



An
Bord
Pleanála

Inspector's Report

ABP-314188-22

Development	Permission to convert existing house and apartments to rear to 6 no. apartments and all associated site development works
Location	134 College Road, Galway City
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	22123
Applicant	Jerrard Nestor
Type of Application	Permission
Planning Authority Decision	Refused Permission
Type of Appeal	First Party v Refusal
Appellant	Jerrard Nestor
Observer	John Brennan
Date of Site Inspection	29 th November 2022
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.084 ha., is located on the eastern side of College Road (R339), at the junction with Lough Atalia Road (L5048) c. 1 km north-east of Eyre Square, in Galway. There is a signalised box junction to the front of the appeal site. A bus lane runs along College Road to the front of the appeal site. Vehicles exiting the appeal site cannot turn right onto College Road.
- 1.2. The appeal site accommodates a large detached 2.5 storey structure. From reviewing the floor plans submitted with the application/appeal (*Drawing No. 09-88-01-PL-05*) the structure accommodate a 10 no. bedroom house to the front and 2 no. apartments to the rear (i.e. a 5 bedroom apartment at ground floor level and a 4 bedroom apartment at first floor level). In addition, I note that there appears to be a third apartment at first floor level. The use of the second floor level above the apartments has not been indicated.
- 1.3. An area of car parking is located to the front of the appeal site and a garden is located to the rear of the property. A roof terrace, accessed from first floor level, is situated to the side of the appeal property. The appeal site is bound by a c. 1.8 metre concrete wall to the rear and sides.
- 1.4. Lough Atalia (water body) is located to the south of the appeal site. A commercial premises (Express Frames) is located to the immediate north of the appeal site, beyond which is a dwelling. The adjoining area is predominantly residential in character.

2.0 Proposed Development

- 2.1. The development description contained in the public notices describes the proposed development as comprising;
 1. Conversion of existing 3 storey dwelling house to 3 no. apartments;
 2. Construction of enclosed stairway to the front of the building to serve these apartments;
 3. Alterations to existing ground floor and 2 no. first floor apartments at the rear of the building;

4. Creation of second floor enclosed public open space within existing attic storage space to serve the aforementioned;
5. Retain all first floor windows on the north-east elevation;
6. Retain the existing mansard roof;
7. Permit the change of the cantilevering balconies to the north east elevation to include removal of some blockwork and the plastering & painting of all remaining blockwork & cantilever slab-to match existing;
8. Enclose water tanks to roof area with new water tank structure;
9. New first and second floor balconies to all sides of the building;
10. Safety rail around roof level;
11. New enclosed external stairs to the rear of the building to provide access to rear apartments;
12. Delineate previously approved car parking spaces - 6 no, in total;
13. Construct new bin areas, bicycle racks and landscaping throughout the development & all associated site.

2.2. From reviewing the plans and particulars submitted with the planning application/appeal I consider that the proposal can be summarised as follows;

1. The redevelopment/refurbishment of an existing structure (accommodating a house and 3 no. apartments) to provide 6 no. apartments (2 no. 1 bedroom units, 3 no. 2 bedroom units and 1 no. 3 bedroom units).
2. Increase in the principle ridge height of the building of 1.25 metres, from 8.6 metres to 9.85 metres, and to c. 11 metres when the roof plant is taken account of.
3. Apartments at first and second floor level are served by balconies/roof terraces.
4. External staircase to the rear and an enclosed/projecting stairs to the front of the building.
5. 2 no. car parking spaces to the front and 4 no. car parking spaces to the rear of the site (accessed via a side passage with a 1.8 metre high security gate).
6. A partially enclosed bin store to the rear of the site.

7. An amenity area to the rear of the site.
8. An enclosed roof top garden (providing communal open space).
9. A rooftop water tower.
10. Bicycle racks to the front of the site.

