



An
Bord
Pleanála

Inspector's Report

An Bord Pleanála Ref. PL61.246593

Proposed Development	Demolition of dwelling and construction 5 bedroom replacement dwelling with garage and all associated site works.
Planning Authority	Galway City Council.
Planning Authority Reg. Ref.	15/269
Applicant(s)	Ross Burns and Aisling McNicholas.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Appellant(s)	Ivan and Linda Gibbons
Observer(s)	none
Date of Site Inspection	8 th August, 2016.
Inspector	Stephen Kay.

1.0 Site Location and Description

The appeal site is located on Taylor's Hill Road to the west of the city centre and in an area that is identified as an established suburb in the City Development Plan. The site which has a stated area of 0.1018 ha. Is located on a corner site at the junction of Taylors Hill Road and the access road to a residential estate to the north. This estate access road that bounds the site to the east accesses detached dwellings that back onto the appeal site to the north and also a gated residential development that is located further to the north. To the east, the appeal site fronts onto an area of open space that bounds the residential access road. This eastern site boundary and the rear site boundary to the dwellings to the north are characterised by mature trees and are well screened. The bulk of this planting to both boundaries is located within the appeal site.

The level of the appeal site is such that it is lower than that of the adjoining house to the west on Taylors Hill Road and significantly lower than that of the dwellings to the north. It is difficult to get an accurate perspective on site of the difference in levels due to the boundary planting however the site survey drawings indicate that the difference in finished floor level between the existing dwelling on the appeal site and the adjoining site to the north is c. 2.9 metres.

The appeal site has an existing two storey detached dwelling that is located towards the centre of the site. The stated floor area of this dwelling is 180 sq. metres.

Vehicular access to the existing dwelling is provided from Taylor's Hill Road and the front boundary of the site is characterised by a stone wall of c. 1.2 metres in height. The existing dwelling is clearly visible from Taylors Hill Road but is screened from view from the road to the east.

The prevailing pattern of development in the general vicinity of the appeal site is of residential use on generally relatively large sites. The style of houses vary however most are detached two storey dwellings of significant scale.

2.0 Description of Proposed Development

The development comprises the demolition of the existing two storey dwelling that is on the site and the construction of a replacement part single, part two and part three storey dwelling on the site. The footprint of the proposed dwelling is L shaped and is such that it is significantly further back towards the rear of the site.

The proposed layout has development across almost the full width of the rear of the site and initial proposals indicated the separation distance between this part of the development and the rear boundary of the site at c. 1.5 metres. The dwelling in closest proximity to the rear boundary is single storey rising to two storey and with a three storey element towards the front of the site. The design of the proposed dwelling is such that there is significant extent of glazing to both the east and west facing elevations as well as to the front south facing elevation. To the rear, there are no windows proposed that would directly face towards the properties to the north.

It is noted that from the section and elevation drawings submitted (notably section Y-Y and Elevation C) it would appear that the floor level of the proposed dwelling is significantly lower than that of the existing dwelling on the site with the difference in the order of 900mm. this has the result that the existing significant change in levels and retaining wall at the rear of the site is indicated as being further stepped down within the appeal site in addition to excavation works required as part of the construction of the proposed dwelling.

The stated area of the proposed dwelling is 377 sq. metres and the finishes indicated comprise render, brick and slate roof finish. Open space to serve the development is indicated on the site plan as being located to the west side of the dwelling and an area of approximately 175 sq metres behind the front building line is indicated on the submitted plans.

A detached garage is proposed to be located forward of the front building line and close to the front boundary of the site. The proposal also includes the raising of the existing front boundary to Taylors Hill Road from the existing c.1.2 metre height to c. 2 metres.

3.0 Planning History

There is no recent planning history referenced in the report of the Planning Officer or in other submissions on file.

