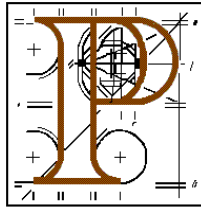


An Bord Pleanála



Inspector's Report

PL 61 245534

DEVELOPMENT: Eighteen semi-detached and detached houses, a new vehicular entrance junction from Cappagh Road, surface carparking and associated site development works.

LOCATION: Lenabower, Cappagh Road, Galway.

PLANNING APPLICATION.

Planning Authority: Galway City Council.
P. A. Reg. Ref: 15/95
Applicant: Kenny Developments Ltd.,
Decision: Refuse Permission

FIRST PARTY APPEAL

Appellant: Kenny Developments Ltd.,
Observers: None.

Inspector: Jane Dennehy.

Date of Inspection: 24th November, 2015.

1.0 INTRODUCTION

- 1.1 This file contains a first party appeal by Kenny Developments Ltd., against the planning authority decision to refuse permission for development of eighteen houses, surface carparking, a new entrance junction at Cappagh Road and site development works at Lenabower, Galway city.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The site has a stated area of 6,669 square metres and it is located to the west side of Cappagh Road on the west side of Galway city a short distance to the south of the junction of the Western Distributory Route with Cappagh Road. To the west are public parklands, (Cappagh Park) where there are sports grounds and a recently constructed community and sports building, surface carparking and a linear walkway adjoins the site boundary. To the south east is road frontage development and to the south and east on the opposite side of the Cappagh Road there are residential developments. To the south and to the west there are views towards the Barna Woods.
- 2.2 The ground within the site which is uneven and rocky and falls toward to south east is under grass and indigenous shrubbery. It is enclosed by stone walls and hedgerow. There are agricultural entrances and gates on the road side frontage to the east and on the northern frontage.

3. PLANNING HISTORY

- 3.1 **P. A. Reg. Ref. 14/196:** An application for eighteen houses with surface carparking and a new entrance junction at Cappagh Road was withdrawn prior to determination of a decision.
- 3.2 **P. A. Reg. Ref. 10/172:** Permission was refused for a residential development eighteen houses and eighteen apartments and for demolition of two existing houses on lands incorporating the appeal site.
- 3.3 There is a record of three prior unsuccessful applications for residential development of thirty two to forty two dwellings on the lands that include the appeal site lands according to the planning officer report. (P. A. Reg. Refs. 98/195, 97/788 and 97/709 refer.)

4.0 DEVELOPMENT PLAN.

- 4.1 The operative development plan is the **Galway City Development Plan, 2011-2017** according to which the site with the exception of a small area at the north eastern corner is within an area subject to the zoning objective: "R": *"To provide for residential development and*

associated support development, which ensures the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods.” An area at the north west corner and an area at the south east corner within the site are subject to the zoning objective, RA: *“To provide for and protection recreational uses, open space amenity uses and natural heritage”*.

- 4.2 The location is within the “Outer Suburbs” and according to Policy 2.3 higher density residential development is encouraged at appropriate locations especially close to public transport routes. According to this policy, development in excess of ten units is required to provide recreational facilities as an integral part of the public open space and a balance between the reasonable protection of residential amenities of outer suburban and protection of established character and need for sustainable residential development.
- 4.3 Policies and objectives for urban design standards are provided in section 7.4 according to which high standards, reinforcement of the character of the city, good place making, neighbourhoods, a mix of house types and sizes, innovative design and sustainable development are required.
- 4.4 Communal open space comprising a minimum of fifteen percent of the gross site area is required. Private space of not less than fifty percent of the gross floor area for each dwelling and sizes a plot ratio not in excess of 0.46:1 is required. Management Standards are set out in Chapter 11. Carparking standards for residential development are set out in section 11.3.1. (g) in which four alternative combinations details of which are provided can be applied. It is also noted that the standards should not be exceeded unless there is an additional need that can be demonstrated and grouped parking should not be allocated to individual units.

5. THE PLANNING APPLICATION.

- 5.1 The application lodged with the planning authority indicates proposals for permission for a development of eighteen three storey houses comprising in six house types. The communal open space which has a stated area of 1,008 square metres is located to the centre of the site and is overlooked by the houses. Some of the houses are dual aspect, and have bay windows. A stone cladding and render finish is shown for facades and blue back roof tiles. The communal open space which has a stated area of 1,008 square metres is located to the centre of the site and is overlooked by the houses. It is stated in written submission that the site coverage of circa twenty percent and a plot ratio is 0.37 and, 0.38 exclusive of the lands zoned RA: *To provide for and protection recreational uses, open space amenity uses and natural heritage”*.