The ground floor of the proposal is partially obscured by a boundary wall on the elevations submitted. I also note a number of discrepancies in the drawings submitted, including, the provision of a balcony serving Apartment 6 indicated on a side elevation, but not on the floor plans; and the provision of balconies serving Apartment 6 to the front at second floor level on floor plans, but not on the elevations; and the provision of a screen serving the balconies to the rear of the building indicated on the side (north-east) elevation but not on the sectional drawing.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 30th June 2022 for 3 no. reasons which can be summarised as follows;

1. The proposed front elevation would be discordant in relation to neighbouring structures by reason of excessive height and inappropriate scale, particularly the staircase feature, negatively impacting visual amenity.
2. The proposed development provides for sub-standard vehicular access and parking arrangements on site. The layout of the car park could result in vehicles parking on the public road, resulting in a traffic hazard.
3. The proposal to locate balconies on the side elevation together with the windows already located in this elevation overlook the neighbouring property and compromise future development of that property, seriously injuring the residential amenities of properties in the vicinity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes the following;

- Concerns regarding the design and dominance of the proposal, and specifically regarding the front elevation of the proposal, and the staircase feature.
- The proposed development is similar to developments previously proposed under PA. Ref.'s 18/234, 14/173 and 12/315, and whilst the proposal has been modified, it remains that the proposal would have a negative impact on the visual amenity of the area.
- Plot ratio and density is considered acceptable.
- The proposal appears to comply with the Sustainable Urban Housing: Design Standards for New Apartments, 2020.

3.2.2. Other Technical Reports

Transportation Section – recommends that permission is refused on the basis of the car parking and access arrangement.

Recreation and Amenity Section – Further Information recommended, including a Tree Survey and Tree Constraints Plan, details of communal open space provision and a landscape plan.

Heritage Officer – recommends that sub-surface works should be archaeologically monitored, and that hard-surface areas to the front of the site kept to a minimum.

Environment Section – condition recommended, specifically that relevant waste and environmental legislation should be complied with.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

4 no. observations were received by the Planning Authority. Issues raised include;

- Privacy/overlooking concerns.
- Overdevelopment of site.
- The proposal is similar to previously refused applications on the site.

- The planning application has been lodged to delay enforcement proceedings.
- The proposal would result in additional traffic.
- Visual impact of the proposal.
- The applicant does not own the entire site.
- Recommendations in respect of cycling.

4.0 Planning History

There is an extensive planning history on the appeal site, the most relevant is as follows;

PA. Ref. 18/234 – Permission REFUSED for 6 no. apartments. Reasons for refusal included, the design of the front elevation, in particular the staircase feature, and considerations relating to access arrangements.

PA. Ref. 14/173 – Permission REFUSED for 6 no. apartments. Reasons for refusal included, the design of the front elevation, in particular the staircase feature, and considerations relating to access arrangements.

PA. Ref. 12/315 & ABP. Ref. PL.61.242453 - Permission REFUSED for 6 no. apartments. Reasons for refusal included, the design of the front elevation, in particular the staircase feature, overlooking, and overdevelopment.

PA. Ref. 11/66 & ABP. Ref. PL.61.239113 – Permission REFUSED for 10 no. apartments. Reasons for refusal included, overdevelopment, inadequacy of open space and access arrangements, and non-compliance with Apartment Guidelines 2007.

PA. Ref. 00/322 – Permission GRANTED for conversion of dwelling to 6 apartments.

PA. Ref. 99/7 – Retention permission GRANTED for a change of use of a dwelling to a guesthouse.

5.0 Policy Context

5.1. National Policy

5.1.1 National Planning Framework 'Project Ireland 2040'

The NPF sets out a targeted pattern of growth for Galway City and Suburbs to 2040 of between 40,000 - 45,000 people. Relevant Policy Objectives include:

- **National Policy Objective 2a:** A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.
- **National Policy Objective 3a:** Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- **National Policy Objective 3b:** Deliver at least half (50%) of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.
- **National Policy Objective 4:** Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- **National Policy Objective 13:** In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated

outcomes, provided public safety is not compromised and the environment is suitably protected.

