



An
Bord
Pleanála

Inspector's Report ABP315925-23

Development	Demolition of shed, single storey extension to rear and change of use of part of ground floor from residential use to office use.
Location	8 New Steet West, Galway.
Planning Authority	Galway City Council.
Planning Authority Reg. Ref.	22/309
Applicant(s)	Alan O' Dowd.
Type of Application	Permission.
Planning Authority Decision	To Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Alan O' Dowd.
Observer(s)	None.
Date of Site Inspection	May 18 th , 2023.
Inspector	Breda Gannon.

1.0 Site Location and Description

- 1.1. The site is located at No 8 New Street West in Galway city. It forms part of a terrace of two-storey buildings on the north western side of a small square (Small Crane). The square is aligned with two and three storey buildings, which accommodate commercial and residential uses. The square provides parking for a limited number of vehicles.
- 1.2. The site accommodates a two-storey dwelling with an enclosed yard to the rear. The dwelling accommodates a kitchen, living area and small store on the ground floor, with three bedrooms and a bathroom at first floor level. The yard accommodates a single-storey lean-to store/shed and there is gated access from the yard to an open area at the rear. To the east of this area there is gated access to a right of way shared by the dwellings in the adjoining terrace.

2.0 Proposed Development

- 2.1. The proposal as described in the public notices submitted with the application seeks the following:
 - Demolition of existing shed to the rear of the dwelling,
 - Change of use of part of ground floor from residential use to office use,
 - Construction of single storey extension to the rear of existing dwelling for residential use,
 - New sign to front of premises,
 - New domestic shed/bike store, and all associated site works and services.
- 2.2. The proposal is to convert part of the ground floor to office use, which would be accessed directly from the street. The living accommodation would be reconfigured and extended to provide kitchen/dining room and a living area on the ground floor and two bedrooms and a bathroom at first floor level. The residential accommodation would be accessed from the rear of the site.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the development for 2 no. reasons which are summarised as follows:

1. It is considered that the proposed office use would unduly interfere with the primary use of the dwelling and that the design and layout of the proposed development would result in a deterioration in the quality and size of the existing residential accommodation/amenities on site. The proposed development would therefore be contrary to the provisions of the development plan.
2. It is considered that the proposed development would adversely affect the character of the area, through the creation of a ground floor commercial unit in an existing residential terrace/streetscape. The proposed commercial frontage would not contribute positively to the visual integrity of the existing streetscape and if granted would set an unacceptable precedent for similar proposals which would be contrary to the provisions of the development plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The development site is located within an Inner Residential Area which are under pressure for housing extensions and for limited infill development.
- While the existing building may have been in use in the past as a small commercial use (shop and boat repair), its primary use has been residential for many years.
- The previous small scale commercial use ceased operation many years ago and therefore has no planning status.
- The development plan facilitates part conversion of a private dwelling by an occupier of a dwelling to offices, but only at a scale that would not unduly interfere with the primary use of the dwelling.

- Notwithstanding the revisions carried out to the proposal following the previous refusal (Planning Ref 22/197), it is considered that the development as proposed would unduly interfere with the primary use of the dwelling.
- The proposal would result in a smaller residential unit with less accommodation and generally a poorer quality internal layout. It would take the form of a 2-bed duplex apartment, with a gross floor area of 70m² which would be accessed from the rear of the site.
- The proposal would result in fundamental and significant changes to the existing 3-bed terrace unit which does not appear to be suitable for part conversion, given the size and layout of the existing dwelling/plot. Part conversion would require significant internal and external works, which would result in a poor quality and form of residential accommodation. It would result in the loss of a good quality family home, which has the benefit of own door access and private amenity space to the rear.
- The proposed development would result in changes to the character of the street and not contribute positively to the visual integrity of the residential terrace/streetscape.
- If permitted the proposal would set an unacceptable precedent for similar proposals in the inner residential areas of the city.
- The proposal does not satisfy the open space requirements of the development plan and its design does not maximise its potential.
- No overlooking issues arise and given the size, scale and form of the proposed development, no overshadowing issues arise.

3.2.2. Other Technical Reports

The Drainage Section raised no objection to the proposed development.

4.0 Planning History

22/197 – Permission refused for the demolition of an existing shed to the rear of the dwelling, change of use of part of ground floor from residential to office use, single and two-storey extension the rear of the house and new sign to the front of the

building. Permission was refused for a number of reasons, including that the proposed office use would unduly interfere with the primary use of the building as a residential dwelling and other matters relating to the scale, form and volume of the rear extension, overlooking and lack of adequate private amenity space.

