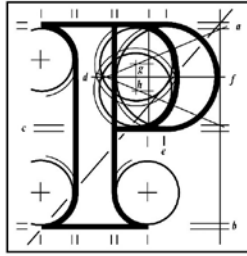


An Bord Pleanála



Inspector's Report

Development: Change of use of part of front ground floor of existing dwelling as dental surgery to incorporate changes to layout as approved under reg. no. 15/113 to include additional on-site parking and ancillary works at 6 Devon Park, Salthill, Galway.

Application

Planning authority: Galway City Council
Planning application reg. no. 15/287
Applicant: Eoin MacCormaic
Type of application: Permission
Planning authority's decision: Refusal

Appeal

Appellant: Eoin MacCormaic
Type of appeal: First party -v- Decision
Observer: Jason McEvaddy
Date of site inspection: 29th April 2016
Inspector: Hugh D. Morrison

Site

The site is located to 0.8 km to the north of the centre of Salthill and 2 km to the west south west of Eyre Square. This site lies in an area that is predominantly composed of residential properties. Thus, to the east along Salthill Road Lower, there are older two storey detached and semi-detached dwelling houses, while, to the west, there are more recent two storey semi-detached dwelling houses on Devon Park. There are examples of retail and commercial uses along Salthill Road Lower, too, and, on the opposite side of Devon Park from the site, there is a multi-practice dental centre and a holistic health centre.

The site lies within the eastern corner to the junction formed between Devon Park and northern and southern cul-de-sacs on either side. Devon Park is part of a through route that provides a link between Taylor's Hill Road (R337), to the north, and Salthill Road Lower (R864), to the east. The existing site has no vehicular access. However, it does have a pedestrian access off Devon Park. The former cul-de-sac bounds the site and it is composed of older two storey semi-detached and terraced dwelling houses on its western side and more recent two storey semi-detached dwelling houses on its eastern side, included substantially completed dwelling houses on the formerly vacant site adjoining the appeal site. The latter cul-de-sac affords access to the aforementioned dental centre.

The site itself is of regular shape and it extends over an area of 0.027 hectares. This site accommodates a part two/part single storey detached dwelling house, which is presently vacant. This dwelling house is sited in a position whereby it abuts the northern corner of the site. A hipped ended double pitched roof covers the majority of the two storey portion of the dwelling house, while flat roofs cover the remainder of the two storey portion, which features ground and first floor bay windows, and the single storey portion. An enclosed yard with outbuildings extends over the eastern corner of the site and the south western half is presently in use as an informal community garden.

Proposal

The current proposal would entail the change of use of part (14.68 sq m) of the single storey portion of the dwelling house (124.96 sq m) to provide a single dental surgery and an associated waiting room. Alterations to this dwelling house would be undertaken to facilitate this use. Likewise, an additional car parking space would be introduced into the proposed site layout permitted under application reg. no. 15/113. Under this permission, a vehicular access and two car parking spaces were envisaged, along with alterations to the existing dwelling house.

Planning authority's decision

Permission was refused for the following reasons:

- 1. The proposed additional car parking space within the site fragments the dedicated open space into a series of unusable areas, which if permitted, would not be of a sufficient size or configuration to cater for the residential element of the development, and would therefore be a sub-standard development and injurious to the residential amenities of adjacent properties, therefore the proposal would be contrary to the Development plan policies and standards and the proper planning and sustainable development of the area.*
- 2. The proposed development, if permitted, would adversely impact upon the residential amenity of the surrounding area, as it would materially contravene condition 2 attached to an existing permission, application reg. no. 15/113, controlling commercial development, as the site is a limited constrained site, located within a predominantly residential area, any such commercial development would result in a sub-standard development incapable of meeting the requirements of the Galway City Development Plan 2011 – 2017, materially contravening condition 2 of permitted application reg. no. 15/113, which prevents the development of any such commercial developments, within this building/site.*

Technical reports

- Drainage Section (surface water): No objection.
- Chief Fire Officer: Advises that the proposal would not be compliant with 1.5.2 of TGD B 2006 Fire Safety and that this matter could be addressed under an application for a Fire Safety Certificate.

Grounds of appeal

The appellant begins by outlining existing challenges posed by the buildings internal layout and present condition. The current proposal is similar to that which was the subject of application reg. no. 15/21, albeit it would entail minor alterations rather than redevelopment.

The Chief Fire Officer's advice is acknowledged and the view is expressed that his requirements can be met without the need to revise the current proposal.

Under the CDP, the site is zoned R, wherein buildings for the care of the health, safety or welfare of the public are deemed to be compatible with the zoning objective. Nearby, the dental practice at Devon Park/No. 108 Salthill Road Lower, was granted permission for a dental laboratory under application reg. no. 92/229 (appeal PL61.5.88967). This property is also zoned R.

