scale relative to the adjoining properties and is out of character with the area.
- The proposed development would cause undue overshadowing on the appellant party's property. The shadow study is misleading as the structures and amenity space within No 15 are incorrectly placed and an inaccurate sun path is used. demonstrate that at a one metre elevation at the boundary. Massive blockage of sunlight would occur in April and June. Photographs with annotations are included to support the Appellant's claim.) The shadow length should "grow 1.7 times simple math" and this should be shown in the shadow study.
- Private open space, (exclusive of carparking space) is deficient as it is less than thirty-five per cent. Reference is made to section 11.3.1. (c) of the CDP providing for a rate of not less than 50% of the gross floor area.
- There are severe implications for the party boundary which are unresolved and there is serious concern as to safety and impacts of the proposed structural works. Consent was not given for any works affecting the chimney, common bathroom block which has common weight bearing walls and a floating concrete roof and the boundary walls. Removal of the roof is not acceptable. The chimney stack is shared between the two properties and in addition it may damage the velux window support at No 15, details of which were not included in the application drawings. The applicant should also have sought and paid for legal advice about these issues.
- The proposed two storey extension is not consistent with the Building Regulations as it is higher than the rear wall of a terraced house. It is too close to the boundary with No 15 in that it is to be built just inside it and is far less than two metres from it.
- There are errors in the application drawings which are misleading. For No 15, the extension footprint and size are inaccurate, the granny flat at No 16 is

oversized, amenity space is undersized and a chimney stack and velux windows are not included.

## 6.2. **Applicant Response**

There is no submission from the applicant on file.

## 6.3. **Planning Authority Response**

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

## 8.0 **Assessment**

8.1. The appellant party's contentions as to inaccuracies in the application drawings are noted. However, the details provided with the application are considered adequate to facilitate a comprehensive assessment of the proposed development and determination of a decision.

8.2. The issues central to the determination of a decision can be considered below under the following sub headings: -

First Floor Extension

Ground Floor Extension

Environmental Impact Assessment.

Appropriate Assessment Screening.

### 8.3. **First floor extension.**

8.3.1. It is considered that the first-floor extension in conjunction with the proposed alterations to at the rear, is unacceptable, in terms of overbearing impact on the Appellant party's property due to its height above the eaves, notwithstanding the limited additional depth beyond the original rear building line. However, the potential overshadowing effect, for the adjoining property at No 15, the appellant party's property, relative to existing shadow effects, it is considered, would be marginal. It is considered highly unlikely that the effects directly attributable to the proposed development would fall below minimum standard set out in and as such a

more sophisticated shadow study for a development of the nature proposed would be unwarranted.

- 8.3.2. In addition, the concerns as to the structural implications on the adjoining property are reasonable. While it is considered that further assessments may be required with regard to the details of the proposed methodologies etc. to be employed. Although resolution of any dispute over these matters is outside the scope of the planning remit it is not fully apparent that it can be confirmed, based on the details that are available in connection with the application and appeal that a grant of permission for this element of the development could be successfully implemented without undue adverse impacts and, consequent potential for diminution of the value of the adjoining property. It is therefore considered that the proposed first floor extension is unacceptable.
- 8.3.3. Further to review of the plans, it appears that alternative options that would provide for a modest for an increase in and reordering of the layout of the internal floor area at first floor level could be considered.

#### 8.4. **Ground floor extension**

- 8.4.1. The ground floor extension, which is to have a mansard roof extending at the lowest height of 1.7 metres adjacent to the appellant party's property and increasing to a height of 3.5 metres adjacent to the property to the south, would not cause any undue adverse impacts on residential amenities by reason of height, form or other overbearing or adverse visual impact on the appellant party property or the property to the south side at No 17. The private open space provision, exclusive of the area to the front to be allocated to on-site parking is considered acceptable in size, configuration and quality. The reference to section 11.3.1. (c) of the CDP in which it is indicated that for residential development an area equivalent to or over fifty per cent of the floor area of the site is required for development of a dwelling is noted. The current proposal is for a residential extension and the private open space is considered to be satisfactory.
- 8.4.2. There is no objection to the footprint both in terms of proposed length and the build up to the party boundary on the north side and off set from the south party boundary. However, it is agreed with the planning officer that a condition is required for a condition to be attached providing for employment of a suitably qualified engineer to

assess, provide for protective measure such as underpinning, oversight and certification of the party boundaries.

#### **8.5. Environmental Impact Assessment.**

- 8.5.1. 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.

#### **8.6. Appropriate Assessment.**

- 8.7. 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

### **9.0 Recommendation**

- 9.1. Given the foregoing, it is recommended that permission be granted subject to the proposed first floor extension being omitted by condition. Reasons and Considerations and Conditions are set out below.

### **10.0 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 and to the established pattern and character of development in the area it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of residential development in the area and, would be in accordance with the proper planning a and sustainable development of the area.

### **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 first-floor extension shall be omitted in entirety. Revised plan section and elevation drawings for the proposed ground floor extension exclusive of the first-floor extension shall be submitted and agreed in writing with the planning authority prior to the commencement of the development.

**Reason:** In the interest of the protection of the residential amenities of the adjoining property area.

3. The dwelling in conjunction with the proposed extension 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 Pleanála 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  
21st September, 2022.