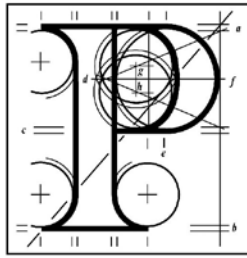


An Bord Pleanála



Inspector's Report

An Bord Pleanála Ref.: PL07.246016

Development: Change of Use of Montessori/Childcare (previous planning permission Reg.Ref.09/2242) into a house and retention of domestic shed

Location: Caheroyan Avenue, Athenry, Co. Galway.

Planning Application

Planning Authority: Galway County Council

Planning Authority Reg. Ref.: 15/1262

Applicant: Claire Rooney

Type of Application: Permission

Planning Authority Decision: Refusal

Planning Appeal

Appellant(s): Claire Rooney

Type of Appeal: First Party

Observers: None

Date of Site Inspection: 9th of March 2016

Inspector: Angela Brereton

1.0 SITE LOCATION AND DESCRIPTION

The subject site is located off the Monivea Road in the north eastern part of the town of Athenry to the east of the R347 and to the north of the River Clarin. The site is close to the junction of Caheroyan Avenue and Caheroyan Road. Access is onto Caheroyan Avenue which is a cul-de-sac road. The site is bounded by existing houses and appears to constitute, what was the garden area of the adjacent corner house (No.34) fronting onto Caheroyan Road. No.34 is currently in separate ownership and the crèche site is an independent use that does not form part of that property. While No.34 has a large front garden area, mostly tarmacked for onsite carparking there is a very small yard at the rear of this property and there is a high wall along the rear boundary with the subject site.

The subject site has a stated area of 0.03ha and there are c. 2m walls along the rear and side boundaries. The property on site comprises a single storey building and is currently in use as 'Little Stars Creche' and there is signage for this erected on site and at the entrance to the avenue cul-de-sac. It was noted that the crèche was in operation on the day of the site visit. There are 1 to 2 on-site parking spaces and a side garden area that is in use as an enclosed play area for the creche. There is also a small shed that is in use for storage that is fenced off from the crèche area of the site. This is a cul-de-sac and there is no allocated on-site parking area available for the users of the crèche.

This is a residential area and the houses in the vicinity are single storey. There is a purpose built crèche 'Pixie Lane' to the south proximate to the petrol station. The green area referred to appears to be a playing field. Clarin College (Gairmscoil Mhuire) is located on the opposite side of Caheroyan Road to the south west.

2.0 PROPOSED DEVELOPMENT

This is for a change of use of Montessori and child care building to single dwelling house and permission for retention of domestic shed at the rear.

The planning application provides that the g.f.a of the existing buildings is 75sq.m (the floor plans state 69.8sq.m) and of the shed to be retained is 5.1sq.m. It provides that there are existing connections to public water and public sewer.

A Site Layout Plan, floor plans sections and elevations have been submitted showing the subject site and property including the shed.

3.0 PLANNING HISTORY

The Planner's Report provides an extensive history of planning applications relative to the site and within 100m of this application. Section 3 of the First Party Grounds of Appeal also provides details of planning history. The following are relevant to the subject site:

- Reg.Ref.09/2242 – Permission granted subject to conditions to the applicants to construct a Montessori School and Child Care building with connection to existing services (g.f.s.69.77sq.m).

- Reg.Ref.08/1551 - Permission refused by Galway County Council and upheld by ABP (Ref.PL07.231303 refers) for the construction of a house with connections to services, storage shed and retention of existing entrance for reasons of inappropriate subdivision of the existing residential plot and overdevelopment on this restricted site.
- Reg.Ref.07/4013 – Permission refused for the construction of a two bedroom bungalow house with connection to public sewer/water main, storage shed and retention of existing entrance (g.f.a 68.69sq.m) on the subject site.
- Reg.Ref.06/364 – Permission granted subject to conditions by the Council to demolish existing house no.39 Caheroyn Road and to construct 4no. 2bed apartments with additional entrance/exist onto Caheroyn Avenue. This was subsequently refused by ABP (Ref.PL07.218809 relates) for reasons of replacement of existing house with the development of three dormer type terraced dwellings on a restricted corner site, inappropriate design, differs from established building line, extent of hard surfaced areas, devaluation of existing semi-detached property, contrary to the proper planning and sustainable development of the area etc.