5.0 Policy and Context

5.1. Development Plan

The operative development plan is the Galway City Development Plan 2023-2029. The site is located within the City Centre (Fig 10.1) and in an area zoned 'R' Residential, with the following 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'

Under the provisions of this zoning objective (Section 11.2.8) the uses identified which may contribute to the zoning objective include the following:

Part conversion or extension of private residence to home office, childcare facility or small enterprises by the occupier of the dwelling at a scale as would not unduly interfere with the primary use of the dwelling or prevailing residential amenity.

Chapter 11 of the Plan includes Development Standards and Guidelines. Of relevance to this appeal is Section 11.3.1 (j) Conversion and Subdivision of Dwellings.

5.2. Natural Heritage Designations

There are a number of European sites in the city including:

- Lough Corrib SAC (Site code 000297).
- Galway Bay Complex SAC (Site code 000268).
- Lough Corrib SPA (Site code 004042).
- Inner Galway Bay SPA (Site code 004031).

5.3. EIA Screening

5.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Revised drawings were submitted with the appeal and the main alterations include the following:

- an internal access door between the residential unit and ancillary office on the ground floor,
- an entrance porch to the living area at the rear.

6.1.2. The grounds of appeal are summarised as follows:

The concerns raised by the planning authority do not consider the wider character of the area or the established context on site.

6.1.3. Response to Refusal Reason No 1

- The subject building had a commercial content on the ground floor and operated as a sweet shop. This use was in keeping with the primacy of commercial activity at ground floor level fronting onto the square.
- It would appear that the commercial unit pre-dated the planning act and the principle of commercial content, with living accommodation overhead means that the building was designed to accommodate a 'living over the shop' arrangement.
- The proposed development which is designed to cater for modern living requirements as well as a viable and attractive office environment, will restore the original mixed-use arrangement on site in a more modernised format.
- The amended plans submitted with the appeal allow for an internal link between the residential and office content which will be owned and utilised by

the applicant. The office use will therefore form an ancillary part of the main residential use on the site and accords with the 'R' zoning on the site.

- The proposed development will enable the applicant to live and work from this city centre location.
- A very small office is proposed (23m²) which amounts to 25% of the overall floor area. As 75% of the floorspace will be dedicated for residential use, it will remain the dominant use of the building.
- The proposed development would not result in a deterioration of the quality of residential accommodation on the site. Table 1 shows how the proposed residential unit (as set out in the amended plans) complies with the Apartment Guidelines. Private open space provision is in accordance with the guidelines.
- The proposed two-bedroom apartment is entirely consistent with the Town Centre First Policy and the policies set out in 'Rebuilding Ireland' 2017.

6.1.4. Response to Refusal Reason No 2

- The subject site is located within the 'City Centre Residential Area' and is not within an 'Inner Residential Neighbourhood Area' as stated by the planning authority. The provisions of Section 3.7 of the development plan are not therefore relevant.
- The proposed development is consistent with Section 3.8 of the development plan entitled 'Sustainable Neighbourhoods: City Centre Residential Areas'. It accords with the policies for these areas set out in the plan.
- The proposal is entirely consistent with the spirit of the Living City Initiative (LCI) and the site is located within the LCI 'Special Regeneration Area' for Galway City.
- The proposed refurbishment of the property together with subtle modernisation of the original shopfront will positively contribute to the existing streetscape at this location.
- The central location of the property fronting onto 'The Crane' would positively contribute to the visual integrity of the square, where a public realm scheme is proposed by the Council (Section 8.9 of the CPD).

- The proposed development as amended in the revised drawings attached would provide for an acceptable design intervention at this location and is in compliance with the provisions of the development plan.

7.0 **Assessment**

7.1. Introduction

7.1.1. Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered.

7.1.2. The main issues, therefore are as follows:

- Development plan provisions.
- Impacts on the amenities/character of the area.
- Appropriate Assessment.

7.2. **Development Plan Provisions**

7.2.1. The planning authority's first reason for refusal refers to the zoning provisions of the development plan. As noted, the site is located within an area zoned for residential purposes and the uses which are listed, which are considered may contribute to the zoning objective, include the part conversion or private residence to a home office, provided it is at a scale that would not unduly interfere with the primary use of the dwelling or prevailing residential amenity (Section 11.2.8). While the scale of the office space has been reduced from that previously proposed, the planning authority concludes that with a floor area of c 25% of the dwelling, it would interfere with the primary residential use of the building and would be incompatible with the zoning objective for the area. The appellant refutes this argument, stating as over 75% of the floor area will be retained in residential use, the proposal is consistent with the zoning objective zoning objective.

