



An  
Bord  
Pleanála

## Inspector's Report ABP-315320-22

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<b>Development</b>	(a) Retention of raised walls along the Clybaun Road and Clybaun Court boundaries of the property, and (b) Works to the existing house and site.
<b>Location</b>	Devinish, Clybaun Road, Knocknacarra, Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	22/257
<b>Applicant(s)</b>	Conor Little
<b>Type of Application</b>	Retention permission and permission
<b>Planning Authority Decision</b>	Split decision
<b>Type of Appeal</b>	First Party -v- Refusal
<b>Appellant(s)</b>	Conor Little
<b>Observer(s)</b>	Clybaun Court Management Company CLG
<b>Date of Site Inspection</b>	11 <sup>th</sup> May 2023
<b>Inspector</b>	Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located in Knocknacarra, a western suburb of Galway City. It is situated at the entrance to Clybaun Court, which is accessed off Clybaun Road, and it occupies the north-eastern corner that is formed by the junction between these two roads. The former road is a cul-de-sac, which serves predominantly an estate of two-storey detached and semi-detached dwelling houses. It also serves the site and an adjoining site to the east, which have been developed to provide a bungalow and a dormer bungalow, respectively. The latter road links the Western Distributor Road to the north and, via Shangort Road, Kingston Road (R337) to the south.
- 1.2. The site is of regular shape, and it extends over an area of 0.091 hectares. This site has been developed to provide a bungalow with a floorspace of 151.8 sqm. This bungalow is sited within the central and eastern portions of the site. Its depth exceeds its width and so its double pitched roof has long front and rear planes. The roadside boundaries of the site are enclosed by walls, which have recently been raised in height.

## 2.0 Proposed Development

- 2.1. The proposal comprises two distinct aspects: the retention of the raised roadside boundary walls and proposed works to the bungalow and its site. These works would entail the following:
  - The conversion of the existing attic to habitable space, the construction of a two-storey side extension to the eastern elevation to accommodate a staircase, and associated internal and external changes to the existing dwelling house. An additional 59.4 sqm of floorspace would be provided thereby.
  - The construction of a domestic shed/store (6.5 sqm) adjacent to the south-eastern corner of the dwelling house and the construction of 1.8m high walls, fences and gates within the grounds of this dwelling house and a 1.8m high wall along the northern boundary of the site.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority (PA) made a split decision on the proposal. The proposed works to the house and site were granted permission, subject to 7 conditions, and the proposed retention of the raised boundary walls was refused permission for the following reasons:

1. Retention “is completely out of character with the established character, layout and design of Clybaun Court and Clybaun Road, is excessive in scale and out of context with the prevailing architectural symmetry of the area” and so to permit it would seriously injure residential and visual amenity, depreciate the value of property in the area, and be contrary to Chapter 8 of the Galway City Development Plan 2017 – 2023.
2. The applicant has failed to demonstrate that the retention of the raised boundary walls does not reduce visibility for traffic exiting Clybaun Court and so their retention would endanger public safety and create a traffic hazard.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

See reasons for refusal.

#### 3.2.2. Other Technical Reports

- Galway City Council
  - Transportation: Advises that the applicant needs to demonstrate that sight lines available for exiting drivers comply with the required standards.
  - Drainage: No objection, subject to conditions.

## 4.0 Planning History

- Enforcement enquiry ref. no. C178/22 re. unauthorised walls at the site.

## 5.0 Policy and Context

### 5.1. Development Plan

Under both the Galway City Development Plans 2017 – 2023 and 2023 – 2029, the site is zoned residential and Clybaun Road is identified as a route for buses. These Development Plans also show Clybaun Road to the north of the site as being subject to road improvements.

The relevant zoning objective 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.”

Under Figure 11.32 of the Galway City Development Plans 2023 – 2029, the site is shown as lying in the outer suburbs. Under Section 11.3.1, advice is given on link and local roads and the application to them of the Design Manual for Urban Roads and Streets (DMURS).

The PA's first reason for refusal cites Chapter 8 of the Galway City Development Plan 2017 – 2023, which addresses built heritage and urban design.

