

An
Bord
Pleanála

Board Order
ABP-315252-22

Planning and Development Acts 2000 to 2022

Planning Authority: Galway City Council

Planning Register Reference Number: 22/164

Appeal by Annette Murphy care of Paula M. Murphy Architects of Parkstown House, Horse and Jockey, Thurles, County Tipperary against the decision made on the 10th day of November, 2022 by Galway City Council to grant subject to conditions a permission to Joan Lynch care of Tom O'Toole Archeco of Mulroog East, Ballindereen, Kilcolgan, County Galway in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a new two-storey dwellinghouse and domestic garage/garden store, new sewerage treatment system, all associated landscaping and all associated site works and services at 9 Ard na Locha, Bushypark, Dangan Upper, Galway.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the zoning of the subject site, to the nature, scale and extent of the proposed development and to the pattern of residential development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area, including the amenities of property in the vicinity, would be acceptable in terms of design and appearance, would be acceptable in terms of pedestrian and traffic safety and would constitute an appropriate form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered the totality of the documentation on file, including the third-party appeal and the reports of the planning authority. The Board noted, and agreed with, the commentary of the planning authority that there are existing similar dwellings constructed within this estate at higher and lower elevations and the principle of such a design would be open for consideration. In this regard, the Board did not share the opinion of the Inspector that the proposed dwelling would be an unduly dominant addition to the landscape and would fail to respect the visual sensitivities of the site within its context. While the proposed development would be visible in the wider context, the Board determined that this fact of itself did not translate to a negative impact, as the design of the proposed dwelling is of high quality and is comparable to other dwellings in the immediate vicinity. Furthermore, the Board determined that the wider area displays no designated visual sensitivity, such that the addition of the proposed dwelling would constitute an unacceptable visual impact.



Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 9th day of June 2022, as amended by further information submitted to the planning authority on the 2nd day of September 2022, and by clarification of further information submitted on the 14th day of October 2022, except as may otherwise be required in order to comply with the conditions set out below. 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 dwelling shall be used as a single dwelling unit only.

Reason: To protect the residential amenities of the area

3. The external finishes and roof colour of the proposed development shall be as follows:
 - (a) The roof shall be black in colour; and

- (b) the exact finish of the stone facing for the treatment of boundaries and dwelling shall be submitted for the agreement in writing with the planning authority prior to the commencement of the development. The developer shall submit a photograph or sample brochure of the material proposed.

Reason: In the interest of visual and residential amenity, and the proper planning and sustainable development of the area.

4. With regard to the site boundary walls the following shall be applicable:

- (a) All finishes of the boundary walls shall be agreed in writing with the planning authority prior to commencement of development.
- (b) Any works to the party walls/boundaries not under the full control of the developer requires relevant consent, noting that Section 34 (13) of the Planning and Development Act 2000, as amended, provides that "a person shall not be entitled solely by reason of a permission under this section to carry out any development".

Reason: In the interest of visual and residential amenity, and the proper planning and sustainable development of the area.

5. The garage/shed shall not be used for commercial purposes or for human habitation or for any purpose other than a purpose incidental to the enjoyment of the dwellinghouse as such.

Reason: In the interest of securing the proper planning and sustainable development of the area.

6. Prior to commencement of development, the developer shall enter into a water/wastewater connection agreement with Uisce Éireann (formerly Irish Water).

Reason: In the interest of public health.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

8. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 9th day of June 2022, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.



- (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

- 9. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

10. The developer shall ensure that all construction activity within this site shall comply with the following:
- (i) Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays, inclusive, between 0900 to 1300 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.


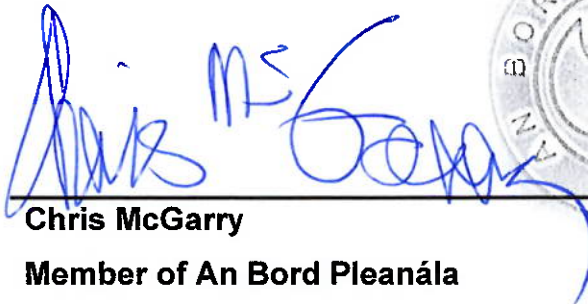
Reason: In order to safeguard the amenities of property in the vicinity.

11. The construction of the proposed development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

12. 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.



Chris McGarry

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 9th day of January 2024.