



An
Bord
Pleanála

Inspector's Report ABP-307270-20.

Development	Permission demolish ground floor extension and construction of ground floor extension. Subdivision of the site into two independent sites and construction of house and new site entrance.
Location	34 Devon Park, Salthill, Galway.
Planning Authority	Galway City Council.
Planning Authority Reg. Ref.	20/21.
Applicant(s)	Cormac Mullins.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Cormac Mullins.
Observer(s)	None.
Date of Site Inspection	22/07/2020.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located approximately 1.8km to the west of Eyre Square in Galway City Centre, in the Salthill area of the city. Devon Park is an established residential area of the city and includes a development of semi-detached houses. The subject site is located in a small cul-de-sac which originally accommodated 4 houses, 2 sets of semi-detached houses. The site is accessed via Salthill Road Lower to the south east or via Rosary Lane / Devon Gardens to the north west.
- 1.2. The site, the subject of this appeal, comprises a 4 bed, two-storey semi-detached house, on a large corner site which backs onto the grounds associated with St. Annes School, a special needs school. The houses in Devon Park, while pairs of semi-detached, are not identical with some variation in terms of design details. The original 4 houses within the cul-de-sac all appear to have originally been the same design, rising to two storeys, each with an open arched porch entrance, bay windows at both ground and first floor level with hipped roofs.
- 1.3. A new house has been constructed between the subject site and No. 32 Devon Park to the east. This is a modern design and includes a separate entrance driveway. This house is set back behind the front building line of No. 32. Devon Park.
- 1.4. The appeal site has a stated area of 0.04ha and is irregular in shape with a narrow road frontage and widening to the rear of the site. The existing house on the site is occupied by a tenant whom I met on the day of my site inspection. The house includes a small extension to the side (east) and a mature garden with a number of mature trees and there is adequate car parking for at least three cars in the driveway.

2.0 Proposed Development

- 2.1. Permission is sought for development which will consist of the subdivision of the site into two independent sites. Permission is also sought to construct a single house and new entrance on new site, demolition of ground floor extension to existing semi-detached house and construction of proposed ground floor extension with all site works all at 34 Devon Park, Salthill, Galway.

- 2.2. The application included a number of supporting documents including plans, particulars and completed planning application form.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following stated reasons:

1. The proposed development would be contrary to the Galway City Council Development Plan 2017-2023, Section 2.6, as its position significantly to the rear of the established building line, in addition to its height, mass, scale and proximity to side and rear boundaries, is considered to be excessive and out of character with the surrounding area and would generate a significant shadowcast towards south/southeast onto the residential amenity area and adjacent dwelling, having a negative impact on the residential amenity of that dwelling. Therefore the proposed development would be contrary to the proper planning and sustainable development of the area.
2. The Galway City Development Plan 2017-2023, Section 11.3.1(d) requires that 'residential units shall not directly overlook private open space or land with development potential from above ground level by less than 11 metres minimum' and 'in the case of developments exceeding 2 storeys in height a greater distance than 11 metres may be required, depending on the specific site characteristics'. In this the proposed development cannot meet the above policy / standard requirements, and if permitted, would be contrary to the stated development plan policy and give rise to undue overlooking of adjoining properties thus distracting from the residential amenity and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, submissions to the file and the County

Development Plan policies and objectives. The report does not include an Appropriate Assessment Screening Report.

The planning report notes the grant of planning permission for a similar proposal on the adjacent site but notes that the permitted site was larger than the current site. The report concludes that the development is not acceptable and recommends that permission be refused, for two stated reasons. This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

Transportation Department: No objection subject to conditions.

3.2.3. Prescribed Bodies

Irish Water: No objection.

3.2.4. Third Party Submissions

There is 1 no. third party objection noted on the planning authority file from the adjacent property owner to the east. The issues raised are summarised as follows:

- Landscaping plan and the loss of trees along the site boundary.
- Submits that the eastern finish should be light in order to reflect light which is limited due to the orientation of the existing site.
- Height and scale of the building may be imposing on existing adjacent dwellings.

4.0 Planning History

There is no recent relevant planning history pertaining to the subject site.

Adjacent site:

PA ref: 09/284: Permission granted for sub-division of site and new entrance and for construction of 1 new family house, shed and all associated site works and services at no 32 Devon Park, Salthill, Galway. This decision was extended for PA ref 14/209.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

The National Planning Framework – Project Ireland 2040 is a high level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential and promote the principle of higher densities in urban areas. Section 5.9 of the guidelines deals with Inner suburban / infill sites and notes that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the revitalising areas by utilising the capacity of existing social and physical infrastructure. Such development can be provided either by infill or by sub-division of dwellings.

5.3. Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013

In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

5.4. Development Plan

5.4.1. The Galway City Development Plan 2017 – 2023, is the relevant policy document relating to the subject site. The site is zoned 'R1' Residential which has the stated objective 'to protect residential amenity and to provide for limited associated uses'.