### 5.2. Natural Heritage Designations

- Galway Bay SAC & pNHA (000268)
- Inner Galway Bay SPA (004031)

### 5.3. EIA Screening

The proposal is not a class of development for the purposes of EIA.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The applicant appeals the refusal element only of the PA's split decision. He begins by drawing attention to the location of the site and the incidence of boundary walls in

the vicinity of it, which are of different heights and designs. He also draws attention to the factors that prompted him to raise the height of the roadside boundary walls:

- Livingroom and bedroom windows in the western elevation of the bungalow,
- Gaps between the former evergreen trees and shrubs adjacent to the western boundary of the site, and
- The consequent lack of privacy, along with noise and littering generated by road users on Clybaun Road.

The applicant did not realise that the raising of these walls required planning permission, until he received a warning letter from the PA, following which he ceased work upon them.

The applicant proceeds to set out his response to the PA's reasons for refusal.

First reason

- The character of the area arises from a mixture of house types and designs and a mixture of boundary wall heights, designs, and materials. Thus, the roadside wall to the north of the site is capped and pebble dashed, the roadside wall on the opposite side of Clybaun Road is uncapped and composed of stone, and the roadside wall opposite the site and on the southern side of Clybaun Court is finished in nap plaster with capped pilasters.
- The PA's critique that the raised walls are excessive in scale and out of context with the prevailing architectural symmetry of the area is challenged. The applicant notes that neither the site nor the area is the subject of any conservation designation, and that they exhibit no observable architectural merit. The increase in height is 0.5m and within the context of the aforementioned walls it is a modest one only. The views of the inspector who reported on PL61.246248 at No. 23 Maunsells Park, Taylor's Hill, Galway City are considered to be of relevance to the current case, too.
- The PA's concern that the raised walls detract from the amenities of the area and depreciate the value of property is challenged, in the light of the preceding points and in the light, too, of how, under a retention permission, the raised walls would be fully plastered and painted.

- Notwithstanding the foregoing points, if the Board is concerned about the applicant's raised roadside boundary wall to Clybaun Court, then this wall could be lowered to 1m in height above the FFL of the bungalow, as shown under drawing no. 080-22 PL05 Rev D ABP, within 6 months of any retention permission.
- The PA has not clarified what part of Chapter 8 of the CDP 2017 – 2023 it considers to be relevant. The applicant cites a reference in this Chapter to the promotion of clearly defined edges between public and private spaces, which the raised walls would achieve.

#### Second reason

- The raising of the boundary wall to Clybaun Road by 0.5m to 1.7m has not resulted in the line of this wall being altered. Previously, this 1.2m high wall was overhung by Leylandii trees and so visibility was reduced to a greater extent than is occurring now.
- The roadside boundary walls to the site preceded the construction of Clybaun Court and yet they were not the subject of any height or set back condition attached to the planning permission for the same.
- The applicant draws attention to the advice in Sections 4.4.4 & 5 of DMURS on forward visibility and visibility splays. In relation to the former, 49m is recommended for bus routes, and, in relation to the latter, a "x" distance of 2.4m is recommended, which can be relaxed to 2m "where vehicle speeds are low and flows on the minor arm are low". The applicant has submitted drawing no. 080-22 PL01 Rev D ABP, which shows the availability of a 2.4m x 49m northern visibility splay, and so compliance is achieved. Given the low flows on Clybaun Court, an "x" distance of 2m would be appropriate, too. Consequently, the second reason should be dismissed.

## 6.2. Planning Authority Response

None

### 6.3. Observations

The observer responds to the applicant's grounds of appeal.

- Essentially, the raised roadside boundary walls reduce the sightline available to drivers exiting from Clybaun Court, and so they need to encroach onto Clybaun Road to see approaching vehicles, cyclists, and pedestrians.
- The applicant's Figures 5 & 6 are taken from Google street view. The camera used is mounted on the roof of a car and so it does not depict a car driver's eye view.
- Attention is drawn to the stop line on Clybaun Court, which is set back from the edge of the carriageway to Clybaun Road. The observer's Figure 3 depicts the limited northwards view available to a car driver waiting at this stop line. Exiting is thus hazardous.
- The raised wall is not in keeping with the stone wall on the opposite side of Clybaun Road. This wall is not in character with Clybaun Court.
- PL61.246248 is not comparable to the current situation, as it does not involve any visibility requirements at a priority junction.
- Clybaun Court comprises 47 dwelling houses which are directly affected by the raised boundary walls to the site.