Other Relevant site

Reg.Ref.13/948 - Permission granted by Galway County Council and subsequently granted subject to conditions on appeal to the Board (Ref. PL07.242964 refers) for (a) Change of use and internal layout of Retail/Hair Salon at unit number 1 at Caheroyn Road, previously approved under planning reference number 12/1578 and 08/2199 to crèche and child care facility, (b) change of use and internal layout of café/restaurant at unit number 2 previously approved under planning reference number 10/1432 and 08/2199 to crèche and child care facility, (c) increase in car park capacity to accommodate change of use, (d) additional signage on front elevation of unit number 2, (e) use of open green area at play area, at Caheroyn Road, Athenry, County Galway.

This is the permission for the nearby crèche/Montessori facility 'Pixie Lane' (now in operation) referred to in the grounds of appeal.

Copies of these decisions are included in the Appendix to this Report.

4.0 PLANNING AUTHORITY APPLICATION

The Planner's Report

This has regard to the locational context, planning history and policy. They note that there were two previous applications on this site for a dwelling house (Reg.Ref.07/4013 and 08/1551 refer). Both were refused permission. These were refused mainly on the basis that the site was restrictive in size and would constitute overdevelopment. They provide that there is insufficient open space for a domestic dwelling on this site and that the proposed development would be contrary to the proper planning and sustainable development of the area.

5.0 PLANNING AUTHORITY DECISION

On the 9th of December 2015, Galway County Council refused permission for the proposed change of use for the following reason:

It is considered that the proposed change of use to a dwelling house would lead to an overdevelopment of this restricted site and provide for very limited private open space area. To permit the proposed change of use would result in a sub-standard level of residential amenity for future occupants of the dwelling, depreciate the value of adjacent properties, result in an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

6.0 GROUNDS OF APPEAL

James O'Donnell Planning Consultancy Services has submitted a First Party Appeal on behalf of the applicant Claire Rooney. This includes the following:

- The proposed development is as an infill development in accordance with the relevant provisions of the Athenry LAP 2012-2018, Galway CDP 2015-2021 and the Guidelines for Sustainable Residential Development in Urban Areas (DoEHLG, 2009).
- The proposed change of use to facilitate a residential unit at this location is consistent with the principles of sustainable residential development for the Key Town of Athenry as per the CDP.
- The subject site is zoned '*Residential Existing (R)*' in the Athenry LAP and has the benefit of existing water and sewerage connection. Fig. 1 provides an extract from Map 1A/1B Land use Zoning – Athenry LAP.
- The proposed change of use to residential will result in infill development and less intensive use of services.
- As the building and site boundaries are already established, the proposed change of use will not alter the character of the area, but will compliment it.
- They have regard to permitted and established development on site and the pattern of development in the area and note history relative to Reg.Ref.09/2242 – Fig 2 and Appendix 3 refers.
- It is commonplace for rear building lines to be restricted on corner sites in established residential areas. The rear building line, building height and design is consistent with the prevailing character along the Avenue.
- The proposed rear amenity area is consistent with the permitted and established pattern of development in the area.
- The site represents an opportunity for infill development in the area and they refer to S.3.4.3 of the Galway CDP and S.3.2.1 of the LAP in this regard.
- The site is proximate to the town and the railway station – Fig. 3 refers.
- The proposed residential unit would be served by a south facing private amenity area with adequate proportions, for an urban infill location – Fig 4 refers.
- The site is close to two large communal areas of open space i.e the sports field and adjoining ground to the west.
- They provide that the proposed development encompasses adequate south facing private amenity open space.

- A refusal of permission based on inadequate open space would be unreasonable in this case and not in accordance with planning policy.
- Depreciation of property would not result from this proposal in the residential area.
- They provide that there is an adequate provision of childcare places available in the area and include details of this.
- They include a number of Appendices and provide a letter in Appendix 4 which explains how the crèche facility is no longer viable on this site.
- They contend that they have demonstrated that the proposed development is in accordance with the provisions of the Galway CDP, Ministerial Residential Guidelines and is entirely consistent with the established planning history of the site.

7.0 RESPONSES

There has been no response from Galway County Council to the grounds of appeal.