4.0 Planning Authority Assessment and Decision

4.1 Internal Reports

Planning Officer – The report of the Planning Officer notes the layout of the proposed development and raises a number of issues principally regarding the proximity of the originally proposed layout to the rear boundary of the site, the number of windows proposed to the side elevation facing the adjoining property to the west, the visual impact of the proposed detached garage forward of the building line, privacy of the indicated private amenity space and the proposed height / treatment of the front boundary of the site. An initial report recommends further information on the above issues and a second report subsequent to a response to this further information a grant of permission consistent with the Notification of Decision which issued.

Planning and Transportation – Initial report recommends further information relating to the impact on visibility at the entrance from the proposed raising of the height of the front boundary.

Surface Water Drainage – No objection.

Irish Water – No objection.

4.2 Request for Further Information

Prior to the issuing of a Notification of Decision the planning authority requested further information as follows:

1. Concern regarding the scale of the dwelling and the location relative to the northern boundary. Requested that any 2/3 storey element would be at least 5 metres from the northern boundary and that there would be a reduction in height of the element facing north.
2. Omission of the garage from the position to the front of the site and relocation to the rear or side of the dwelling.
3. Maximum height of 1.2 metres for the front boundary treatment of the site.
4. Indication of the exact area proposed as private amenity space and measures to ensure that such areas are secluded from public views.

5. Concern regard the number of windows in the west facing elevation and that these would lead to visual intrusion and reduce the residential amenity of the adjoining property. Proposals for a reduction in the number of windows at first and attic floor level required.

The following is a summary of the main information submitted in response to the request for further information:

- The design of the dwelling was amended and repositioned on the site such that there is now a 2 metre separation between the single storey rear element and the rear boundary of the site. The roof slopes up from the position to two storey level. The revised layout is also such that the attic floor level is now c. 11 metres from the boundary with the property to the north. The maximum overall height of the dwelling has been reduced slightly from c. 10.85 metres to 10.5 metres.
- The originally proposed detached garage structure is omitted and a small store integrated into the main dwelling.
- Now proposed that the existing front boundary treatment would remain and that the gate is to be reduced to a height of 1.15 metres.
- Indicated that a private open space area to the side and rear of the dwelling of 204 sq. metres to be provided and that this would meet development plan standards.
- The fenestration of the west facing elevation has been changed such that there are now proposed to be two windows at ground floor level and two at attic level facing the adjoining property.

- minimum 5 metre separation between the dwelling and the northern site boundary.

4.3 Notification of Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 12 no. conditions, the most significant of which can be summarised as follows:

- Condition No.2 specifies that the room indicated as an office *'shall be used as a home office only and that 'no other persons / clients shall call to this home office for any business purpose'*.
- Condition No.7 specifies that there shall no extension to the dwelling without a prior grant of planning permission.

5.1 Third Party Appeal

The following is a summary of the main issues raised in the third party appeal against the Notification of Decision to Grant Permission issued by the Planning Authority.

- That the height of the proposed dwelling is over 2 metres higher than the existing on the site. This scale is not necessary and a third floor could be provided with a dormer layout that would facilitate a reduction in height.
- That the scale of the dwelling at 377 sq, metres results in a very large massing on the site and such that it is excessive for the scale of the site.

- That the proposed scale of dwelling will have a negative impact on the appellants rear garden by way of sunlight and visual amenity. The design, scale and proximity to the boundary of the proposed development is such that it will result in a sea of tiles when viewed from the garden.
- That the development is proposed to be located excessively close to the boundary with the appellant's property. The existing view of mature trees will be replaced with a view of a roof and a tower like element.
- Concern that rooflights could be incorporated into the rear roof slope without a requirement for permission resulting in a loss of amenity.
- That the existing dwelling is located in the centre of the plot and there is no clear reason why this should not remain the case with the proposed development.

6.0 Response Submissions

6.1 Response of the Planning Authority to Appeal

There is no record on file of a response to the appeal being received from the Planning Authority.