### 6.4. Further Responses

None

## 7.0 Assessment

7.1. I have reviewed the proposal in the light of the Design Manual for Urban Roads and Streets (DMURS), the Galway City Development Plan 2023 – 2029 (CDP), the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Procedures,
- (ii) Visual amenity,



(iii) Road safety, and

(iv) Appropriate Assessment.

**(i) Procedures**

7.2. The application seeks retention permission and permission. The PA made a split decision and so the raised roadside boundary walls were refused retention permission and the works to the dwelling house and site were granted permission. The applicant has appealed the refusal only.

7.3. I have reviewed the application and I consider that raised roadside boundary walls are a discrete proposal, which could be assessed in isolation from the works to the dwelling house and site. Nevertheless, once a planning decision is appealed, as distinct from a condition(s) attached to a planning permission, the Board is obliged to assess/determine the entire proposal.

7.4. The works to the dwelling house and site can be summarised as follows:

- The conversion of the existing attic to habitable space, the construction of a two-storey side extension to the eastern elevation to accommodate a staircase, and associated internal and external changes to the existing dwelling house. An additional 59.4 sqm of floorspace would be provided thereby.
- The construction of a domestic shed/store (6.5 sqm) adjacent to the south-eastern corner of the dwelling house and the construction of 1.8m high walls, fences and gates within the grounds of this dwelling house and a 1.8m high wall along the northern boundary of the site.

7.5. I have assessed these works and I conclude that they would raise no substantive issues. I will therefore recommend that they be permitted, subject to redrafted conditions. Accordingly, the only substantive issues are those stemming from the raised roadside boundary walls, which I will discuss in the remainder of my assessment.

7.6. I conclude that the Board is obliged to assess/determine the entire proposal.

## **(ii) Visual amenity**

- 7.7. The raised roadside boundary walls on the site abut Clybaun Road and Clybaun Court. The applicant states that they have been raised by 0.5m from 1.2m to 1.7m in height. He also states that they remain to be finished, i.e., fully plastered and painted, as he ceased work on them on receipt of the PA's warning letter.
- 7.8. The PA's first reason for refusal critiques these walls on aesthetic grounds. It states that they are out of character with the surrounding area and that they are out of scale with the architectural symmetry of this area.
- 7.9. The applicant has responded by drawing attention to comparable roadside boundary walls in the vicinity of the site, which vary in terms of their height, design, and materials. Within this context, the raised walls are not out of character. Likewise, he is unable to discern architectural symmetry on Clybaun Road. He states that if the Board is concerned about the height of the raised wall onto Clybaun Court, then it could be lowered to a height of 1m above the FFL of this dwelling house. This lowered portion of wall would correspond with the front elevation of the dwelling house.
- 7.10. During my site visit, I observed the mixture of roadside boundary walls that the applicant refers to. These walls include the 1.8m high wall on the opposite side of Clybaun Court from the site. This wall is set back behind a grass strip, and it encloses the neighbouring cul-de-sac, Clybaun Close. I also observed that the dwelling houses on the estate that the observer manages lie further to the east along Clybaun Court, i.e., beyond the site and the adjoining site to the east and the aforementioned wall to Clybaun Court. This estate exhibits architectural symmetry, but it is at some remove from the sites and walls at the entrance to Clybaun Court from Clybaun Road. Nevertheless, the applicant's offer to lower the wall in front of his dwelling house would be appropriate as it would allow this wall to "tie-in" with the front wall to the adjoining site to the east. This offer could be conditioned.
- 7.11. I conclude that the proposed retention of the raised roadside boundary walls to the site would, subject to the applicant's suggested appeal stage amendment, be compatible with the visual amenities of the area.