Attention is drawn to the site's existing plot ratio of 0.4, which compares favourably with that of the adjoining site to the south east which has a plot ratio of 0.69. Elsewhere, within the vicinity of the site, other properties exhibit higher plot ratios, too.

Attention is also drawn to relevant policies of the CDP, which state the following:

Ensure a balance between the reasonable protection of the residential amenities and the established character and the need to provide for sustainable residential development.

Ensure additional community and local services and residential infill development in the established suburbs at appropriate locations.

The appellant critiques the first reason for refusal on the following grounds:

- The CDP requires that private open space extent to a minimum of 50% of the floorspace of a dwelling house, i.e. in this case 55.14 sq m. Under the current proposal, 62 sq m would be available and so this minimum would be met by space that would relate well to the existing dwelling house.
- The current proposal is more modest than its predecessor under application reg. no. 15/21, wherein less private open space would have been available in the presence of 3, rather than 2, off-street car parking spaces.
- That the proposal would adversely impact the locality is contested on the basis that the use would accord with the CDP and principles of sustainability.

The appellant critiques the second reason for refusal on the following grounds:

- The current proposal would entail the introduction of a single dental consulting room and an additional car parking space over the two previously permitted. The Board's previous refusal related to a large dental proposal, which would have been accessed off a cul-de-sac. The current proposal is more modest with new access arrangements previously permitted for residential use. Thus, only the introduction of the dental use itself falls to be assessed.
- Attention is drawn to the observer, who is a dentist at Devon Park Dental Centre opposite the site. A dentist in this practice commented on the mixed use pattern of development in the locality in his commentary on application reg. no. 92/229, cited above.

The aforementioned case is accompanied by a letter from the appellant that provides further background information to the current proposal.

Response

The planning authority has not responded to the above cited grounds of appeal.

Observer

- Attention is drawn to condition 2 attached to the permission granted to application reg. no. 15/113.
- Attention is drawn to the introduction of a recent off-site junction restriction that has led to an increase in traffic passing the site and accessing Salthill Road Lower. Thus, the additional traffic that would be generated by the proposal would be more difficult to accommodate.
- Attention is drawn to the high incidence of vacant commercial properties in Salthill and the appropriateness of the site being solely used for a residential purpose.

Applicant's response to the observer

- The junction in question is 1.5 km from the site and the "rat run" referred to is not the only option available to drivers and the applicant has not witnessed the alleged queuing of vehicles waiting to join Salthill Road Lower.
- The suggested location within Salthill disregards the desirability of dental surgeries being conveniently placed within residential areas rather than in commercial centres.

Planning history

- 14/165: Partial demolition of a detached two storey dwelling and construction of a two storey dental surgery with associated ancillary space, car parking off Devon Park and associated site works: Refused at appeal (PL61.243840) on the grounds of excessive density/overlooking/out of character, and insufficient off-street car parking/unacceptable level of traffic/risk to public safety.
- 15/21: Demolition of a detached two storey dwelling and construction of a two storey live-work unit comprising dental practice at ground floor level and a one-bed residential unit at first floor level, car parking off Devon Park and associated site works: Refused on the grounds of major intervention into the urban fabric/out of character/contrary to good urban design, fragmented and unusable private open space/residential amenity, and sufficiency of the car park has not been demonstrated/unacceptable level of traffic/risk to public safety.
- 15/113: Minor alterations to elevations of existing detached two storey dwelling, including mono pitched roofs in lieu of existing flat roofs, alteration of existing pedestrian access to south to provide vehicular access and on-site

parking and all associated site works: Permitted, subject to conditions, including the following one:

- 2. The dwelling shall be used as a single dwelling unit only and shall not be used for any commercial purposes.*

Reason: To protect the residential amenities of the area.

Development Plan

Under the Galway City Development Plan 2011 – 2017 (CDP), the site is zoned R, wherein the objective is “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.” Amongst the uses deemed to be compatible with and capable of contributing to this objective are those which entail the provision of care of the health, safety or welfare of the public.

The site lies within an area of established suburbs, wherein, under Policy 2.4, the following objectives pertain:

Ensure a balance between the reasonable protection of the residential amenities and the established character and the need to provide for sustainable development.

Encourage additional community and local services and residential infill development in the established suburbs at appropriate locations.

Under Section 11.3.1(c), private open space is addressed as follows: “Private open space (areas generally not overlooked from a public road) exclusive of car spaces shall be provided at a rate of not less than 50% of the gross floor area of the residential unit.”