- **National Policy Objective 33**: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

- **National Policy Objective 35**: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2 Ministerial Guidelines

5.2.1 Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2022).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021).
- Urban Development and Building Height Guidelines, Guidelines for Planning Authority (2018).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, 2010.
- Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).
- Urban Design Manual - A Best Practice Guide (2009).
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

5.3. Development Plan

5.3.1. 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.

5.3.2 The appeal site is zoned - '**Residential**' (**R**) and '**Recreation and Amenity**' (**RA**) under the Galway City Development Plan 2023 – 2029. The zoning objective for the 'Residential' land use zoning is '*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*'. 'Residential' use class is considered compatible with the 'R' zoning. The zoning objective for the 'Recreation and Amenity' land use zoning is '*to provide for and protect recreational uses, open space, amenity uses, natural heritage and biodiversity*'. 'Outdoor recreation' use class is considered compatible with the 'RA' zoning.

5.3.3. The appeal site is located within the 'Inner Residential Area' (see fig, 3.1 & also 11.32 Galway City Development Plan 2023 – 2029).

5.3.4. A Protected View 'V.3' (described as a panoramic view, encompassing seascape views of Lough Atalia from Lough Atalia Road, College Road, Dublin Road and Lakeshore Drive) is indicated to the south-west of the appeal site (see Map B, Galway City Development Plan 2023 – 2029).

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

- **Policy 3.3** - Sustainable Neighbourhood Concept
- **Policy 3.6** - Sustainable Neighbourhoods: Inner Residential Areas
- **Policy 8.7** - Urban Design and Placemaking

Chapter 11 includes development standards and guidelines, the following of particular relevance to this assessment:

- **11.3.1 (c)** Amenity Open Space Provision in Residential Developments

- **11.3.1 (d)** Overlooking
- **11.3.1 (h)** Cycle Parking Standards
- **11.3.1 (i)** Refuse Storage Standards
- **11.3.3 & 11.3.3. (a)** Car Parking Standards (Inner Residential Areas)

5.4. **Natural Heritage Designations**

- Galway Bay Complex pNHA (Site Code: 000268), partially within site.
- Galway Bay Complex SAC (Site Code: 000268), c. 20 metres south.
- Inner Galway Bay SPA (Site Code: 004031), c. 20 metres south.

5.5. **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 first-party appeal by Padraic Hession & Associates on behalf of the applicant Jerrard Nestor against the decision to refuse permission. The grounds for appeal may be summarised as follows;

- The proposed development is similar to the development permitted under PA. Ref. 12/315, although this was refused on appeal. The appellant has not varied the proposed development from what was proposed under PA. Ref. 12/315, other than as outlined below, in order to retain the support of the Planning Authority.
- The appellant disagrees that the proposed development would result in a negative impact on the visual amenity of the area, but rather is of view that the proposed development would enhance the area, representing a significant improvement of the development on the site.

- There is a notable absence of objections from neighbours to previous proposals on the site. The only objections have come from the adjoining site and it is probably the case that these objectors will oppose any redevelopment on this site.
- The stairs have been altered to deal with previous reasons for refusal, which it is contended addresses the concerns of the Planning Authority.
- Nearby commercial developments are varied in their design (e.g. The Huntsman and the G Hotel). The Huntsman has very large glazing elements and as such the appellant fails to see how the glass element of the stairs feature is not in keeping with the area.
- It is noted in the Planner's report that the proposed access arrangements has not been altered from previous application, however there is no scope to vary the access arrangements.
- The proposal substantially decreases the existing bed spaces on the site, and therefore there will be less occupants on the site, demonstrating the appellant's desire to improve and redevelop this site.
- The appellant is satisfied that the elimination of car parking from the site would not pose a difficulty to occupants of the apartments and potential tenants would simply choose to rent elsewhere. The site is well served by public transport. A set down space can be accommodated on the site for the delivery of post etc. The appellant is also amenable to a reduction in car parking, and for any shortfall to be addressed by way of development contributions. This will encourage the use of public transport and cycling and at the same time resolve the concerns raised under refusal reason no. 2.
- The proposed balconies do not overlook the private open space of the adjoining site. The front of the adjoining site will almost certainly not contain private open space if developed in the future.
- An Bord Pleanála have previously noted that it is for the courts to decide ownership issues. There is no ownership dispute on this site.
- The appellant welcomes the submission from Cycling Galway Campaign and would welcome working with Cycling Galway Campaign.