- 5.2 A total of thirty-six carparking spaces are proposed and a single vehicular access is off the eastern boundary onto Cappagh Road. Railings are to be erected on the stone walling on the boundary with the public park. The layout includes provision for stone faced retaining walls adjacent to the roadside boundary and tree and shrub planting.
- 5.3 Accompanying the application is a drainage and water supply report and drawings which include details of current drainage design and calculations for the proposed arrangements which include provision for an attenuation tank to be provided within the open space for stormwater storage.
- 5.4 Third party objections indicate concerns about development on the RA zoned lands, structural stability and the design and height, overlooking and drainage.
- 5.5 According to the written design statement accompanying the application, the two triangular areas within the site were arbitrarily and unintentionally zoned "RA" and this zoning objective is of no benefit to the community or the development. It is contended that the predominant "R" zoning objective should apply to the site in entirety.
- 5.6 In a multiple item request for additional information the applicant was requested to omit the area coming within the RA zone in the site from the development, to amend the site layout accordingly as well as an amended design adjacent to the public park entrance at the northern end of the site and other details including longitudinal sections cycle parking and ownership of adjoining lands.
- 5.7 In the response received by the planning authority on 10th July, 2015 the case made in the design statement is reiterated. It submitted that the RA zoning follows historic field boundaries, it should not be a driver of the development design and layout and that the residential zoning objective should apply as a whole throughout the site. It is confirmed that the applicant is not in a position to omit development from the two triangular spaces and retain them free of development.
- 5.8 The applicant confirms it is not proposed to revise the design to meet the planning authority requirement to address the public park access road and to provide a pedestrian link through the development. The reason given is that an existing good footpath linking the road and entrance to the park is available in close proximity. It is confirmed that lands to the north is in the ownership a longitudinal section and two cycle spaces are provided in revisions.
- 5.9 The internal report of the Drainage Division indicates no objection to the proposed surface water drainage proposals and the report of Irish Water indicates no objection subject to a condition for the signing of a connection agreement.

- 5.10 The initial report of the Planning and Transportation Department indicates on objection subject to conditions of a standard technical nature. The supplementary report, (following submission of further information) indicates objection and on grounds that the proposed development is premature pending the detailed design of the EPRC for the N 6 Galway City Transportation Project.
- 5.11 The Recreation and Amenity Department's report on the the further information submission contains a statement that the significance of the RA zoning objective is not recognised in the applicant. There is a recommendation for the applicant to comply with to the RA zoning objective in relation to the two triangular areas of land. It is pointed out that the application is similar to the application lodged under P.A. Reg. Ref. 14/196 (which was withdrawn) prior to determination of a decision and that comments had been made on the proposals in that prior application.
- 5.10 At the request of the planning authority, revised notices were published.

6. DECISION OF THE PLANNING AUTHORITY.

- 6.1 By Order dated, 27th August, 2015 the planning authority decided to refuse permission on the basis of the following two reasons:

Reason One:

“The proposed housing development includes lands zoned RA where it is the policy of the Galway City Development Plan, 2011-2017 “To provide for and protect recreational uses, open space, amenity uses and natural heritage”. There is no consideration for housing to be located on these lands and if permitted the development by reason of its configuration, size and position would be contrary to the provision of the Development Plan and the proper planning and sustainable development of the area.

Reason Two:

“It is the policy of the Galway City Development Plan, 2011-2017 as set out in Chapters 2 and 7.4, to protect and enhance the urban design quality of existing areas. The design of the proposed development is such that the element close to the park entrance ha a poor contextual reference to that road, rendering the proposal an unsatisfactory solution to the development of this site, which if constructed would result in a structure that detracts from the existing high quality natural environment of the area, contravene the above stated policies of the Development Plan and would be contrary to the proper planning and sustainable development of the area “

6.2 The planning officer considers the incorporation of the RA zoned lands in the development unacceptable and believes that, a number of units within or affecting the 'RA' zoned lands should be removed to provide for a satisfactory interface with the park access road, the need for a pedestrian access route across the site and for a revised design addressing the open nature of the lands and relocation of the cyclespaces is required. is required.

7. THE APPEAL.

7.1 An appeal was received from Planning Consultancy Services on behalf of the applicant on 23rd September, 2015. The appeal includes an outline of the site location, strategic national, regional and local policy, and strategic guidance and a description of the proposed development.