Car parking standards for the established suburbs are set out in Section 11.3.1(g) and Table 11.5. The former Section sets out a number of options, while the latter Table states that, outside the city centre, each consulting room should be accompanied by 2 car parking spaces.

Assessment

I have reviewed the proposal in the light of the CDP, relevant planning history, and the submissions of the parties and the observer. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use and planning history,
- (ii) Access and parking,
- (iii) Residential amenity, and
- (iv) AA.

(i) Land use and planning history

- 1.1 The proposal would entail the introduction of an additional use into an existing dwelling house. This use would be that of a dental surgery and the applicant, as the dentist, would reside in the said dwelling house.
- 1.2 The site lies within established suburbs, which are zoned R wherein the objective is “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.” Within this zone, uses entailing the provision of health care to the public are deemed to be both compatible with and contributory to this objective. A dental surgery would be an example of such a use and so I consider that there is no in principle objection to the proposal on land use grounds.
- 1.3 The planning history of the site indicates that partial and complete redevelopment scenarios to incorporate a dental surgery within a dwelling house have been refused on a variety of grounds that illustrate the challenge posed by the size of the site within its immediate context and available access options.
- 1.4 More recently, permission was granted to carry out alterations to the dwelling house and to provide the site with a vehicular access and two off-street car parking spaces. As this permission pertained to an exclusively residential use of the site, the said access and car parking spaces would be for the domestic use of the dwelling house on-site only. As yet, this permission has not been implemented and it was granted subject to a condition disallowing any commercial use of the site on the grounds of residential amenity. I note from a copy of the relevant application file that this condition was first suggested by the Roads consultee and that it was subsequently the subject of a further information request to which the applicant stated his agreement to the same. Thus, this extant permission both positively and negatively is for the resumption of use of the site for residential purposes only.
- 1.5 The planning authority’s second reason for refusal cites the contravention of the aforementioned condition. While the permission in question has yet to be implemented, I note from the description of the current proposal that it would incorporate changes to the site layout previously permitted and so, to that extent, it would be linked-in to the extant permission. This condition disallows

any use for “commercial purposes”. I consider that the use of part of the dwelling house as a dental surgery would, as discussed above, lie within the category of the provision of health care to the public and so I do not consider that its character would be that of a commercial use. Nevertheless, insofar as it may be undertaken for a commercial purpose, the condition would be contravened by the current proposal.

1.6 I conclude that, while there is no in principle land use objection to the proposal, the planning history of the site illustrates the difficulties attendant upon anything other than a residential use of the same.

(ii) Access and parking

2.1 The site is located on the northern side of Devon Park in a position 26m away from the junction between Salthill Road Lower (R864) and this road. Devon Park is the subject of a continuous white centre line from this junction as far as the cross roads beside the site, where it is interrupted in recognition of the right hand turning movements generated by vehicles accessing/egressing two cul-de-sacs that join the through road. The initial portion of Devon Park, in the vicinity of its junction with Salthill Road Lower, is also the subject of double yellow lines on either side of the carriageway.

2.2 At present the site has only a pedestrian access from Devon Park. Under the extant permission for the site, a domestic vehicular access with two off-street car parking spaces would be provided for the restored dwelling house. Under the current proposal, this access would be used by traffic generated by the proposed dental surgery and an additional car parking space would be added to the two already permitted.

2.3 While no information has been provided as to likely traffic movements that would be generated by the proposed dental surgery, I anticipate that these would be significantly more in number than the traffic movements that would be likely to be generated by the residential use of the site. Clearly then the proposition to allow a vehicular access in conjunction with the resumed use of a dwelling house as a single dwelling is a different one from that of allowing the same access to be used for a dental surgery too. Thus, I am concerned that these additional traffic movements would occur on a constrained section of Devon Park between the two aforementioned junctions and that they would entail right hand turning manoeuvres in contravention of the continuous white centre line at a point close to the more westerly of these two junctions. Thus, these manoeuvres would infringe the existing road markings and due to the said proximity they would be the cause of potential driver confusion.

