

# An Bord Pleanála



## Inspector's Report

**PL 61 245827**

**DEVELOPMENT:** Demolition of existing dwelling, construction of two storey dwelling and ancillary site development works

**LOCATION:** 5 Grattan Park, Salthill, Galway City.

### PLANNING APPLICATION

**Planning Authority:** Galway City Council.

**P. A. Reg. Ref:** 15/106

**Applicant:** Gerard Nestor

**Decision:** Refuse Permission.

### APPEALS

**First Party Appellant** Jerrard Nestor,

**Observers:**

1. Noel Loughnane,
2. Patricia Greaney,
3. John Glynn.
4. Mary Howley.

**Inspector:** Jane Dennehy.

**Date of Inspection:** 12<sup>th</sup> February, 2016.

## 1.0 INTRODUCTION

- 1.1 This file contains a first party appeal by Jerrard Nestor against the decision of the planning authority to refuse permission for demolition of an existing house and construction of a new house at No. 5 Grattan Crescent, Salthill. There are also four observer submissions on file.

## 2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The appeal site has a stated area of three hundred and fifty eight square metres and is that of a two storey detached dwelling with a single storey flat roofed extension to the rear and a balcony off the master bedroom to the front. There is a shed and walled garden to the rear and curtilage parking to the front.
- 2.2 The house is the fifth house from the west and is within a group of four identical house types towards the centre of a row of twelve detached houses on a cul de overlooking open space and the public road and Galway Bay. This cul de sac is part of the Grattan Park residential estate the remainder of which is to the north with a row of houses back to back with the houses on the cul de sac.

## 3. PLANNING HISTORY:

- 3.1 The appeal site has the following planning history:

**PL 244356/P. A. Reg. Ref. 14/268:** The planning authority decision to refuse permission for demolition of the existing house and for construction of a two storey house was upheld following appeal. The reason for refusal of permission is reproduced below:

*“Notwithstanding that the Board considered that the proposed design was an improvement on that for which the Board had refused permission under An Bord Pleanála appeal reference number PL 61.240929, planning register reference number 11/224, the Board considered that the excessive extent of glazing to the side elevations of the proposed development would create an impression of overlooking to the properties on either side and would seriously injure the residential amenities of houses in the vicinity of the development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”*

(The Board’s file is attached).

**PL 240929/P. A. Reg. Ref. 11/224:** The planning authority decision to grant permission for demolition of the existing house and for

construction of a two storey house with roof terrace at second level and site development works was overturned following appeal. Permission was refused on the basis of serious injury to visual amenities of the area lack of satisfactory integration with existing development and lack of positive contribution to urban design in accordance with the requirements of the development plan.

**P. A. Reg. Ref. 11/55:** Permission for demolition of the existing house and for construction of a three storey house on the site for reasons relating to impact on residential amenity at adjoining properties.

#### **4.0 DEVELOPMENT PLAN.**

4.1 The operative development plan is the Galway City Development Plan, 2011-2017 according to which the site location is within an area subject to the zoning objective: "R: *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*".

4.2 It is also located within the 'Established Suburbs' and the policy regarding demolition is as follows,

*'Demolition of existing dwellings for replacement dwellings will not be acceptable in the established suburbs except in cases where it is demonstrated that the proposed development would make a positive contribution to the areas urban design and where it does not represent a major intervention into or redevelopment of the urban fabric. This assessment will be balanced with the contribution that any proposed replacement would make to enhance the character of the area and will have regard to any sustainable benefit of such development. Where replacement is acceptable, new development will be required to comply with Council's development standards..... and will..... not reduce the existing residential amenity'.*

4.3 Policies, objectives and standards relating to "Urban Design" are set out in Chapter 7. According to para 7.4 replacement developments should make a positive contribution to the areas urban design.

#### **5. THE PLANNING APPLICATION.**

5.1 The application lodged with the planning authority indicates proposals for demolition of the existing two storey house which has a stated floor area of 166 square metres and construction of a replacement dwelling with a stated floor area of 212 square metres. Two options are shown in the application and according to the written submission are to address and overcome the reason for refusal of permission, following appeal, for

the previous proposal. (P.A. Reg. Ref 61 244356 refers.) Option 2 is the preferred option.

- 5.2 An additional information request was issued relating to concerns about the front building line, the ridge line and the front elevation. In the written response received by the planning authority on 13th October, 2015 it is stated that no design modifications are proposed.
- 5.3 The internal technical reports of the Drainage Division, Roads and Transportation Department and Environmental Health indicate no objection to the proposed development.
- 5.4 Objections are received from occupants of neighbouring properties who have also submitted observer submission on the appeal details of which are available in paras 8.1- 8.4.