6.2 First Party Response to Grounds of Appeal

The following is a summary of the main issues raised in the first party response to the third party appeal:

- That the overall height of the proposed dwelling is 699mm below the ridge height of the appellant's house and only 152mm above that of the house on the adjoining site to the west. This maximum height is also only at a small area of the design.
- That the design and layout on the site is influenced by a brief to create a family home that overlooks a large garden and facing south.
- That the footprint of the dwelling is actually smaller than the existing houses to the east and two up to the west on Taylors Hill Road. The scale is therefore in keeping with its context.
- Submitted that the design successfully accommodates the majority of living accommodation at ground floor level minimising the scale at first floor. Where development is proposed at first floor level there is an existing tree.
- That the scale of dwelling is in keeping with the provisions of the development plan.
- That the proposed development would reduce overlooking of the appellant's property as there will be no windows in the rear elevation that would directly overlook the property to the rear. Two possible locations for rooflights are proposed in drawing Q-04 PL-ABP-01 submitted with the appeal, however they are above ceiling level and no overlooking is possible.
- That the proposal would reduce the overshadowing of the appellant's garden as the existing large tree in the northern boundary will be removed.

- That the only way there the appellant would get a view of the sea of tiles would be if they were to look over the rear boundary wall of their property. Otherwise the proposed development will not be clearly visible.
- That the 2 metre separation from the boundary is not unprecedented as contended by the appellant. The appellants own property is 1.5 metres from both its eastern and western boundaries.
- That the comments of appellants with regard to the potential future installation of rooflights are noted and has been the subject of consideration. The first party is open to the consideration of an appropriate location of such windows by the Board at this time and a suggested location is indicated on Drawing Q-04 PL-ABP-01 submitted with the response submission. Stated that there would be no overlooking possible from rooflights in these locations.
- That the existing dwelling is poorly located on the site as it overshadows the private amenity space available to the rear. A change in layout is therefore required.
- That the proposed development is consistent with the BRE Guidelines on Site Layout Planning for Daylight and Sunlight.

6.3 Further Response Submissions

6.3 Third Party Submission on First Party Response to Appeal

The following is a summary of the main points raised in this submission:

- That the overall height of the dwelling may be similar to those adjoining but the roof profile is completely different and the eaves height much higher. The prevailing pattern is two storey rather than three storey dwellings.
- Contrary to the first party claims, the large floor area does impact on the overall massing.
- That the existing tree on the appeal site is an amenity and is not considered by the appellants to be a potential problem in terms of their residential amenity. To claim that the removal of a tree and its replacement with a three storey element of a building will result in an improvement in amenity is a tall claim.
- That the separation of only two metres to the rear site boundary is unprecedented.
- That the concept of the design and the southerly aspect is appreciated, this could have been achieved while keeping a significantly greater separation to the boundary.

7.0 Policy

The site is located in an area that is zoned Objective R under the provisions of the Galway City Development Plan, 2011-2017, *'to provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable neighbourhoods'*. The site is an Established Residential Area. Regarding demolition of existing dwellings and replacement dwellings in such areas, section 2.4 of the Plan states that

‘demolition of existing dwellings for replacement dwellings will not be acceptable in the established suburbs except in cases where it is demonstrated that the proposed development would make a positive contribution to the area’s urban design and where it does not represent a major intervention into or redevelopment of the urban fabric. This assessment will be balanced with the contribution that any proposed replacement would make to enhance the character of the area and will have regard to any sustainable benefits of such development.....’

Chapter 11 sets out development standards for residential development. Plot ratio is specified to be a maximum of 0.46:1. Open space provision should be at a minimum of 50 percent of the gross floor area of the unit.

Parking policy requires that a minimum of two spaces per dwelling would be provided.