8.0 PLANNING POLICY

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009

These seek to encourage high quality sustainable residential development, urban form and design. They are concerned to promote a sequential approach to development and to create an overall design framework with linkages to the existing developed area. They support Local Area Plans and the phasing of development, also having regard to the availability of infrastructure. Regard is had to the availability of community facilities, public transport and the quality of open space. Chapter 3 concerns the role of design and has regard to the context and quality of the development proposal. Chapter 4 provides for planning for sustainable neighbourhoods and has regard to public open space, traffic safety, drainage issues etc. Chapter 5 refers to Cities and Larger Towns (i.e towns with 5,000 or more people) and provides the criteria for appropriate locations for higher density developments. Section 5.9 refers to Inner suburban/infill sites and has regard to residential infill. Chapter 7 concerns the home and its setting and discusses issues such as daylight, sunlight, privacy, open space and communal facilities.

Regard is had to the accompanying DoEHLG 'Urban Design Manual-A best practice guide 2009' and to the 12 criteria to promote quality sustainable urban design discussed in this document. Regard is also had to the application of these criteria, which are divided into three sections: Neighbourhood/ Site and Home reflecting the sequence of spatial scales and order of priorities that is followed in a good design process.

Child Care Facilities Guidelines for Planning Authorities 2001

Government policy on childcare is to increase the number of childcare places and facilities available and to improve the quality of childcare services for the community. The guidelines are intended to provide a consistency of approach throughout the country. Childcare facilities should be promoted in the following locations:

- Residential areas

- Places of employment
- Educational establishments
- City and Town Centres
- Convenient to public transport nodes

It is stated at 2.4 that such facilities in the vicinity of schools would facilitate parents to make one trip in dropping off school-going children and children attending childcare facilities, and could also facilitate the provision of after-school childcare services, thereby taking a sustainable approach to use of built facilities and transportation. Section 3.3 specifies the approach in respect of each type of location. Appendix 1 provides the General Standards such as minimum floor space per child.

Galway County Development Plan 2015-2021

Athenry is categorised as *Key Towns/Other Towns (Population >1,500)* under the provisions of the County Settlement Hierarchy. Sub-section 2.6.5 of the CDP refers. This includes: *The key towns have a high degree of self-sufficiency, reduce the demand for travel, and provide a good quality of life for residents.*

S.3.3 refers to *Housing Location/Design and Density in Urban Areas.*

S.3.3.4 notes that higher densities will be encouraged at appropriate locations. S3.3.5 refers to *Public and Private Open Space* relative to housing developments.

S3.4.3 refers to *Infill/Sub-division of plots* and includes regard to the locational context relative to the merits of both these issues.

S3.5 refers to *Location for Residential Development in Built-Up Urban Areas* and Section 3.5.1 to *Infill Development in Residential Areas.*

S3.6 refers to *Urban Housing Policies and Objectives.* Objective UHO11 includes regard to *Development Densities* and compliance with the existing development pattern of the area. It provides that: *New development shall also have regard to the ‘Sustainable Residential Development in Urban Areas’ Guidelines..*

S.3.9 of the Plan refers to *Rural Housing Policies and Objectives* including relative to housing within the *Urban Fringe i.e.. Applicants whose family home is within the urban fringe will be requested to establish a substantiated Rural Housing Need and only this category of persons will be allowed to construct a dwelling in this area.*

S13.3 provides *Guidelines for Residential Development (Urban and Rural Areas).* DM Standard 2 refers to *Multiple housing Schemes for Urban Areas.* This includes regard to Design and Layout including Private Open Space. DM Standard 22 and Table 13.5 refers to the Parking Standards.

Athenry Local Area Plan 2012-2018

The LAP emphasises the strategic location of the town and its designation in the CDP as a ‘Key Town’ on the ‘Strategic Economic Corridor’, and the need to capitalise on the opportunities presented by the confluence of good road and rail links. The LAP seeks to ensure that the necessary infrastructure and range of facilities and services are delivered in order to facilitate the continued growth and sustainable development of the town whilst optimising its potential and protecting its natural and historical built assets.

S3.1 provides the *Land use Management* Guidelines. Land use Zoning Objectives LU1- LU13 refer. LU3 refers to Residential and LU13 to Residential Densities. DM Guidelines LU1 refers to Development Densities and LU2 provides the Land Use Zoning Matrix. It is noted that Childcare Facilities (Creche/Nursery) are open to consideration in the residential land use zoning. Residential Land use zoning R Maps1A/1B Land-use Zoning Framework refer.