## **6. DECISION OF THE PLANNING AUTHORITY.**

- 6.1 By Order dated, 6th November, 2015 the planning authority decided to refuse permission for the proposed development on the basis of the reason which are reproduced below:

*"It is considered that by reason of its scale, height and design, the proposed dwelling house would fail to integrate within this row of houses at this prominent location and would fail to satisfy the requirements of the Galway City Council Development Plan, 2011-2017, where replacement dwellings should make a positive contribution to the area's urban design. Therefore, the proposed development would seriously injure the visual amenity of the area."*

## **7.0 THE APPEAL.**

- 7.1 An appeal was received from Padraic Hessian Associates on behalf of the applicant on 1st December, 2015. An outline summary follows:
  - The proposal fully addresses the reason for refusal of permission for *"the previous proposal in which it is stated that the building created an "impression" of overlooking.....due to excessive glazing to the sides of the dwelling....."*
  - The City Council went beyond the scope of the reason for refusal of permission and took prior reasons for refusal into consideration.
  - It is demonstrated in the current application that any "impression" of overlooking has been removed. Glazing at ground floor level will be shielded by the boundary wall shown on the plans. 3D elevations show how the remaining windows would be obscured. In the current

proposal the reason for refusal is addressed because glazing is removed from the side elevations. The overall glazing on the side is reduced from 42 per cent to 4.80 per cent.

- Letters of support signed by occupants of House Nos. 1, 2, 3, 11, 12, 14, 18, 19, 20, 21, 22 and 23 Gratton Park are attached and it is stated that occupants of Nos. 6, 10, 13, 15, 17 and 25 have verbally confirmed to the applicant that they have no objection to the proposed development.

## **8. OBSERVER SUBMISSIONS.**

### **8.1 John Glynn, 7 Gratton Park**

A submission was received from Mr Glynn on his own behalf on 16<sup>th</sup> December, 2016. According to the submission:

- The planning authority took into account Mr Glynn's issues of concern about design, size, scale, plot ratio and appearance in its reason for the decision to refuse permission.
- Several of the points made in section 15 (the assessment section) and section 16 (conclusions and recommendations) in inspector's report on the previous proposal were taken into account by the City Council. These extracts are reproduced in the appeal.
- The previous applications were refused for similar reasons, (Extracts are included in the submission.) The response to the request for additional information from the planning authority on the proposal did not address the issues.
- The letters of support included by the applicant with the appeal relate to the previous and not to the current proposal. As they were not submitted to the planning authority at application stage their inclusion does not comply with statutory procedures and regulations. It is not known what documents the signatories were shown or if they reviewed the application at the planning office.

### **8.2 Patrick Greaney, 9 Gratton Park.**

A submission was received from Mr. Greaney on his own behalf on 22nd December, 2015. Mr. Greaney states:

- That the current proposal would seriously injure the visual amenity of the area and,
- That he is fully in support of the reason for refusal for the current proposal.

### **8.3 Noel Loughnane, 4 Gratton Park.**

A submission was received from Mr. Loughnane on his own behalf on 23rd December, 2015. Mr Loughnane considers that the proposed development would have a direct affect on his property. His observations can be outlined as follows:

- The front elevation is out of character, completely, with the existing house and streetscape.
- The front projection which is forward of the existing building line would intrude on privacy at his property and interfere with privacy, symmetry and the overall appearance of the area.

### **8.4 Mary Howley, 8 Gratton Park.**

A submission was received from Ms Howley on her own behalf on 17<sup>th</sup> December, 2015. Her observations can be outlined as follows:

- The windows are continuous on both sides of the house on both floors. They would be excessive, out of character obtrusive and they would infringe on privacy of adjoining houses.
- The projection forwards of the front building line will affect the symmetry along the streetscape.
- The proposed development is out of character with that of the houses on either side. The roof is higher than the adjoining roofs.
- The continuous windows on the sides at both levels are excessive, will be obtrusive and will infringe on privacy of adjoining property.
- There are differences in the drawings lodged with the application and appeal.
- There will be insufficient carparking space to the front. Steps are shown at the house from the footpath but the footpath is not raised.

