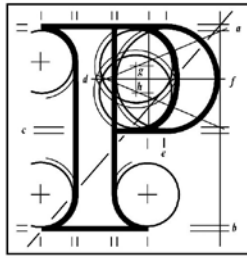


# An Bord Pleanála



## Inspector's Report

**An Bord Pleanála Ref.:** PL61.246056

**Development:** Extension to rear of house, retain shed and conversion of shed and garage to living accommodation at 31 College Road, Galway.

### Planning Application

Planning Authority: Galway City Council

Planning Authority Reg. Ref.: 15/75

Applicant: Michael Guilfoyle

Type of Application: Permission

Planning Authority Decision: Refusal

### Planning Appeal

Appellant(s): Michael Guilfoyle

Type of Appeal: First Party

Observers: None

Date of Site Inspection: 10<sup>th</sup> of March 2016

**Inspector:** Angela Brereton

## **1.0 SITE LOCATION AND DESCRIPTION**

The application site relates to No.31 College Road, which is an existing large detached dwelling house located on the western side of College Road, immediately to the south of the Galway Greyhound Stadium stand/Connaught Rugby Club. There are high walls along the northern boundaries that separate the site from the Stadium Grounds. Yeat's College and City Hall are located further to the south. There are a number of B&B's along this area of College Road. The adjacent property no.29 is also in use as a B&B and has been extended to the rear.

This is a 2 storey detached dwelling which currently operates as a B&B and there is signage at the site frontage for 'Ardawn G/H'. The property has been extended and includes a roof conversion incorporating velux roof lights at the rear which provides further bedroom accommodation at second floor level. There is a triangular rear garden area which is used as private amenity space for the applicants. The rear garden area is relatively private and is not overlooked.

The vehicular entrance is from College Road and there is on-site parking provided and five no. spaces are marked out. There is also a roadside parking space in front of the property.

## **2.0 PROPOSED DEVELOPMENT**

This is to consist of the following modifications and extension all at No.31 College Road:

- (1) The Construction of an extension to the rear of the existing dwelling house;
- (2) Retention of storage shed and conversion of same to living accommodation and
- (3) Conversion of domestic garage to living accommodation.

The application form provides that the area of the site is 0.0577ha. The g.f.a of the existing buildings is 365.5sq.m and of the proposed works is 8.5sq.m (glazed atrium) + 21.9sq.m (garage area). The g.f.a to be retained is 13.35sq.m (shown storage and utility area). These areas are shown colour coded on the drawings submitted.

A Site Layout Plan, Floorplans, Sections and Elevations have been submitted. These include that the site coverage is 34% and the plot ratio is 0.67. The Floor plans show the property with roof lights at the rear to provide living accommodation on the ground floor level and bedrooms on first and second floor level (en-suite).

## **3.0 PLANNING HISTORY**

The Planner's Report provides a list of the planning history relative to the proposed development. The following are of note:

- Reg.Ref.93/141 – Permission granted on 19/03/1993 for retention of dwelling house, garden shed, attic conversion and B&B signs.
- Reg.Ref.94/585 – Permission granted on 04/11/1994 for the use of six bedrooms for guest accommodation.

- Reg.Ref.98/107 – Permission refused by the Council for retention and completion of extension to the side and rear of house and subsequently refused by the Board – Ref.PL61.106563 refers.

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

#### **4.0 PLANNING AUTHORITY APPLICATION Technical Reports – Galway City Council**

**The Planning & Transportation Section** has no objections subject to a number of recommended conditions.

**The Drainage Section** has no objections in relation to surface water drainage.

**The Building Control Officer** has no objections in relation to building control and considers that a Fire Safety Certificate is required.

**The Chief Fire Officer** provides that the proposal would not comply with the current Fire Safety Requirements for such a development in particular with regards to means of escape and provide a number of recommendations including that the Fire Safety Certificate be required.

#### **The Planner's Report**

This had regard to the locational context, planning history, policy and to the Interdepartmental Reports. They noted that the site currently operates as a B&B and that the existing domestic garage which is proposed to be converted to a living room was being used as a bedroom. They noted at least 8no. bedrooms in the existing premises, and that no distinction has been made on the plans between bedrooms required for B&B purposes and those required by the owners. Given that the permission granted in 94/585 restricted that B&B to not more than six bedrooms for guest accommodation they considered that the applicant should submit revised plans clearly identifying the use of each room & facilitate an internal inspection of the whole property including the attic. They also considered that the rear garden area would be well below the amenity space required for a property of this size. They recommended that Further Information be sought to include the following:

- A full and accurate breakdown of the use of each room in the property including that used for guest accommodation.
- The applicant was requested to comment on the current use of the garage as bedroom.
- They are also asked to comment on the limited size of the rear garden area.
- They were also asked to facilitate an inspection of the property.