7.2 The appeal grounds against Reason One can be outlined in summary form as follows:

- The two small triangular areas of land are residual 'RA' zoned lands and the combined size is only 301 square metres which is 4.58% of the total site area of 0.66 hectares. The zoning is of no benefit to the development or the community and it has no relevance to the RA zoning of the vast quantity lands to the west. The 'R', (Residential) zoning objective should be applied to the site in entirety. The proposed development would therefore not represent a material departure as referred to in section 5.12 of "*Development Management: Guidelines for Planning Authorities*" (DOEHLG – 2007)
- The 'RA' zoning follows an arbitrary line of an old field boundary which no longer exists rather than current ownership boundaries. This zoning boundary which is in two previous development plans has not been updated and there is no sound planning basis for the RA zoning of the isolated segments within the appeal site. The link to the Community Building is along a route that does not affect the site but follows desire lines for the public. It is unnecessary for the greenway connection (provided for initially in a prior, superseded development plan) to transect the appeal site lands so there is no requirement for the RA zone to deliver this route. The development should not be inhibited by the two triangular areas in the RA zone for which there is no planning justification.
- In relation to the configuration, the design of the scheme successfully meets the challenge of addressing Cappagh Road, the open space of Cappagh Park and the entrance to Cappagh Park to the north of the site. However if absolutely necessary the applicant is willing to modify the house design at (Nos 7 and 8 to provide more direct elevational treatment to Cappagh Park. House Type A could

be the corner type unit could be substituted. An alternative site plan is attached in Appendix 3. No material planning issues otherwise arise from the alteration.

- Overlooking the corner unit provides passive surveillance of the park. The alternative layout includes a seating area.

7.3 The appeal grounds against Reason Two can be outlined in summary form as follows:

- The contention as to poor contextual reference is subjective. The northern row of houses (Nos 306 (Type E) and Nos 1-2 (Type F) are high quality dual aspect in addressing the open space and the Cappagh Road entrance. The rear elevations (towards the road) benefit a front elevation. And the railing to be placed on the stone wall and tree and planting. This is demonstrated in the site section through Cappagh Park Road (Drawing No 3011 – Appendix)
- If necessary the applicant is willing to accept a condition to omit Nos 1-6 if absolutely necessary and to incorporate them in a separate and future application. This option would enable the applicant to deliver the remainder of the scheme, housing supply crisis being burgeoning in the site.

8. **RESPONSE TO THE APPEAL BY THE PLANNING AUTHORITY.**

8.1 There is no submission from the planning authority on file.

10. **EVALUATION.**

10.1 The issues central to the determination of a decision can be considered under the two broad sub-headings below. They are:

Consistency with the zoning objectives..

Layout and Design.

In addition there are small sub-sections on other issues and on appropriate assessment screening matters.

10.2 **Consistency with the zoning objectives.**

The proposed scheme layout is dependent on the application of the 'RA' zoning objective, (*"To provide for and protect recreational uses, open space, amenity uses and natural heritage"*) being disregarded in that house plots come within the RA zoned areas. The house footprint also comes within the larger area at the northern end of the site. The two

areas are treated in the application as if they came within the 'R' (residential) zoned lands. There is scope within the provisions of section 5.12 of the statutory Development Management Guidelines (DOEHLG – 2007), as pointed out in the appeal to disregard the 'RA' zoning objective subject to it being established that the departure would not be material in effect.

- 10.3 The applicant's case that the 'RA' zoning objective for the two triangular areas of land that come within the site can be disregarded and that the proposed development can be considered as if the site comes entirely within the area subject to the "R" (residential) zoning objective is not accepted. It is not agreed that there is no significance to the 'RA' zoning objective irrespective of whether the two areas are included with the adjoining lands with reference to historic field boundaries rather than current land ownerships. It is not accepted that application of the 'RA' objective does not benefit to the community or to the development.
- 10.4 It is agreed that two areas involved are small and at the edge of the application site. However the area at the northern in particular is in a prominent position at the edge of substantial adjoining parklands, pedestrian route and park entrance road from Cappagh Road. It is considered that of the proposed allocation of this area into individual house plots (No 6 and No 7) is a negative measure as it significantly reduces the potential public amenity value of the adjoining parklands. Designation, within the application of this area as public open space adjacent to the boundary would enable an appropriate transition between the R and RA zoned lands adjacent to the entrance to the park to be achieved at the entrance.
- 10.5 A similar argument applies in the case of the second smaller area at the southern and lowest lying end of the site where the historic field boundary, an old earth bank has also been followed in the 'RA' zoning. The proposed incorporation of this area into house plot No 1 would significantly reduce the amenity potential and transition between the R and RA zoned lands adjacent to the public park and in particular the adjoining walkway.
- 10.6 Clearly without the allocation of the the two areas of lands zoned 'RA', the achievement of the layout and intensity of development as proposed on the site would be compromised. However, it is considered that to set aside the application of the 'RA' zoning objective would be a material contravention of the development plan and that as such it would not come within the scope of section 5.12 of the Development Management Guidelines.
- 10.7 In view of the foregoing, the first reason for refusal of permission attached to the planning authority decision on grounds of conflict with the zoning objective, *"to provide for and protect recreational uses open space, amenity uses and natural heritage"* is supported.