S3.2.1 notes the principles of quality and sustainability in residential developments and includes: *Priority has been given to infill sites and logical extensions to the existing residential fabric of the town.* Development Objectives RD1- RD8 refer.

S3.2.3 refers to the Development Management Guidelines in the Galway CDP having regard to Residential.

Section 3.3 refers to Social and Community Development and includes policies relative to support for Community Facilities and Amenities. Policy CF1 – supports an adequate level and distribution of community facilities which meet the needs of the local community, are appropriately located and are clustered/linked with complementary facilities where practicable to allow for multipurpose/ shared use of facilities. Objective CF3 – Facilitate and promote the development of childcare facilities in suitable locations and in accordance with the Childcare Guidelines. Objective CF4 refers to Open Space – Specific Objectives Maps (2A/2B) refer.

Section 3.7.2 refers to Urban Design and Place –making Policy. As shown on Map 2A Specific Objectives the site is located outside and to the north of the Historic Town Walls and the Zone of Archaeological Potential.

9.0 ASSESSMENT

9.1 Principle of Development and Planning Policy

It must be noted in this case in the context of the current application that the site has been subdivided and the single storey building is established on the site and that the current use as Montessori/Child-care facility is a permitted use. Regard is had to the Planning History in the relevant section of this Assessment below.

Section 3.4.3 of the Galway CDP 2015-2021 refers to *Infill/Sub Division of Individual Sites* and includes: *Subdivision shall be considered subject to safeguards regarding residential amenity, internal space standards, private and public open space, carparking and maintenance of the public character of the area.* In this case the subdivision of the site has occurred and of concern now is whether the change of use from childcare facility to residential is appropriate relative to compliance with these issues in relation to impact on residential amenities and taking into account this restricted site area. Section 13.3 provides Guidelines for Residential Development and while DM Standard 2 refers to *Multiple Housing Schemes (Urban Areas)* it also provides: *All applications for new residential development in urban areas will be assessed having regard to standards set out..* This includes regard to the design and

layout and to the impact of the proposed residential development on the character and amenities of the area.

It is also noted that the Planner's Report provides that the application straddles the boundary of the Urban Fringe, in this respect S.3.9 of the GCDP Plan refers to *Rural Housing Policies and Objectives* refers to applicants in this area needing to establish a substantiated Rural Housing Need. However having regard to the Land use Zoning Map 1B of the Athenry LAP it is considered that the site is located well within the town boundaries and is in the established residential area. The site is zoned *Residential* in the Athenry LAP, for which the objective (LU3) seeks to: *Protect existing residential amenities and facilitate new infill development and compatible/complementary land uses*. Childcare facilities are 'Open for Consideration' in this zone, as set out in the Land Use Zoning Matrix.

The First Party consider that given the sites urban setting, the provision of a private south facing rear garden area, convenient access to communal open space, the town centre and railway station, the proposed change of use to residential would not result in a substandard level of residential amenity for future occupants of the proposed dwelling. They also consider that as the property is located within the residential area that it could be seen to comply with planning policy as an infill residential development.

The issue in this case is whether the proposed change of use would be out of character with the pattern of development in the area and whether it would be in compliance with planning policy and objectives relative to infill development. Also whether the proposed development would be sustainable having regard to design and layout, impact on adjoining residential amenities and on traffic and road safety. These issues including regard to planning history are discussed further in the context of this assessment below.

9.2 Regard to Planning History

As noted in the Planning History Section above there has been a considerable planning history relative to this site in the last 10years. It is considered that this is important to note as it has relevance to the current planning application. Originally the subject site formed part of a larger corner site area at the junction of Caheroyn Road and Avenue. This is shown on the plans accompanying Reg.Ref. 06/364 and the application form then provided that the site area was .0623ha. It is noted that the Council's grant of permission for this proposal – to demolish the existing house no.39 Caheroyn Road and construct 4 two bedroom apartments was overturned by the Board who refused permission for this development – Ref. PL07.231303 refers.