#### Further Information Response

Grealysh Glynn & Associates have submitted revised plans to include the following:

- Revised plans which show the use of each bedroom i.e. 6 guest bedrooms and 3 private bedrooms for the dwelling.

- The current use of the garage structure is storage and it is proposed to convert this to living room use for the private use by occupants of the dwelling house.
- The revised plans indicate 96sq.m of amenity space to the rear of the house and further landscaped amenity space will be provided to the front sides of the house and they consider that this is sufficient for a 3bed for private use so close to the city.
- 7no. carparking spaces have been provided i.e. one space per guest bedroom and one for private use.
- They also provide that a site visit was arranged.
- Revised Public Notices have been submitted.

### ***Planner's response***

The Planner had regard to the response to the F.I and revised plans submitted. They considered that the revised plans have clarified a number of issues in relation to the development of No.31 College Road. They noted that in particular the applicants have confirmed the B&B use of the building is confined to 6no. bedrooms as conditioned in the 1994 permission. They had regard to the increase in floor area that has taken place, and to the shortfall in private amenity space. While dealt with under a separate code they also noted the Chief Fire Officer's concerns over means of escape. They noted that previous extensions were refused by the Council and the Board in 1998. They considered that this proposal would result in an overdevelopment of this site and should be refused.

## **5.0 PLANNING AUTHORITY DECISION**

On the 16<sup>th</sup> of December 2015 Galway City Council recommended refusal for the proposed development for the following 2no. reasons:

1. *The development, in combination with the existing unauthorised structures, would result in an over-development of the site and would be detrimental to the residential amenities of the area and contrary to the provisions of the Galway City Council Development Plan 2011-2017 and the proper planning and sustainable development of the area.*
2. *Adequate private amenity space for the proposed development in accordance with accepted standards would not be available within the confines of the site and the proposal would therefore be contrary to the provisions of the Galway City Council Development Plan 2011-2017 and the proper planning and sustainable development of the area.*

## **6.0 GROUNDS OF APPEAL**

Grealish Glynn & Associates has submitted a First Party Appeal on behalf of the Applicant Michael Guilfoyle. The grounds of appeal include the following:

- They have regard to the General Development Standards and Guidelines in the Galway City DP 2011-2017 and to the 'Inner Residential Areas' land use zoning. They note that no specific plot ratio is designated for this zoning which is a fault of the CDP.
- They consider that a more appropriate site specific assessment of the *established form and layout* of development in this area should have been carried out by the PA.

- They believe that this development differs significantly from the standard Outer Suburb residential areas in that the property is located in a row of houses on College Road dominated by large Guesthouses and B&B's.
- This inner city area should have been considered 'Mixed Use' and allow for a higher plot ratio and they provide details of plot ratios.
- The family currently have insufficient private amenity area within this property for modern family living.
- If planning permission is refused a slightly smaller extension will have to be built to the rear of the dwelling under the exempt development guidelines which would result in a greater loss of private amenity area.
- The current proposal utilises existing structures on site and will required minimal construction work.
- The PA has unfairly refused this application and has applied standards that are more suited to Outer Suburbs than Inner City Residential areas where mixed use is established.
- The property is in no way overdeveloped with site coverage of only 35. Without the B&B section this is a standard 3 bedroom family home.

## **7.0 RESPONSES**

Galway City Council's response to the grounds of appeal includes the following:

- They set out details of the Planning History relative to the site.
- While only a small rear extension is now proposed the garage and link extension were previously refused by ABP in 1998 (Ref.PL61.106563 refers).
- The garage to be converted to a living room was in use temporarily by the applicant's son at the time of their site visit.
- The plot ratio of the extended property at 0.63:1 is considerably in excess of the 0.46:1 normally allowed in the residential zone.
- There is a resultant shortfall in private amenity area.
- The usability of the open space in the front is doubtful.
- The site is located in the Inner Residential Area and is not within the City Centre zone.
- Using City Centre calculations based on the property at 351sq.m the scheme does not have a 30% rate i.e.105sq.m of private amenity open space.
- It is not certain that exempted development allowance of 40sq.m would be applicable to this extended property which has permission for 6no. bedrooms for B&B use for over 20 years. This would be a matter for a Declaration under Section 5 of the Planning and Development Act 2000.