- 2.4 The observer states that, due to changes at a junction on the R337 to the north of the site, Devon Park as a through route from Taylor's Hill Road is presently experiencing an increase in traffic. The applicant challenges this assertion from his own experience of being on the site. During my site visit on a Friday lunch time, I observed that Devon Park was the subject of a steady flow of vehicles. While I was unable to identify which vehicles were travelling on a through basis and which were not, I was aware that the existing dental centre, which has a car park that is accessed from the southern cul-de-sac opposite the appeal site, generated a number of traffic movements.
- 2.5 Under the extant permission and the current proposal, two and an additional one off street car parking spaces would be provided. Under the CDP, new build dwelling houses in the established suburbs maybe required to provide two off-street car parking spaces. Consulting rooms require two such spaces and so I consider that the proposed dental surgery would require this number.
- 2.6 While the dwelling house on the site is presently vacant, it appears to have formerly functioned as a dwelling without any off-street car parking provision. Thus, that its envisaged resumed use would be served by two off-street car parking spaces represents a considerable gain. The proposed addition of one space would be less than the two required by the CDP. However, provided the dentist operating the proposed dental surgery is at all times resident in the dwelling house on site, I consider that the total provision of three spaces would represent an adequate level of provision. In the event that the Board is minded to grant permission, then a condition should be attached requiring that the occupancy of the dwelling house be tied to the operator of the dental surgery.
- 2.7 I conclude that the use of the proposed domestic access by traffic generated by the proposed dental surgery would be unsatisfactory on road safety and traffic management grounds. I also conclude that, provided the occupancy of the dwelling house and the operator of the dental surgery are tied, the proposed provision of three off-street car parking spaces would be adequate.

(iii) Residential amenity

- 3.1 Unusually the private open space that serves the existing dwelling house is to the front and side and so it is visible in its entirety from the adjoining public roads. Under the current proposal, the portion of this open space that would be required for car parking and associated manoeuvring space would increase from that which was envisaged under the extant permission. Thus, the only remaining piece of usable space would be to the side of the dwelling house next to the enclosed yard and outbuildings.

3.2 The planning authority's refusal refers to the aforementioned residual space as being of insufficient size and configuration to satisfactorily serve the dwelling house. The applicant has responded to this critique by citing the CDP's private open space standard, which requires that the area of such space be a minimum of 50% of the gross floor area of the accompanying dwelling house. The floorspace of the dwelling house now proposed for residential use would be 110.28 sq m and so 50% of this total would be 55.14 sq m, whereas 62 sq m would be provided. However, this figure incorporates within it space that would be either soft and/or hard landscaping around the proposed car parking area, space that would not be available to serve the dwelling house *per se*. I estimate that the residual garden to the side of the dwelling house would have an area of c. 16 sq m. If the surface area of the yard is added to this figure, i.e. c. 25 sq m, than a total of c. 41 sq m emerges.

3.3 Beyond the quantitative question, I am concerned over the quality of amenity that the aforementioned residual garden and yard would afford under a scenario where the accompanying car parking area would be effectively public during the opening hours of the dental surgery. Clearly, the amenity value of the said spaces in the presence of an exclusively private car parking area is of a higher order than that which is now envisaged. Furthermore, the dental surgery would generate waste, the handling of which has not been addressed under the current proposal. Presumably the storage of such waste, while it awaits disposal, would require the use of the yard and/or the outbuildings within the same, with associated implications for the admittedly limited amenity value of this space.

3.4 I, therefore, conclude that the planning authority's concerns over the provision of an adequate standard of amenity for future occupiers of the dwelling house are justified.

(iv) AA

4.1 The site does not lie either in or within the immediate vicinity of a Natura 2000 site. The existing dwelling house is served by mains water and sewerage networks and this would continue to be so under the proposal. Accordingly, I do not consider that any Appropriate Assessment issues would arise.

4.2 Having regard to the nature and scale of the proposed development, 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 a European site.

Recommendation

In the light of my assessment, I recommend that the change of use of part of front ground floor of existing dwelling as dental surgery to incorporate changes to layout as approved under reg. no. 15/113 to include additional on-site parking and ancillary works at 6 Devon Park, Salthill, Galway, be refused.

Reasons and considerations

1. The proposed dental surgery would generate a significant increase in traffic using the previously permitted domestic vehicular access to the site from Devon Park at a point close to both its junctions with Salthill Road Lower (R864) and two cul-de-sacs. Vehicular manoeuvres to and from this access would entail right hand turns across a continuous white centre-line and they would occur close to the junction with the two cul-de-sacs, thereby risking driver confusion. The said manoeuvres would thus be contrary to the principles of good traffic management and they would endanger public safety by reason of a traffic hazard. The proposed dental surgery would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed dental surgery would be accompanied by an off-street car parking area that would leave insufficient usable private open space to serve the dwelling house on the site. Furthermore, the presence of this car park and its use by members of the public during the opening hours of the dental surgery would prejudice the amenity value of this open space and so its use in practise would be likely to be curtailed. Thus, the proposal would contravene the minimum standard for private open space cited in the Galway City Development Plan 2011 – 2017 and it would afford an unsatisfactory standard of amenity to future occupiers of the dwelling house. The proposed dental surgery would, therefore, be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison

Inspector

4th May 2016