Permission has subsequently been refused for the erection of a two bedroom dwellinghouse on this site (g.f.a 68.69square metres) by Galway County Council (Reg.Ref.07/4013 and 08/1551 refers). It is off note that the latter was also refused on appeal to the Board (Ref.PL07.231303 refers) for the following reason:

The proposed development would result in the inappropriate subdivision of an existing residential plot, by reason of the elimination of useable private rear open space for the existing house. It is

considered that the proposed development of a dwellinghouse would lead to overdevelopment of this restricted site and would seriously injure the residential amenities of adjacent properties. It is considered that the development would contravene Section 5.3.9 of the Local Area Plan, Protection of Residential Amenities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

The drawings submitted with these applications showed that the site had been subdivided and the current site area reduced to .030ha. Therefore as noted in the Inspector's Report relative to PL07.231303 it is clear that the subject site was originally part of the rear garden area of the house located to the west on the main Monivea/Caheroyn Road. The photographs accompanying that Report show that the site had been subdivided in 2009. However there was no building on the site at that time. It is also of note that Section 5.3.9 referred to in the Board's reason for refusal in Ref.PL07.231303, was included in the previous Athenry LAP 2005 – 2011. Table 5.2 then included minimum open space standards of 50sq.m behind the building line for a 1-2 bed house. This is not included in the context of the current LAP.

Permission was originally refused by Galway County Council for the construction of a Montessori school and child care building on the subdivided plot in Reg.Ref.09/1731. However it was subsequently granted subject to 8no. conditions in Reg.Ref.09/2242. The drawings show the footprint of the subject building. The Site Layout Plan then submitted gives the site area as 0.030ha, the g.f.a of the building as 69.77sq.m, the area of private open space as 45.9sq.m and public open space as 185.33sq.m.

As noted in the grounds of appeal relative to the current proposal the footprint of the existing building was established under Reg. Ref.no.09/2242. Also the context of the subdivision of the residential property to the west (no.34 Caheroyn Road – now a Council House) appears to have then been accepted by the Council relative to the permission for the crèche on this restricted site area. It is noted that the grounds of appeal provide that the semi-detached property immediately to the west of the subject site facing Caheroyn Road was purchased by the Council in 2009. They include a letter from the Council in Appendix 3 that confirms this.

It is considered that of issue in this case having regard to the planning history is that originally it was clearly intended that a two bedroomed house be erected on this subdivided site and as noted above, that this has been previously refused by Galway County Council and the Board. Subsequently the site was sub-divided (it appears without permission) and later permission was granted by the Council for a crèche on this site, which established the status of the site. The issue to be considered is what has changed to now grant permission for a two bedroom dwelling on this site.

It is of note having regard to the history of the site that previous applications referred to 39 Caheroyn Road as the corner site – in the current application this has been revised to 34 Caheroyn Road. In the interests of clarity, both refer to the same place). Similarly the Public Notices now refer to the subject site address as Caheroyn Avenue.

9.3 Regard to the Current Use

The current usage is as a Montessori and child care building as permitted under Reg.Ref. 09/2242. Having visited the site the crèche was seen to be operational and an enclosed play area is provided to the rear of the building. The domestic shed is separated from this area by a wall and is in use for storage. There is signage for the 'Little Stars Creche' on site and at the corner of Caheroyan Road/Avenue. There are c.2 on-site parking spaces, otherwise parking for the crèche is on the public road on Caheroyan Avenue which is a cul-de-sac road.

Section 3.3 of the Athenry LAP refers to Social and Community Development. Objective CF3 refers to Childcare Facilities and seeks to: *Facilitate and promote the development of childcare facilities in suitable locations and in accordance with national policy and the Department of the Environment, Heritage and Local Government 'Childcare Facilities-Guidelines for Planning Authorities' or any updated/amended version of this document.*

Section 2.4 of these Guidelines refers to appropriate locations for childcare facilities including in the residential area in proximity to schools. Section 3.2 refers to the suitability of a site for the type of facility proposed and includes regard to location, outdoor play area, hours of operation, parking, number of facilities in the area etc. S.3.3 has regard to suitability of specific locations including in new and existing residential areas for full day care or sessional facilities. However permission for the childcare facility has been granted subject to conditions in Reg.Ref.09/2242 so this is not at issue here.