5.4.2. Relevant policies and standards of the Galway City Development Plan 2017-2023 include:

- Policy 2.6 Established Suburbs states: Ensure a balance between the reasonable protection of the residential amenities and the character of the established suburbs and the need to provide for sustainable residential development.
- Section 11.3 Residential Development

5.5. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Galway Bay Complex SAC (& pNHA) (Site Code: 000268) which lies approximately 400m to the south of the site. The Inner Galway Bay SPA (Site Code 004031) is also located 400m to the south of the site.

Lough Corrib SAC (Site Code: 000297) is located approximately 1.2km to the east of the site.

5.6. EIA Screening

Having regard to nature and scale of the development, together with the nature of the site, 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 against the decision of the Planning Authority to refuse planning permission for the proposed development. The appeal addresses the reasons for refusal and is summarised as follows:

Reason1:

- The permitted house at no. 32A Devon Park is set back from the adjacent houses and it cannot therefore be argued that there is an established building line.
- In terms of the height, mass, scale and proximity to boundaries, the proposed development is the same as all other houses in Devon Park, being a 2 storey house.
- While the plot ratio is slightly higher, at 0.57:1, than the 0.46:1 permitted, given national strategic objectives and regional policies to promote compact urban growth, the increased plot ratio should not form the basis for refusal of permission.
- While the development does not meet the criteria of policy 11.3.1(f) in terms of gable to boundary distance of normally 1.5m along the eastern boundary, the similar development on the adjacent site is also 1m from the new plot boundary.
- In terms of being out of character, there is no architectural style to the area. The newly constructed dwelling adjacent to the site has changed the character of the area even more so due to its modern design.
- It is not considered that there would be significant shadowcast from the proposed dwelling or the single storey extension to warrant refusal.

Reason 2:

- In terms of overlooking, it is submitted that the policy refers to windows above ground level. The proposed development should not be considered to overlook private space or land with development potential.

- All windows on the eastern and northern elevations will be obscured glazing and non-opening above ground level.
- Windows to the south will overlook the driveway and road. Windows on the western elevation are bedroom windows and will have an angled exterior panelling to limit overlooking of no. 34 Devon Park.
- The shape of the adjacent site posed challenges in terms of ensuring the amenity of neighbouring properties is not compromised. The 11m distance policy between windows should not be considered in this case either.

In addition to the above, the appeal submits that the planning history of the neighbouring site has set a precedent for new residential development and extensions to existing developments. While the previous permission was granted in 2009, with the extension of duration permitted in 2014, the City Development Plan objectives have not materially changed in policy and objectives. National policy has become more encouraging of compact growth and the proposed development should not be refused.

It is also noted that the owner / occupier of the adjacent property did not object to the proposed development, rather sought additional information

6.2. Planning Authority Response

None.

6.3. Observations

There is 1 no. third party observation noted from the adjacent property owner to the east. Mr. Jones advises that he has no objection in principle to the proposed development but raises a number of concerns, summarised as follows:

- Landscaping plan and the loss of trees along the site boundary.
- The eastern finish should be light in order to reflect light which is limited due to the orientation of the existing site.
- Height and scale of the building may be imposing on existing adjacent dwellings. The finished floor level should be reduced.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Visual and Residential Amenity Impacts
3. Other Issues
4. Appropriate Assessment

7.1. Principle of the development

- 7.1.1. The proposed development comprises two elements, being the replacement of an existing single storey extension to existing house, and the construction of a new house on the site. The subject site lies approximately 1.8km to the west of Eyre Square, in an established residential area. The subject site is zoned R1 Residential in the Galway City Development Plan 2017-2023 which has the stated objective 'to protect residential amenity and to provide for limited associated uses'.
- 7.1.2. In addition to the local policy requirements, the Board will note the thrust of national policy which seeks to promote compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities. In addition, the Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009) promote the principle of higher densities in urban areas. Section 5.9 of the guidelines deals with Inner suburban / infill sites and notes that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, can revitalise areas by utilising the capacity of existing social and physical infrastructure. Such development can be provided either by infill or by sub-division of dwellings.

7.1.3. There is no objection in principle to the proposed development, subject to the protection of existing visual and residential amenity.

7.2. Visual & Residential Amenity Impacts

7.2.1. In terms of the proposed replacement of the existing single storey extension to the house at 34 Devon Park, I note that the existing extension comprises storage spaces and a WC, accessed off the existing kitchen. This utility, with a stated floor area of 27m², is to be demolished and replaced with a new wrap around single storey flat roofed structure. The new extension will be incorporated into the existing dining room and kitchen and will include a WC and store to the rear. With the extension in place, the existing house will have an overall floor area of 153m². I have no objection to the proposed extension to the existing house on the site.

7.2.2. In terms of the proposed development of a new house on the subdivided site, the Board will note that the existing house will have an overall site area of 246m². The open space provision for the existing house will be 133m², and parking will be provided to the front of the house. Overall, I have no objection to the subdivision of this site in the context of amenity for the existing residents.