6.2. Planning Authority Response

A submission has been received from the Planning Authority stating that the assessment carried out under PA. Ref. 22/123 provides a full assessment of all planning matter and request that the Board uphold their decision.

6.3. Observations

An observation has been received from John Brennan, on behalf of Galway Cycling Campaign. Issues raised in the observation are as follows;

- Observer wishes to reiterate points raised in observation to planning application. Previous observations refers to policy which supports cycling infrastructure, including the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities; National Planning Framework (NPF); National Policy-Climate Action Plan 2021; National Sustainable Mobility Policy; Regional Spatial & Economic Strategy for the Northern and Western Regional Assembly (2020-2032); Galway City Development Plan 2017-2023; Galway Transport Strategy; DMURS, and Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).
- Development with reduced car dependency is viable at this location given its proximity to the city centre.
- The tie-in of the development with the footpath is unclear. The interaction between the footpath and site entrance required clarification. If a continuous raised footpath is not proposed, this would not comply with DMURS. A raised crossing with pedestrian priority would provide a safer solution.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Principle of Development
- Density, Unit Mix
- Compliance with Relevant Guidelines/Standards
- Design & Visual Impact
- Impact on Residential Amenity
- Access & Traffic Safety
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The appeal site, and curtilage of the appeal property is zoned 'Residential' and 'Recreation and Amenity'. I note that the majority of the appeal site, and the area on which the existing and proposed building is located is zoned Residential, with the Recreation and Amenity zoning corresponding with the amenity area of the proposal, the bin store, car parking and a small portion of the rear of the proposed building. Noting that a portion of the existing building is currently located on the part of the site zoned 'RA', and that the part of the site which is 'RA' is for the most part to accommodate an area of amenity space, I consider the principle of the proposed development to be acceptable.

7.3. Density, Unit Mix

7.3.1. The proposal entails 6 no. units on a site of 0.084 ha., equating to a density of c. 71 dpha. Section 5.6 of the Sustainable Residential Development in Urban Areas 2009 states that '*in order to maximise inner city and town centre population growth, there should in principle, be no upper limit on the number of dwellings that may be provided within any town or city centre site, subject to safeguards*¹'. Section 5.8 of the Sustainable Residential Development in Urban Areas 2009 recommends that

¹ Which include - compliance with open space requirements; the avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours; good internal space standards; conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing; the preservation of protected buildings and their settings/Architectural Conservation Area; and compliance with plot ratio and site coverage standards.

increased densities should be promoted at locations within 500 metres walking distance of a bus stop and within one kilometre of a rail station and in general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. SPPR 4 of the Urban Development and Building Height Guidelines, Guidelines for Planning Authority 2018, provides that *'it is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure, the minimum densities for such locations set out in the "Sustainable Residential Development in Urban Areas (2007)"*². The appeal site is located on College Road, c. 1 km from the centre of Galway and there are a number of bus stops in the vicinity of the appeal site, including a number of locations along College Road, and as such I consider that the density proposed is appropriate in this context.

7.3.2. Unit Mix

The proposed development comprises a mix of 1, 2 and 3 bedroom apartments. I consider that the proposal provides for an acceptable mix of unit type.

7.4. **Compliance with Relevant Guidelines/Standards**

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2022

7.4.1. Having reviewed the plans and particulars submitted with the application and the appeal, I consider that the proposal complies with, and in many instances exceeds the standards for internal accommodation set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2022.

7.4.2. SPPR5 requires that ground floor apartments have a minimum floor to ceiling height of 2.7 metres. SPPR5 however provides that discretion from this requirement may be

² Reference in SPPR 4 to the publication date of the Sustainable Residential Development in Urban Areas as being 2007 appears to be a typographical error. I note that the Sustainable Residential Development in Urban Areas Guidelines were published in 2009.

exercised on a case-by-case basis, subject to overall design quality, for building refurbishment schemes on sites of any size, or urban infill schemes up to 0.25 ha. The proposed development, utilising the general footprint of the existing structure, may be considered as a building refurbishment scheme and as such the proposal, within which the ground floor apartments have floor to ceiling heights of 2.4 metres, is acceptable in my opinion.