10.8 Layout and Design.

The layout of the proposed development is such that the communal open space at the centre is central to the development and enclosed and overlooked by the majority of the dwelling units. As a stand-alone scheme a high standard has been achieved but it is at the opportunity cost of lack of integration with and negative impact on the adjoining high quality public parklands that are subject to the 'RA' zoning objective. Notwithstanding the attempt in the dwelling design to provide for dual aspects and high quality finishes to the side and rear elevations, there is negative impact on the adjoining parklands and an unsatisfactory abrupt transition across the two contrasting zoning objectives for the adjoining lands.

10.9 This effect is exacerbated by the inclusion of house plots and house construction on the two areas subject to the 'RA' zoning objective. Furthermore, there is no potential for the future occupants of the proposed scheme to benefit from integration visually or otherwise by way of permeability and access with the parklands. Substitution of a different house type as suggested in the appeal would have little effect. In this regard it is also noted that the applicant does not consider provision for pedestrian linkage through the development to the public park to be warranted.

10.10 The request by the applicant who has confirmed ownership of the adjoining lands, (in the event that the proposed development is unacceptable) that permission be granted with the omission of Unit Nos 1-6 would not be a satisfactory solution. The outcome would be piecemeal development of a haphazard nature whereby a comprehensive planning assessment would not be feasible. It would be substandard and the potential for an overall integrated scheme positively contributing to the surrounding environment would be seriously compromised.

10.11 In view of the foregoing, the planning authority's position is represented in Reason 2 of the decision to refuse permission is supported.

10.12 Other Issues,

It is noted that one of the two reports issued by the Transportation Planning Department on the proposed development contains a statement that the proposed development is premature pending the finalisation of the detailed design of the EPRC for the N 6 Galway City Transportation Project. There is no elaboration on the statement in the technical report and no reference to it in the planning officer reports or in the reasons for refusal of permission attached to the decision of the planning authority. It may be advisable for this recommendation to be taken into consideration in the determination of the decision and in the event that permission is refused the applicant's attention could be drawn to the matter.

10.13. Appropriate Assessment.

The application is not accompanied by an appropriate assessment screening report. However, it is considered that no appropriate assessment issues arise with regard to the Galway Bay Complex and Lough Corrib Complex SACs and the Galway Bay Complex which are within a short distance of the site location or any other European sites. The proposed means of drainage is to the existing public system serving the area with measure in place to control and provide storage capacity on site for storm water.

10.14 Having regard nature and location of the proposed development and to the receiving environment which is an urban and fully serviced location, it is considered that the no appropriate assessment issues would arise. It can be concluded that the proposed development would not be likely to have significant effect, individually or in combination with other plans and projects on European sites.

11. CONCLUSION AND RECOMMENDATION.

11.1 In view of the foregoing, it is considered that that the planning authority decision to refuse permission should be upheld and the appeal should be rejected. A draft order is set out overleaf.

DECISION.

Refuse Permission on the basis of the Reasons and Considerations set out below.

REASONS AND CONSIDERATIONS

The site of the proposed development which is in a prominent location and incorporates two small areas which along with the adjoining public parklands are subject to the zoning objective, RA: *“To provide for and protect recreational uses, open space, amenity uses and natural heritage”* on which residential development is not permissible according to the Galway City Development Plan, 2011-2017. It is considered that the proposed incorporation of these two small areas into plots on which individual houses would be constructed would be in material conflict with the development objective for the area, would be substandard development that would detract from the visual, natural and recreational amenities and would fail to provide for satisfactory transition and integration with the adjoining parklands, and would be contrary to the proper planning and sustainable development of the area.

Jane Dennehy,
Senior Planning Inspector.
4th January 2016.