I draw the attention of the Board to Section 11.3.1 (j) of the development plan which refers to the conversion and subdivision of dwellings. In the context of the subject

appeal, it provides guidance on the type of home office envisaged under the zoning provisions of the plan.

- 7.2.2. *-Home offices shall only be for use by the applicant with no additional staff for the carrying out of office type work of a nature that doesn't demand face to face interaction and shall not operate as a conventional commercial office in particular where members of the public/clients/patients/other can or need to attend.*
- 7.2.3. The applicant currently operates a real estate business which is operated from a different area within the city. I note from the drawings submitted, both to the planning authority and revised as part of the appeal, that the proposed office includes a reception area with a separate office, similar to any conventional commercial office arrangement. Having regard to the nature of the business proposed and the layout of the proposed office, I would include that the proposed office is designed to accommodate visiting members of the public, is not a 'home office' as defined in the plan and regardless of its scale, would not be considered compatible under the 'R' zoning that applies to the area.
- 7.2.4. The planning authority's second reason states that the proposal would be at variance with the provisions of the plan that apply to 'Inner Residential Areas' (Section 3.7). The appellant's position is that these provisions are not applicable to the subject site as it is located within the 'City Centre Residential' area and the relevant provisions are contained in Section 3.8.
- 7.2.5. While it is difficult to be conclusive, in the absence of larger scale maps, I would note that the site appears to be located in the 'City Centre Residential' area as shown on Fig 3.1, which coincides with the City Centre area shown on Fig 10.1 of the development plan. I would also note that the primary objective for both neighbourhood areas is similar and that is to protect and enhance residential communities. There is a specific policy (Policy 3.7) to discourage encroachment from commercial development within 'City Centre Residential' areas. I also note that the same provisions apply to both neighbourhood areas in relation to the conversion and subdivision of dwellings under Section 11.3.1(j) of the plan and the provision of a 'home office' in an existing dwelling, which is designed to act as a conventional commercial office to facilitate visiting members of the public is not permitted.

- 7.2.6. I would therefore conclude that the proposed conversion of part of the dwelling for use as a home office is not permitted regardless of whether the site is located within in either the area designated as 'Inner Residential Area' or within the 'City Centre Residential' neighbourhood area in the development plan.
- 7.2.7. The appellant refers to the Living City Initiative which focuses on the regeneration of retail and commercial districts in cities including Galway and the Town Centre First Policy which is to maintain the vibrancy and attractiveness of town centres as places to live, work and visit. The objectives of the development plan are consistent with the overall aims of these strategies and the provision of an office such as that proposed in a residential area, is not considered to be consistent with its objectives.

7.3. Impacts on amenities/character of the area

- 7.3.1. The existing house is small in scale. The living room and kitchen have restricted floor areas and also function as corridors connecting the front and rear of the dwelling. The provision on an enlarged dining/living area with an enclosed porch to the rear entrance and improved bedroom accommodation on the first floor would improve the level of residential amenity afforded by the dwelling. While I would accept that the alterations proposed resemble a duplex apartment type arrangement which accords with the minimum standards set out in the Apartment Guidelines, the primary use of the building for residential purposes would be retained. With a connecting door between the proposed office and the residential accommodation at the rear, access directly from the street is altered but not curtailed.
- 7.3.2. There are no changes proposed to the building which would negatively impact on the residential amenity of adjacent buildings. No significant alterations to the front elevation are proposed which would impact on the existing fabric or character of the surrounding area.

7.4. Appropriate Assessment

- 7.5. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment as a built-up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 Conclusion

- 8.1.1. The appellant seeks to justify the office space on the basis of the historic use of the ground floor for commercial purposes. It is confirmed that the use ceased over 30 years ago and I would, therefore, accept that this use has been abandoned and has no planning status.
- 8.2. The layout of the proposed office and the nature of the commercial operation proposed suggests that the proposed building would be open to visiting members of the public. The proposed development does not accord with the 'home office' provisions of the development plan and would therefore not be in conformity with the residential zoning objectives for the area, irrespective of whether the site is located within an 'Inner Residential Area' or 'City Centre Residential' area as identified in the plan.

9.0 Recommendation

- 9.1. On the basis of the above assessment, I recommend that permission for the development be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to the nature of the business proposed and the design and layout of the proposed office, which would facilitate its operation as a conventional commercial office and accommodate visiting members of the public, it is considered that the proposed development would not be in conformity with the Residential (R) zoning objective for the site, which would adversely affect the residential amenity of the area. The proposed development would, therefore, be contrary to the provisions of the Galway City Development Plan 2023-2029 and 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.

Breda Gannon
Planning Inspector

31st May 2023