The First Party provide that having reviewed the Galway City and County Childcare Committee's website, the office concludes that there are currently 14 childcare centres in operation in Athenry of which 6 of these are Montessori types, two of which are located in close proximity to the subject site on the Caheroyan Road. They include a letter in Appendix 4 of their appeal which explains how the crèche facility is no longer viable to them. This takes into account the opening of Pixie Lane Creche and Montessori at Unit 1&2 Caheroyan Road, Caheroyan Road, Athenry – (ABP Ref.PL07.242964 refers). This permitted facility is within a short walk of the subject site and is noted that the current applicant Claire Rooney of 'Little Stars Creche' was the Third Party Appellant in that case. One of her grounds of appeal was that there was already an oversupply of crèche facilities in Athenry. This larger crèche facility was also seen to be operational on the day of the site visit. It is closer to the schools, town centre and parking facilities.

9.4 Design and Layout

The current proposal is to change the use of the Montessori and childcare building to a single dwelling house and to retain the domestic shed (5.1sq.m) at the rear. The floor area of the building is given as 69.8sq.m and internal alterations are to provide 2 bedrooms, kitchen, livingroom and small wc area. No external alterations or extensions are proposed. It is considered that the property has the appearance of a small single storey bungalow on this restricted site area. It is seen in the context of the other single storey detached properties in the area.

The Council's refusal is concerned with overdevelopment of this restricted site area and includes that it would provide for a very limited private open space area. The First Party note that while there is no minimum standard specified in the GCDP some advice is offered with regard to private amenity space under as part of DM Standard 2. Part n) refers to *Private Open Space* and provides that this: *shall be designed for maximum privacy and oriented for maximum sunshine and shelter. In general, a minimum back to back distance between dwellings of 22 meters shall apply in order to protect privacy, sunlight and avoid undue overlooking. Reductions will be considered in the case of single storey developments and/or innovative schemes where it can be demonstrated that adequate levels of privacy, natural lighting and sunlight can be achieved.*

In this case in view of the layout and the single storey nature of adjacent properties the issue of the 22m back to back measurement relative to overlooking does not occur.

It is noted that the Athenry LAP does not include any specific standards relative to provision of public private open space but refers to the Development Management Standards and Guidelines in the Galway CDP. DM Guideline LU1 refers to Development Densities and provides in land use zone R a plot ratio of 0.10 to 0.50 PAR, a maximum site coverage of 50% and a minimum public open space of 15%.

Taking into account the total area of buildings i.e. the house at 69.8square metres and the shed at 5.1sq.m i.e 75sq.m buildings area on this site of 300sq.m- the plot ratio is c.0.25 PAR. The maximum site coverage is 50% and the buildings on site do not exceed this range. As shown on the Site Layout Plan the proposed open space provision is 85sq.m. This does not take into account the g.f.a of the shed which reduces the area to c.80sq.m. It is provided that this open space is south facing and is set behind the building lines and is in excess of standards for private open space. This is 5m in depth and currently used as a play area for the crèche and there is a separate area cordoned off for the shed.

Section 7.8 of the Guidelines for Sustainable Residential Development for Planning Authorities states: *All houses (terraced, semi-detached and detached) should have an area of private open space behind the building line. The area of such private space will be influenced by the separation between buildings and plot widths.* The First Party contend that the proposed private open space area is behind the building line (which is consistent with the area) and the amount of private open space has influenced plot width.

It is provided that the site is close to 2no. large communal open space areas i.e the sports field and adjoining ground to the west and the large communal open space to the east of the adjoining Sli an Chlarin estate. However the sports field is not very accessible for passive public usage and the other open space away is not proximate to the site and is part of the estate to the north. It is not considered that these areas would compensate for the limited private amenity space within the site.

9.5 Access and Parking

The access is onto Caheroyan Avenue and 2no. onsite parking spaces are available. The Athenry LAP in S.3.5.3 refers to the Development Management Standards and Guidelines in the Galway CDP. DM Standard 22 of the Galway CDP and Table 13.5 refers to the Parking Standards. This provides that for a dwelling of 1-3 bedrooms the standard is 1.5 space per dwelling. For childcare facilities it is 1 space per staff member plus 1 car space per 4 children. Therefore the proposed change of use to residential would comply with the relevant parking standards. Set-down parking for the childcare facility is currently on-street within the cul-de-sac area. Therefore having regard to parking the proposed residential use of the site would be more compliant with Standards.