7.4.3. As addressed below at paragraph 7.4.6, Apartments 1 and 2 are not served by private amenity space. The Apartment Guidelines similarly provide that for building refurbishment schemes, private amenity space standards may be relaxed on a case-by-case basis subject to overall design quality. In my opinion it is feasible to provide all apartments in this scheme with private amenity space without the same implications as meeting minimum floor to ceiling heights, which in the case of refurbishment schemes would likely be much more difficult. In this instance, I do not consider that the relaxation from the provision of private amenity space should be afforded to the proposal noting the overall design quality of the scheme, which I address further in this report, and as such the proposal does not comply with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2022 in relation to private amenity space.

7.4.4. Regarding bicycle storage, Paragraph 4.17 of the Apartment Guidelines requires a minimum of 1 no. bicycle space per bedroom in addition to 1 no. visitor space for every two units. On this basis the proposed development has a requirement for 14 no. bicycle storage spaces. The provision of bicycle storage is unclear. A covered bicycle rack is indicated to the front of the appeal site. The Apartment Guidelines recommends that bicycle storage should be provided within a dedicated facility of permanent construction, and ideally alongside locker storage for equipment. The provision of bicycle storage within the proposed development is inadequate in my opinion and does not meet with the guidance set out in the Apartment Guidelines. Should the Board be minded to grant permission for the proposed development a condition requiring the provision of a bicycle store with associated storage could be attached. This store could be located to the rear of the site, alongside the bin store.

Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021)

- 7.4.5. The Section 28 Guidelines, Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021), issued by the Department of Housing, Local Government and Housing, applies to developments comprising 5 or more houses or duplex units. As the proposed development comprises 6 no. apartment units the requirements set out in these guidelines are not applicable.

Galway City Development Plan 2023 – 2029

- 7.4.6. Open Space - Policy 11.3.1 (c) of the Galway City Development Plan 2023 – 2029 requires communal amenity space at a rate of 15% of the gross site area, or 10% on restricted sites. In this instance I consider it reasonable to consider the site as a restricted site noting its developed nature. I note that some of the open space provision comprises 'RA' zoned lands. The Galway City Development Plan 2023 – 2029 precludes 'RA' zoned lands from being included as part of open space requirements. The area of the appeal site is stated as being 0.084 ha, or 840 sqm and the proposal therefore has a communal open space requirement of 84 sqm. From reviewing the site plan submitted the proposal provides approximately 80 sqm of communal open space in the form of a roof terrace. On balance, noting the marginal nature of the shortfall in the provision of communal amenity space, I consider the proposal to be acceptable in terms of the provision of communal amenity space. Regrading private amenity space, the Galway City Development Plan 2023 – 2029 states that developments which are exclusively apartment developments shall adhere to the private open space standards set out in the Sustainable Urban Housing: Design Standards for New Apartments (2020). The upper floor apartments are served by balconies and terrace areas and for the most part comply with the Sustainable Urban Housing: Design Standards for New Apartments (2020)³, however Apartments 1 and 2 are not served by any private amenity space, and I therefore cannot conclude that the proposed development

³ I note that the requirements for private and communal open space in the Sustainable Urban Housing: Design Standards for New Apartments (2020) are the same as the revised Sustainable Urban Housing: Design Standards for New Apartments (2022).

accords with the requirements of Policy 11.3.1 (c) of the Galway City Development Plan 2023 – 2029 in terms of the provision of private open space.