7.2.3. The proposed new house to be constructed to the east of the existing house on the site will be set back from the cul-de-sac, and behind the front building line of the existing houses. The site will occupy an area of 245m² and the proposed new house will have a stated floor area of 140m², leaving an area of open space of 105m².

7.2.4. The proposed new 3-bedroom house is of modern design, with a stepped flat roof, rising to two storeys in height to approximately 7.6m at its highest. The house will be finished using Corten steel cladding on structural insulated panels at first floor levels with externally insulated and rendered masonry at ground floor level. Windows will be triple glazed with fiberglass frames and the roof will be constructed using a fiberglass roofing membrane on insulated timber roof deck. The design proposes few windows on either the south western or north eastern elevations at first floor level. The floor to ceiling heights within the proposed house range from 3-3.9m at ground floor level and 2.6-3.5m at first floor level.

7.2.5. I note the PAs two reasons for refusal and the first-party response to these reasons. In the context of impact of the new house on the existing character of the area and

impact on existing residential amenity, I note that the existing houses in Devon Park do not share a consistent design. In addition, I note the inclusion of the modern house on the sub-divided site immediately adjacent to the subject site, at 32A Devon Park. This modern house has been inserted very successfully into this established residential area and I am satisfied that the proposed site can accommodate a modern design also.

- 7.2.6. In terms of the scale of the proposed house, no context drawing was submitted which includes the house to the east of the site. I also note that the observer to this first-party appeal, and adjacent home-owner, has not objected in principle to the proposed development. I would agree with the observer that the scale of the proposed house, given the overall height and finished floor level – which sits over 1m above that of the existing house to the east - would have an overbearing impact on the adjacent property.
- 7.2.7. In order to minimise this impact, I would consider that the maximum overall height of the house should not exceed 7m and that the finished floor levels should be reduced to +99m. In addition, the final finishes of the building should be light and neutral in colour, with the details to be agreed in writing prior to the commencement of any development on site with the Planning Authority. This can be dealt with by way of condition.
- 7.2.8. I note the concerns raised in relation to the loss of existing boundary trees and shrubs which contribute to the amenity of the adjacent property as well as the subject site. The proposed house is to be set back from the boundary by 1.05m, and if permitted, the existing vegetation will be removed. This separation distance should be increased to 1.5m to reduce the impact on the adjacent property and to ensure compliance with policy 11.3.1(f) in terms of gable to boundary distance. I also note that the adjacent house has also some vegetation planted adjacent to the boundary fence. No landscaping plan was submitted with the application. I consider that this issue should be addressed by way of condition.
- 7.2.9. In terms of the second reason for refusal which relates to overlooking, I am inclined to agree with the appellant. Having regard to the overall design approach to the proposed new house, I am satisfied that the potential for overlooking of existing

adjacent private amenity space has been adequately dealt with and is limited. The design response for this site is acceptable in my opinion.

- 7.2.10. I am satisfied that the proposed development is acceptable, subject to compliance with the amendments recommended above, is acceptable and would not contravene national, regional or local policy.

7.3. Other Issues

7.3.1. Water Services

The site will connect to public services in the area. No objections noted.

7.3.2. Roads and Traffic Issues

The site is accessed via the public road network and is located within 1.8km of Galway City Centre. There is a public transport service operating in the vicinity of the site. Parking is available both on the sites and within the cul-de-sac. No objections to the proposed development noted in this regard.

7.3.3. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.4. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Galway Bay Complex SAC (& pNHA) (Site Code: 000268) which lies approximately 400m to the south of the site. The Inner Galway Bay SPA (Site Code 004031) is also located 400m to the south of the site. Lough Corrib SAC is located approximately 1.2km to the east of the site.

Neither the applicant nor Galway City Council make reference to Appropriate Assessment. It is noted that the site comprises a developed suburban residential site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects,

would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and the receiving suburban environment and that no Appropriate Assessment issues arise. It is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the zoning objective for the area, the policies and objectives of the Galway City Development Plan 2017-2023, the design and layout of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable form of infill development, would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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 proposed development shall be amended as follows:

- (a) the maximum overall height of the proposed house shall not exceed 7m.
- (b) the finished floor levels of the new house shall be reduced to +99m.
- (c) the house shall be set back 1.5m from the eastern site boundary.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity, visual and residential amenity.

- 3. The existing dwelling and proposed extension shall not be subdivided and shall be jointly occupied as a single residential unit.

Reason: In the interest of clarity and the residential amenities of the area.

- 4. The external finishes of both the extension and new house, including roof and cladding materials, shall be light and neutral in colour and shall be submitted for the written agreement of the Planning Authority prior to the commencement of any development on site.

Reason: In the interest of visual amenity.

- 5. The sites shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

6. 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.

A. Considine

Planning Inspector

29th August, 2020