## **9. RESPONSE TO THE APPEAL BY THE PLANNING AUTHORITY**

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

## 10. EVALUATION

- 10.1 This current proposal for demolition of the existing house and construction of a replacement house follows a number of previous applications in which it has been established that in principle, the demolition and replacement of the existing dwelling is accepted. The current proposal is unchanged except for the proposed modifications to the side elevation glazing for which two options are proposed. According to the written submission, these options overcome the sole outstanding issue indicated in reason for refusal of permission for the previous proposal following appeal. (PL 61 344356 refers and the Reason is reproduced in full in para 3.1 of this report.)
- 10.2 This interpretation and understanding of the reason for refusal of permission for previous proposal is considered appropriate, the issue having been unacceptability of the proposed glazing in the side elevations. The other issues referred to in the planning authority's assessment and the reason for the decision to refuse permission and in the submissions of the observer parties have been set aside and the following observations, comments and recommendations which are confined to consideration of the proposed modifications to the side elevation glazing.
- 10.3 It has been noted that the lodged site layout drawing shows the 'footprint' of the upper floor which has an 8780 mm width whereas the ground floor footprint width is 9400 mm. There is a tight and confined separation distance between the existing and proposed dwelling. The incorporation of glazing for habitable rooms and main entrance in a side elevation is a departure from established restricted glazing element in side elevations of the houses in this part of the Gratton Park.
- 10.4 There is no objection to the proposed west elevation glazing, which is to utility and bathroom accommodation, subject to a condition that the obscured glazing be fitted. There is also no objection to the upper floor side elevation obscure glazing for bathroom provided that it is fitted.
- 10.5 With regard to the east elevation, Option 2, the applicant's preferred design option includes a side elevation window for the front bedroom on the east elevation. The window would give rise to perceptions of intrusiveness on the adjoining property and can be omitted. This window is omitted in the Option 1 drawings.
- 10.6 For Option 1 and Option 2 the entrance door and adjoining glazing is positioned four to eight metres behind the front building line of the adjoining house and three to seven metres from the rear building line. This entrance arrangement would be a source of intrusiveness, on the privacy and amenity of the adjoining property, including perceived overlooking, particularly over the rear garden private space.

- 10.7 This impact could be ameliorated by relocation of the entrance to the front elevation facing onto the front curtilage. However, this modification would necessitate some reordering of the internal accommodation layout at ground floor level. Should the proposed dwelling be considered acceptable subject to this modification it may not be appropriate address the matter by compliance with a condition. It may be desirable to request the applicant to submit details of the proposed modification so that provision can be made for comprehensive planning review including contributions from the other parties prior to determination of a decision.
- 10.8 A draft order is set out overleaf indicating a grant of permission for the proposed development. It includes a condition with a requirement for the modification to the entrance as discussed above which can be attached should it be considered appropriate..

**11. APPROPRIATE ASSESSMENT SCREENING.**

- 11.1 Having regard to the nature and scale of the proposed development and the likely emissions from it, the nature of the receiving environment and proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on European sites.

**16. CONCLUSION AND RECOMMENDATION:**

- 16.1 Having regard to the planning history and to the modifications proposed in the current application it is recommended that the planning authority decision to refuse permission be rejected and that permission should be granted on the basis of the reasons and considerations and subject to the conditions set out in the draft order overleaf.



# DECISION

**Grant Permission on the Basis of the Reasons and Considerations and subject to the Conditions set out Below:**

## REASONS AND CONSIDERATIONS

Having regard to the planning history of the site it is considered that subject to the conditions set out below, the proposed development would not be seriously injurious to the residential and visual amenities of the adjoining properties and the streetscape and would be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars lodged with the planning authority on 13th October, 2015 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The following requirements shall be provided for and adhered to in the development:
  - (a) The entrance shall be omitted from the east side elevation and shall be positioned to the front of the dwelling and accessed from the front site curtilage.
  - (b) The east facing side elevation bedroom window shown on the drawings annotated "Option 2" shall be omitted.
  - (c) All side elevation windows at ground floor and upper floor levels shall be obscure glazed and shall be fitted.
  - (d) Prior to the commencement of the development the applicant shall submit revised drawings to include details of modifications to the

internal layout necessary to facilitate the relocation of the front entrance to the front façade for the written agreement of the planning authority.

**Reason:** To provide for separation from the southern side boundary and for access to the side and gable end of the house.

3. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Detailed proposals for measures for the management of dust emissions to provide for the protection of adjoining properties shall be included. This plan shall be prepared in accordance with the "*Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects*", published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of orderly and sustainable development.

4. Site development and building works shall be confined to the hours between 0800 hrs and 1800 hrs. Mondays to Fridays excluding Bank Holidays and 0800 hrs and 1400 hrs. Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

**Reason:** In the interest of residential amenity.

5. Details of the materials and finishes including textures and colours for the external facades and for the roof slates shall be submitted for the written agreement of the planning authority prior to the commencement of the development. Samples shall be displayed on site.

**Reason:** In the interest of visual amenity.

6. Drainage arrangements shall comply with the requirements of the planning authority for such works and shall incorporate Sustainable Drainage Systems for the management of storm water.

**Reason:** To ensure a satisfactory standard of development and to prevent pollution.

7. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development.

**Reason:** In the interest of the visual and residential amenities of the area.

8. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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**Jane Dennehy,**  
**Senior Planning Inspector.**  
**19<sup>th</sup> February, 2015.**