9.6 Impact on the Character and Amenities of Adjoining Properties

While the property to the west no.34 Caheroyan Road has a large front garden area which includes on-site parking this property now has a very small restricted rear yard area surrounded by c.2m high walls. This subdivision was of concern as noted in the History Section above in the previous Board refusal for a house on the subject site (Ref.PL07.231303 refers). However this now has to be seen in the context of the current situation where there are high walls around the rear site boundaries. The subject crèche building has now been constructed and is very close (c.2.5m) from the rear corner of no.34 Caheroyan Road. Part m) of DM Standard 2 of the GCDP provides: *it is desirable that all new houses have a minimum clear distance of 2 metres to the side boundaries..* In this case the subject property is set less than 2m off the side boundary with no.34. The windows in the side and rear elevations are screened by the 2m boundary wall and issues of overlooking do not occur. There is a single storey dwelling to the east and this is set further away from the subject site. The dwelling to the rear does not overlook the subject site.

9.7 Impact on the Character of the Area and Precedent

Regard is had to the pattern of residential development in the area which is for larger plot sizes and rear garden areas. This is a purpose built crèche with associated classrooms and facilities and it is considered that continuous nature of the occupancy of a dwelling is different from that of a sessional childcare facility, with different impacts on the amenities of property in the vicinity. However it needs to be questioned as to whether this small restricted site area with no on-site parking available for this usage is the most appropriate for a childcare facility.

Having regard to precedent it could be seen that this could set an undesirable precedent for the subdivision of larger corner plots to facilitate a dwelling on a more restricted site area. In relation to the concept of *Infill Development* Section 3.5.1 of the Galway CDP provides: *A balance has to be struck between protection of amenities, privacy and established character and the need to provide residential infill. Innovative and contemporary design solutions will be encouraged to maximise the potential of these sites, subject to the protection and enhancement of residential amenity.*

It is not considered that the proposed use of this building for residential would detract from the streetscape, when seen in the context of other properties.

9.8 Development Contributions

The Council's permission for the construction of the Montessori School and Child Care facility included Condition no.8 relative to development contributions. Therefore presuming that this contribution has been paid, if the Board decide to permit, as there are no proposed changes in floor area of the building there is no need for another development contribution to be included.

9.9 Appropriate Assessment

It is considered that having regard to the nature and scale of the development proposed i.e. a change of use to residential and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

10.0 CONCLUSION AND RECOMMENDATION

Having regard to the documentation submitted, the grounds of appeal, planning history, policy and objectives and having visited the site it is considered that the use of this subdivided plot for residential development is more restricted than the general pattern of development in the area, which is for larger plot sizes and the Board may decide to refuse and consider that to allow this change of use would set an undesirable precedent for such subdivision of sites for residential use.

However the issue in this case is that the site has been subdivided, the rear garden of no.34 has been reduced and the building now in use as a childcare facility has been permitted and is in situ. In this regard it could be viewed that the scenario has changed since the original refusals for a house on this site prior to these considerations. There is now a new Galway CDP and Athenry LAP and this site is included within the residential land use zoning. Also in view of the single storey nature of the property and the high walls around the boundaries it is not considered that the proposed change of use to residential would be detrimental to neighbouring properties or to the character of the area. The access and parking arrangements are also more suited to a single dwelling. The applicant has also submitted details as to why the crèche facility at this property is no longer viable. In this respect things have also changed in view of the new proximate larger childcare facility 'Pixie Lane'.

In view of consideration of these issues, it is recommended that the Board grant permission for the proposed change of use subject to the conditions below.

11.0 REASONS AND CONSIDERATIONS

Having regard to the residential land use zoning of the site within the town boundaries of Athenry, the scale and nature of the existing building and the proposed change of use to residential, it is considered that subject to compliance with the conditions set out below, the proposed change of use would not seriously injure the residential amenities of surrounding dwellings or the visual amenities of the area. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

12.0 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 submitted on the 23rd day of October 2015 and by the further plans and particulars received by An Bord Pleanála on the 12th day of January, 2016, 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 property shall be occupied/used as a single residential unit only and shall not be sold, let or otherwise transferred or conveyed, save as a single dwelling.

Reason: In the interests of residential amenity.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 as amended, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the site without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants and in the interest of the amenities of the area.

4. All signage associated with the Montessori and Child Care facility shall be removed from site and from the vicinity of the site prior to the occupation of the dwelling.

Reason: In the interests of visual and residential amenity.

5. 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.

Angela Brereton
Planning Inspector
Date: 24th of March 2016