## **8.0 PLANNING POLICY**

### **Galway City Development Plan 2011-2017**

Section 2.2 refers to the Neighbourhood Concept. Table 2.1 and Fig.2.1 sets out the framework of residential neighbourhoods in the city. College Road is located within the Inner Residential Area – Policy 2.5 refers.

Chapter 11 (Table 11.1) refers to Land Use Zoning Objectives and Development Standards and Guidelines. Section 11.1 includes: *Provision is made for a flexible application of standards and guidelines, in particular circumstances where proposed development is otherwise consistent with the proper planning and sustainable development of the area and achieves high urban design quality*

Section 11.2.2 refers to Natural Heritage, Recreation and Amenity RA Land Use Zoning Objectives. Zoning Objective RA: *To provide for and protect recreational uses, open space, amenity uses and natural heritage.*

Section 11.2.8 refers to Residential R and LDR Land Use Zoning Objectives. Zoning Objective R seeks: *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.* Reference is also made to Hotels, Guesthouses and B&Bs. Part B – provides Development Standards and Guidelines.

S.11.3.3 refers to Inner Residential Areas and provides that standards are as per 'Established Suburbs' except for car parking where there is a car parking standard of a maximum of 1 space per dwelling. Standards for Open Space are as per the Outer Suburbs i.e.S.11.3.1 refers.

S.11.6 refers to Advertisements

Table 11.5 refers to Parking Space Requirement for Different Types of Development. Guesthouses/B&B require 1 space per bedroom except in the City Centre Area where they require 1 space per 2 bedrooms. This includes that Parking spaces for people with disabilities shall be provided. Also that parking requirements shall not be exceeded by more than 10% in city centre and inner city residential areas.

Section 11.10.2 refers to Cycle Parking. Section 11.11 to Waste Management including for commercial and residential developments. S.11.23 refers to Development Contributions and S.11.24 to Access for All.

### **Planning and Development Regulations 2001-2015 (as amended)**

Part 2 Article 5 refers to Exempted Development. This includes in the interpretation: 'Business Premises'(b) a hotel, hostel (other than a hostel where care is provided) or public house. A guest house or other premises (not being a hotel or a hostel) providing overnight guest accommodation...is included in excluded premises.

Article 9 provides for the criteria relative to a Restriction on Exemptions referred to in Article 6.. Article 10 refers to exemptions for Changes of use and includes in sub-section (4): *Development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for the accommodation of not more than 4 persons as overnight guest accommodation, shall be exempted development for the purposes of the Act, provided that such development would not contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.*

Part 4 of the Regulations refers to *Classes of Use* and Class 6 includes use as a guesthouse.

## **9.0 ASSESSMENT**

### **9.1 Principle of Development**

As shown on Fig. 2.1 of the Galway County Council Development Plan 2011-2017 the property is located in the *Inner Residential Area*. Policy 2.5 seeks to:  
*Protect the quality of inner residential areas by ensuring that new development does not adversely affect their character and has regard to the prevailing pattern, form and density of these areas.*

In this case the property is in use as a B&B and signage has been erected in this regard. It is of noted that permission has been granted in Reg.Ref.94/585 for the use of six of the bedrooms for guest accommodation. Part of the house, including three other bedrooms and the rear element and rear garden area are in use as private accommodation for the applicants.

In this area of College Road, many of the properties are in use as guest houses and B&Bs. The 'R' Residential zoning of the site provides that Hotels, Guesthouses and B&Bs maybe acceptable in this zoning dependant on the location and scale of development. Therefore it is considered that the principle of the B&B usage has been accepted on this site and is not contrary to the pattern of development in the area in this location. However the issue in this case is whether the proposed development would represent an overdevelopment of this site and would be detrimental to the residential amenities of the area. Regard is also had to the adequacy of private amenity open space and the proper planning and sustainable development of the area in this Assessment below.

### **9.2 Regard to Planning History and Usage**

It is of noted that permission has been granted in Reg.Ref.94/585 for the use of six bedrooms for guest accommodation. This was stipulated in Condition no.2 i.e:

*A maximum of six bedrooms only shall be used as sleeping accommodation for guests.*

*Reason: In order to minimise the impact of the proposed development on residential amenity and to control car parking in accordance with the reasonable capacity of the site to accommodate car parking without undue detrimental impact on the amenities of the property.*

The site layout plan submitted with that application showed the garage area as a shed to the rear and does not include the other subsequently built single storey rear extensions.