- 7.4.7. Overlooking - Policy 11.3.1 (d) of the Galway City Development Plan 2023 – 2029 provides that residential units shall generally not directly overlook private open space or land with development potential from above ground floor level by less than 11 metres, and that in the case of developments exceeding 2 storeys in height, a greater distance than 11 metres may be required. The property to the immediate north is used as a commercial unit however noting the applicable 'R' land use zoning of these adjacent lands, and possible future development for residential purposes, I consider that overlooking is a relevant consideration. Whilst the existing building results in a degree of overlooking of the property to the north from first floor windows I note that the proposal entails an increased level of overlooking, through the provision of balconies at both first and second floor level, and potentially from the roof garden. Given this additional degree of overlooking, I do not consider that the proposed development accords with Policy 11.3.1 (d) of the Galway City Development Plan 2023 – 2029.
- 7.4.8. Cycle Parking – The requirements for cycle parking under Policy 11.3.1. (h) of the Galway City Development Plan 2023 – 2029 are reflected in the Sustainable Urban Housing: Design Standards for New Apartments (2022). This is addressed at paragraph 7.4.4 (above).
- 7.4.9. Refuse Storage - Policy 11.3.1 (i) of the Galway City Development Plan 2023 – 2029 requires that 3 no. x 240 litre bins shall be provided for each pair of apartments, or a set of 3 no. 1100 litre bins shall be provided for a block of ten apartments. As the proposed development comprises 6 no. apartments I consider there to be a requirement to provide 3 no. 240 litre bins per unit, therefore 18 no bins in total. The drawings submitted with the planning application/appeal indicates capacity for 9 no. bins within the bin store. The capacity of the bins provided for is unclear. Should the Board be minded to grant permission for the proposed development I recommend that this issue is addressed by condition, specifically that details indicating how a three bin per unit system will operate, or alternately how provision is made for 3 no. 1100 litre bins.

7.4.10. Car Parking - Policy 11.3.3 and 11.3.3 (a) of the Galway City Development Plan 2023 – 2029 requires 1 space per dwelling (maximum), and states that in new developments in the inner residential areas at locations that are served by public transport or close to high density employment areas, a reduced overall car parking standard can apply, in particular on grounds of sustainability or urban design. The proposed development, comprising 6 no. apartment units is to be served by 6 no. car parking spaces and therefore accords with applicable Development Plan policy in respect of car parking. Noting the central location of the site and proximity to public transport, should the Board be minded to grant permission for the proposed development I consider that car parking could be dispensed with in its entirety. Should the Board consider this appropriate, a revised site layout should be submitted prior to commencement of development indicating same.

7.5. Design & Visual Impact

7.5.1. The first refusal reason cited by the Planning Authority relates to the design of the proposal, specifically that the proposed front elevation would be discordant in relation to neighbouring structures by reason of excessive height and inappropriate scale, particularly the staircase feature and that the proposed development would provide a negative impact on visual amenity. The appellant disagrees and contends that the proposed development would enhance the area, representing a significant improvement of the development on the site and cites The Huntsman and the G Hotel which are varied in their design, with The Huntsman having very large glazing elements.

7.5.2. The proposed development entails the redevelopment of an existing building at the confluence between Lough Atalia Road and College Road, abutting an area of public amenity space. I also note that there is an specific objective to protected views of Lough Atalia, 'V3', to the south-west of the appeal site. Views of the appeal site and any proposal thereon will therefore be possible from a number of vantage points, including the amenity area which bounds the appeal site to the south and east. In my opinion, having regard to the prominence of the appeal site, any redevelopment of the site should provide for a building of a sufficiently high architectural quality and a design

approach which provides for the effective assimilation of the development into the area. A design response which involves a building with triple frontage is required in my opinion, noting the views which are available of the site, and the nature of these vantage points. I note that the area could be considered in transition having regard to the emerging pattern of development in the vicinity. In particular I note the prevalence of 3-4 storey apartment buildings to the south of the appeal site along Lough Atalia Road, and the G Hotel further north, and as such I consider the principle of a 3 storey building at this location acceptable, subject to the quality of its design.