### **(iii) Road safety**

- 7.12. The raised roadside boundary walls accompany the north-eastern corner of the “T” junction between Clybaun Road and Clybaun Court. The former road is a link road between arterial roads to the north and to the south, and the latter road is a local road, which serves an estate of 47 dwelling houses. The “T” junction is a priority junction with a stop line at the exit point from the local road. The local road meets the link road at right angles and both roads are of straight horizontal alignment in the vicinity of the junction. The link road undergoes a slight dip in its vertical alignment to the north of the junction before rising at a gentle gradient. Signage on this road comprises 50 kmph speed limit signs with accompanying digital speed readings suggesting that speeding occurs.
- 7.13. The PA’s second reason for refusal states that the applicant has not demonstrated that the northern sightline available to drivers exiting Clybaun Court is satisfactory following the raising of the roadside boundary walls.
- 7.14. The applicant has responded by drawing attention to the consistency of the alignment of the walls in question and the fact that they are not the subject of any visibility splay condition stemming from the development of the housing estate to the east. He also draws attention to the former evergreen trees and shrubs that overhung the Clybaun Road boundary wall and that impeded visibility, in his view, to a greater extent than now pertains. He states that the requisite DMURS visibility splay ( $x = 2.4\text{m}$  and  $y = 49\text{m}$ ) is available.
- 7.15. During my site visit, I observed the northern visibility splay in question. I measured the nearside public footpath, which varies in width between 1850mm and 1950mm from south to north along the length of the boundary wall to Claybaun Road. I also measured the wall. Again, from north to south it rises from 1600mm to 1880mm. Formerly, it stepped up towards the priority junction from 710 to 920 to 1060mm. Accordingly, there is no doubt that the wall has been raised in height to a significant degree.
- 7.16. I also observed that the stop line on Clybaun Court is set back from the edge of the carriageway to Clybaun Road. Nevertheless, for the purpose of measuring the “x” distance the edge of this carriageway is relevant. I measured an “x” distance of 2.4m, and I observed that, contrary to the applicant’s statement, a “y” distance of

less than 49m is available. I also measured an “x” distance of 2m, and I observed that a “y” distance of c. 49m is available.

- 7.17. The applicant points out that DMURS allows for a concessionary “x” distance of 2m where vehicle speeds are low and where traffic flows on the minor arm of the junction are low. The applicant states that the latter of these factors applies. In this respect, I note that the CDP zones lands to the east of Clybaun Court for recreation and amenity, and so the prospect of further housing off this Court is not presently in prospect. However, I note, too, that vehicle speeds need to be low, and the above cited signage on Clybaun Road indicates that speeding occurs. I, therefore, consider that the conditions for the concessionary “x” distance do not apply, and so the available northerly visibility splay is compromised by the raised height of the boundary walls.
- 7.18. The applicant refers to the absence of any restrictive condition over the boundary walls. However, insofar as the raising of their height above 1m requires planning permission, the need for such a condition did not arise. He also refers to how visibility was impeded by previous vegetation on the site. However, such vegetation would have been capable of being cut back to ensure adequate visibility was maintained. By contrast, the raised boundary walls constitute a permanent feature.
- 7.19. I conclude that the raised boundary walls impede, unacceptably, the visibility available to drivers exiting from Clybaun Court and so they endanger road safety.

#### **(iv) Appropriate Assessment**

- 7.20. The appeal relates to the retention of raised roadside boundary walls and proposed works to a house and its grounds on a developed site within a fully serviced suburban area. Accordingly, no Appropriate Assessment issues would arise.

## **8.0 Recommendation**

That a split-decision is made as follows:

- (i) The raised roadside boundary walls be refused retention permission, and
- (ii) The proposed works to the house and site be granted permission.

## 9.0 (i) Reasons and Considerations

Having regard to Section 4.4.5 of the Design Manual for Urban Roads and Streets and Section 11.3.1 of the Galway City Development Plan 2023 – 2029, it is considered that the retention of the raised roadside boundary walls on the site would prevent the availability of the requisite visibility splay for drivers exiting Clybaun Court onto Clybuan Road. Consequently, the retention of the raised boundary walls, as proposed, would endanger road safety by reason of inadequate visibility, and as such, it would be contrary to the proper planning and sustainable development of the area.

## 10.0 (ii) Reasons and Considerations

Having regard to the Galway City Development Plan 2023 – 2029, it is considered that the proposed works to the existing house and site would, subject to conditions, accord with the residential zoning of the site. These works would enhance the amenities of the house and its site, and they would be compatible with the visual and residential amenities of the area. No Appropriate Assessment issues would arise. The proposed works to the existing house and site would thus accord with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
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2.	<p>(a) The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.</p> <p>(b) The external finishes of the proposed domestic shed/store, walls along the northern boundary, and walls within the site shall be agreed in writing with the Planning Authority, prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>The design of the roof and rainwater goods of the proposed domestic shed/store shall be such that they do not overhang the adjoining property and rainwater run-off shall not flow onto this property.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
4.	<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>

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Hugh D. Morrison  
 Planning Inspector

14<sup>th</sup> July 2023