As noted in the Council's response to the grounds of appeal there were a number of applications for retention and completion of extensions to the rear of the dwelling house refused in the period 1996-1998. These are now the subject of retention in the current application.

Note is also had of the decision by the Board in PL61.106563 where in 1998 development comprising the retention and completion of an extension to the side and rear of the house was refused for the following reason:

*Taken together with the original development on the site, the development would result in an excessive building density in a residential area and would not comply with the requirements of the current Galway County Borough*

*Development Plan standards for private amenity space around dwellings, which requirements are considered reasonable. The development would therefore, seriously injure the amenities of property in the vicinity, would constitute as undesirable precedent and would be contrary to the proper planning and development of the area.*

Therefore regard needs to be had to the standards in the current development plan relative to the impact on private amenity open space and the impact on the residential amenities of the area.

Also of note as the no. of permitted guest bedrooms exceeds private bedrooms it could be seen that the guest accommodation is not ancillary to the private dwelling and that the property is primarily in commercial use as a B&B. Therefore as more than 4 bedrooms in the house are for use as B&B the exemptions for *development within the curtilage of a house* as provided in Schedule 2 Part 1 of the Planning and Development Regulations 2001 (as amended) would not apply. Rather it would be seen more in terms of a guest house falling into Class 6 of Part 4. Therefore any alterations and extensions would require permission and the exempted development rights relevant to a private dwelling in terms of extensions etc. would not apply.

### **9.3 Design and Layout**

My site visit included an inspection of the property and I found the private and guest accommodation to be as shown on the colour coded floor plans submitted with the revised plans i.e. 6no. guest bedrooms and 3no. private bedrooms. The 3no. private bedrooms are shown at first floor level and 3no. guest bedrooms are provided at first and second floor levels. The accommodation shown for 'private living space' at the rear is currently in use for storage and is not in use as a garage or as an additional bedroom area or for living accommodation. This differs from that seen at the time of the Planner's Report where it was seen in use as a 'temporary bedroom'.

Regard is had to the floor plans submitted, it is noted that there is a difference in some of the measurements given between the original and revised floor plans. The revised floor plans show that the floor area of the house taking in ground, first and second floor levels is c.307.75sq.m. In the current application it is proposed to construct a single storey extension to the rear of the dwellinghouse (8.5sq.m), retain the domestic storage shed and convert the same to living accommodation (13.35sq.m) and convert the floor area of the garage (21.9sq.m) to a 'private livingroom' i.e. 43.75sq.m in total. While no additional guest bedrooms are being proposed in overall terms in the current application, it is proposed as shown on the revised plans to increase the habitable floor area from c. 307.75sq.m to c. 351.5sq.m. All this concerns the existing area in use as storage except for the additional proposed extension of 8.5sq.m. This application proposes to use the existing rear storage area as living accommodation and to provide a small rear extension to form the 'glazed atrium' area.

The First Party notes that this proposal is to provide more private amenity space for the applicants as in view of the extent of the B&B accommodation they have insufficient private living accommodation within the dwelling. On my



tour of the property I noted that much of the ground floor accommodation provides also for the B&B use and this includes the large dining room area and living room area. They provide that the existing layout with access to the rear garden area through the utility room does not allow for the proper use of the amenity area to the rear. The proposal will largely avail of the existing structures and provide for more comfortable living for the occupants of the dwelling with very minimal effect on the existing private amenity area to the rear.

#### 9.4 Regard to Open Space Provision

As shown on the revised plans the rear garden area is 96sq.m. 'Soft Landscaping'. The 96sq.m relates to the whole rear garden area, the majority of which is paved, except for a small landscaped border around the perimeter. The F.I. provides that a further 48sq.m of landscaped amenity will be provided to the front (north) and 25sq.m to the front (south) garden area. These areas are now paved and are used as parking spaces. The applicants provide that taking all these areas into account 169sq.m of private amenity open space or 47.5% of the developed floor area would be available to the applicants. They consider that this is sufficient for a 3 bedroom for private use dwelling house close to Galway city centre.