- 7.5.3. The proposal entails an increase in the height of the building of 1.25 metres, to 9.85 metres and coupled with the provision of roof plant, alters the appearance of the building to a three storey/three and a half storey building, however as addressed above the principle of a 3 storey building at this location is acceptable in my view. The proposal also incorporates a notable variation in the pattern of fenestration (shape, size and type), a multiplicity of roof forms, includes various types of balcony design, dormer windows, a rear appendage accommodating external stairs, and a prominent, extensively glazed, projecting stair feature on the front elevation. In my opinion the proposal lacks continuity in terms of its elevational design, with the pattern of fenestration, balconies along the northern-eastern façade, and the projecting stair feature on the front elevation resulting in an unbalancing effect on the front elevation of the building. I also note the size of windows serving the stairs on the south-west elevation, which alongside the large windows serving the living rooms of Apartment 3 at first and second floor level, appears disproportionate. Notwithstanding the location of the appeal site within an urban area, with differing building typologies, I am not satisfied that the proposal can be assimilated into the urban landscape without serious injury to the character and amenities of the area. On this basis I recommend that the first reason for refusal should be upheld.

7.6. Impact on Residential Amenity

- 7.6.1. The third reason for refusal relates to the proposal overlooking neighbouring property. From reviewing the plans and particulars submitted with the planning application/appeal I consider that a number of issues arise in respect of residential amenity. These issues relate to the residential amenity of adjacent property and also

the amenity of future residents of the proposal. I will address each issue below in more detail.

- 7.6.2. In terms of the impact of the proposal on the residential amenity of adjacent property I consider that the main impact arises as a consequence of overlooking. As addressed at paragraph 7.4.7 (above), whilst the existing building results in a degree of overlooking of the property to the north from first floor windows, the proposal in my opinion entails a significant increase in the level of overlooking, through the provision of balconies at both first and second floor level and amenity impacts arising from the use of same, and potentially from the roof garden⁴. The first party contends that the location of the balconies and windows are to the front of the site as distinct from the rear and therefore will not give rise to significant overlooking effects. I do not concur with this position however and I consider that the level of direct overlooking of adjoining property, which is zoned 'R' Residential, will have a deleterious effect on the neighbouring property, the future development potential of which should be protected. Furthermore, the design proposed with windows and balconies directly facing an adjacent property at c. 2 metres is in my opinion suggestive of overdevelopment of the site.
- 7.6.3. Regarding overshadowing, noting the orientation of the appeal site/property from the adjacent property, which is located to the north, and to the path of the sun, I am satisfied that the proposed development will not result in significant overshadowing of the adjacent property to the north. I do not consider that the proposed development, noting the increase in height proposed, will give rise to any significant degree of overbearance of the property to the north over and above what is currently experienced.
- 7.6.4. I have a number of concerns in relation to internal amenity and the standard of residential amenity which will be afforded to future residents. The ground floor apartments (Apartments 1 and 2) have windows serving a living area and a bedroom (respectively) facing onto the access to the south of the building. This arrangement would allow for other residents to pass by bedroom and living room windows, resulting

⁴ It is unclear from the floor plans and elevations submitted whether the roof garden is served by windows/a glazed section along the northern elevation.

in a dis-amenity to these apartments. In addition, details regarding refuse collection have not been provided and the proposal may also entail bins being pulled past these windows, or a collection vehicle using this lane in proximity to resident's bedroom and living room windows.

- 7.6.5. I also have concerns in relation to the standard of amenity afforded to the amenity area located to the rear of the building. This area is situated alongside a fenced bin store which would in my opinion provide a poor standard of amenity for the adjoining amenity area. Additionally, noting the location of car parking to the rear of the building, cars will be manoeuvring in proximity to an area where children play. In my view the issues referred to above result in a poor standard of amenity to the area of open space to the rear of the building.