Regard is had to the Galway City Development Plan 2011-2017. Section 11.3.3 refers to *Inner Residential Areas*. This provides that the standards for open space are as per the *Established Suburbs* i.e 11.3.2 (b) Amenity Standards - *Shall be as per Outer Suburbs except in certain circumstances where the established form and layout would deem a reduction in these standards appropriate, in the interests of sustainability and urban design.*

Section 11.3.1(c) refers to the Outer Suburbs and provides relative to residential development: *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.* In this case the private open space proposed to the sides of the property would not be included.

The First Party believes that this development differs significantly from standard Outer Suburb residential areas in that the property is located in a row of houses on College Road dominated with large Guesthouses and B&Bs. This has long been established and they consider that the area should have been designated 'Mixed Use' and also have regard to standards for the City Centre zone. They note that if this were an Inner City Area that a plot ratio of 1:60:1 would be considered to be acceptable. The area falls between two designations and therefore a plot ratio of 0:63:1 is only slightly above this. The existing plot ratio is 0.61:1 which is already well above the current standard and is consistent with neighbouring properties on College Road.

Regard must be had to S11.3.1(a) relative to the Outer Suburbs where it is provided that: *A plot ratio of 0.46:1 for new residential development shall not normally be exceeded.* The current situation obviously well exceeds this. However this Section also provides: *Non residential development shall be considered at appropriate locations on residentially zoned lands where it is of a scale that serves the local need and where requirements are satisfied. Plot*

*ratio for such commercial, leisure, community and mixed developments on residentially zoned lands shall not normally exceed 1:1...* The proposed development would appear to better comply with this category.

However the following is also provided: *Where commercial developments are acceptable on residentially zoned land, 10% of the area of a site, shall normally be provided as open space. Where the development includes residential uses, communal and private open space standards in 11.3.1(c) shall apply.* As the B&B use includes the private residential element as noted above it is considered that these residential standards (as per the Outer Suburbs) would therefore apply and have currently been exceeded. The incorporation of the former shed into habitable accommodation also exacerbates the shortfall in private amenity space. Therefore it is concluded that this proposal would not be in compliance with these relevant standards.

### **9.5 Access and Parking**

The access is from College Road. Five no. spaces are marked out and a further two no. spaces can be accommodated on site (not marked) – although this would revert to 5no. spaces as the proposed front garden soft landscaping area on either side of the property is currently surfaced and used for parking either side of the property. The plans originally submitted show the existing parking situation. The revised layout shows changes to this with a fifth space in the northern corner of the site and a disabled parking space now included. As there is no increase in the number of bedrooms proposed there is no objection to these revisions to the parking layout.

There is one on-street parking space marked out in front of the property. The sports ground entrance to the Galway Greyhound Stadium stand/Connaught Rugby Club is immediately to the north of the site.

### **9.6 Impact on the Character and Amenities of the Area**

The proposed works are all to the single storey buildings at the rear of the property, with a small extension proposed. They are not visible from College Road. The rear garden area is well screened and there is a high wall along the northern site boundary with the sports ground to the north. In view of the screening is not considered that there is any adverse impact on the adjoining properties, including the property to the south which is also in B&B usage.

There is an issue relative to undesirable precedent in that the granting of such a proposal could encourage other B&B premises in this area to similarly convert sheds/outbuildings to habitable use, which would increase the density of habitable accommodation on sites and encourage additional loss of private amenity open space, which would be contrary to policy.

### **9.7 Appropriate Assessment**

Having regard to the nature and scale of the development proposed 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 read the documentation on file, including the grounds of appeal and the Council's response, had regard to planning policy and visited the site, it is considered that the current proposal while not visible from the road and in view of its well screened location to the rear of the property is not visually detrimental to neighbouring properties, would be contrary to planning policy relative to quality and quantity of private amenity open space and would represent an overdevelopment of the site. It would also set an undesirable precedent for the conversion of such sheds/outbuildings in this area of College Road to habitable accommodation.

In view of these pertinent issues it is recommended that the proposed development be refused for the reasons and considerations below.

## **11.0 REASONS AND CONSIDERATIONS**

1. The development in combination with the existing unauthorised structures at the rear of No.31 College Road would result in an over development of the site where adequate private amenity space is not available in accordance with Sections 11.3.1(a) and 11.3.1(c) of the Galway City Council Development Plan 2011-2017. It would also set an undesirable precedent for other similar type properties in the area to convert sheds and storage areas at the rear to habitable accommodation which would be detrimental to the residential amenities of the area. The proposal would therefore be contrary to the proper planning and sustainable development of the area.

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Angela Brereton,  
Inspector,  
18<sup>th</sup> of April 2016