7.7. Access and Traffic Safety

- 7.7.1. The second reason for refusal cited by the Planning Authority concerns traffic safety, specifically that the proposed development could result in vehicles parking on the public road. I also note that the narrow nature of the laneway could result in vehicles reversing out onto College Road, and that there is potential for pedestrian vehicular conflict at the entrance where a pedestrian gate is indicated to the front of the laneway allowing for pedestrians to step out onto the path of vehicles using this lane. Furthermore, residents accessing the rear of the building will have to share the unsegregated laneway with vehicles, which on occasion could be making reverse manoeuvres, which in my view represents a significant traffic hazard.
- 7.7.2. The appellant notes that he is amenable to the omission or a reduction in car parking which will address the second reason for refusal. I have addressed the requirement for car parking under paragraph 7.4.10 above and in this regard I concur with the appellant's position that the omission of car parking from the proposal will negate the second reason for refusal. In addition to the omission of car parking, should the Board be minded to grant permission for the proposed development I recommend the installation of a barrier in the laneway to prevent/control vehicular access to the rear of the site, so as to address potential pedestrian – vehicular conflicts, and limit impacts on the amenity of ground floor apartments.

7.8. Other Issues

- 7.8.1. The issue of the ownership of the appeal site was raised in a submission to the Planning Authority in respect of the initial planning application. The first party appeal submission also addresses this issue. The first party notes that issues concerning land ownership are issues for the courts, and not for An Bord Pleanála. I would concur with the first party in this regard and note that such issues are civil in nature, and having regard to the provisions of Section 34 (13) of the Planning and Development Act, 2000, as amended, are outside the scope of this appeal.

7.9. Appropriate Assessment

- 7.9.1. The planning application was accompanied by an Appropriate Assessment Screening report prepared by Moore Group. The Screening report indicates the appeal site within Galway Bay Complex SAC however based on the NPWS website I note that the appeal site is located outside both Galway Bay Complex SAC and Inner Galway Bay SPA. The Screening report notes an absence of pathways between the appeal site and Galway Bay Complex SAC and Inner Galway Bay SPA. The Screening report notes that the proposed development is located within the boundary of an existing development; involves the conversion of an existing building; with no changes proposed to surface water and no connectivity to Lough Atalia; that there will be no emissions to air, water or the environment during the construction phase of the proposed development which would result in significant effects; that the proposal will discharge foul and surface water to urban drainage systems; that there will be no habitat loss or fragmentation as a result of the proposal, or any effects on QI habitat or species directly or ex-situ, and that the proposed development will not likely have a significant effect (including in combination effects) on any European sites.
- 7.9.2. From reviewing the NPWS website I note that Galway Bay Complex SAC and Inner Galway Bay SPA are located c. 20 metres from the appeal site. The appeal site accommodates an existing building and the proposal for the most part entails alterations within the footprint of the existing building. Works to the rear of the building are situated within the curtilage of the appeal site, which is enclosed by c. 1.8 metre high concrete walls. The appeal site does not represent a favourable habitat for birds species connected with Inner Galway Bay SPA or other SPA's for resting, foraging,

breeding etc. Having regard to the nature and limited scale of the proposed development, the developed nature of the appeal site, 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. I recommend that planning permission for the proposed development should be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The proposed development, by reason of its elevational design, in particular the pattern of fenestration, multiplicity of roof forms, projecting stair feature on the front elevation, and rear stair appendage, would be out of character with the pattern of development in the vicinity and would constitute a visually discordant feature that would be detrimental to the visual amenities of the area. It is further considered that the proposal to locate balconies at first and second floor level on the north-east elevation together with first floor windows already on this elevation would compromise the future development of the adjoining property, seriously injuring the residential amenities of this property and depreciating its value as a result of overlooking. Additionally, such development would be contrary to Policy 11.3.1.(d) of the Galway City Development Plan 2023-2029, which requires that residential units shall generally not directly overlook land with development potential from above ground floor level by less than 11 metres minimum, or in the case of developments exceeding 2 storeys in height a greater distance than 11 metres. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the absence of private amenity space for Apartment 1 and Apartment 2, the provision of the bin storage area within the area of communal open space, and the relationship of the windows serving bedroom and living

accommodation for Apartment 1 and Apartment 2 relative to the access lane, which would affect the privacy and enjoyment of these rooms, it is considered that the proposed development would constitute overdevelopment of the site, resulting in a poor standard of residential amenity for future residents. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Ian Campbell
Planning Inspector

27th June 2023