8.0 Assessment

The following are considered to be the main issues of relevance in the assessment of this appeal:

- Principle of Development,
- Design, Layout and Visual Impact
- Impact on Residential Amenity
- Other Issues

8.1 Principle of Development

- 8.1.1 The site is located in an area that is zoned Objective R under the *Galway City Development Plan 2011-2017* and which is located in what could be considered to be an established residential area of the city. Residential is listed in 11.2.8 of the Plan as being a use which is compatible with and contribute to the zoning objective and it is therefore considered that the principle of residential development would accord with the residential zoning objective of the site.
- 8.1.2 Policy 2.4 of the Plan relates to established suburbs and states that the demolition of existing dwellings will not be acceptable in such areas except in cases where it is demonstrated that the proposed development would make a positive contribution to the areas urban design and does not make a major intervention into or redevelopment of the urban fabric. Compliance with this standard shall be assessed in the following sections relating to design, visual impact and the impact on residential amenity.

8.2 Design, Layout and Visual Impact

- 8.2.1 The main concern expressed by the third party appellants relates to the scale and bulk of the proposed redeveloped dwelling and its position on the site. Specifically, it is contended that the construction of the replacement dwelling so far back on the site and in such close proximity to the rear site boundary would be such that it would have a significant negative impact on visual amenity and outlook from the appellant's property. It is also contended by the appellants that the floor area and resulting mass of the proposed development is excessive for the site and that the form of development with a monopitch roof incorporating a third level of accommodation is

out of character with the prevailing form of development by virtue of its scale and design.

8.2.2 The basic design proposed incorporates the demolition of the existing dwelling and the construction of a significantly larger dwelling with an L shaped footprint and located significantly further back in the site. The building is such that the rear single storey element is within 2 metres of the rear (northern) boundary of the site. In terms of scale, the proposed dwelling is of an unusual and distinctive style. The roof of the rear single storey element is proposed to continue to rise into a two storey section further to the north and resulting in a significant extent of roof slope in this location. This is the basis of the concern expressed by the appellants regarding the aspect from their dwelling and the 'sea of tiles' that would be facing their property. The design of the dwelling is also such that the third floor is proposed to be contained in an element with a west facing monopitch roof and which would have high gables located on the north and south facing elevations.

8.2.3 In terms of the compatibility of the proposed design with the prevailing pattern of development I would note the fact that the surrounding dwellings, while of a mixed style and generally large scale, are two storey rather than three storey structures. The first party states that the scale of what is proposed is not significantly different to what is present on surrounding sites on Taylors Hill Road and state that the overall height of the proposed dwelling is 699mm below the ridge height of the appellant's house and only 152mm above that of the house on the adjoining site to the west. These figures are correct however it is noted that firstly, the design of the proposed development incorporates an east facing elevation that extends to this height rather than a pitched roof as is the case with the surrounding properties. Secondly, it would appear from the submitted drawings that the proposal involves the lowering of the ground level on the site by c. 0.9 metre. The Survey of Existing Site drawing submitted (Drg. No. Q-04-PL01-00) indicates that the FFL of the appellants dwelling

is c.11.4 metres and that of the existing dwelling on the appeal site given as c.8.5 giving a difference in levels of c. 2.9 metres. The submitted side elevation and section drawings submitted (e.g. Elevation A and Section Y-Y) indicate that the difference in ground floor FFL's between the two dwellings would be close to 3.9 metres.

8.2.4 Notwithstanding the mitigation afforded by the lower site level relative to the dwellings to the rear and the screening along the eastern boundary, the design and scale of the proposed dwelling is such that it is not in my opinion such that it is in keeping with the established pattern of development and I do not see how the proposed dwelling is such that it makes a clear positive contribution to the areas urban design and would, in my opinion, comprise a significant and visually prominent intervention into the existing urban fabric. For these reasons I am not convinced that the form of development proposed is such that it would be consistent with the provisions of Paragraph 2.4 of the Development Plan which sets out a presumption against demolition and replacement of dwellings in established suburbs.

8.2.5 The layout of the dwelling on the site and the apparent proposed reduction in ground levels by close to 1 metre raises another potential issue and one which has not been specifically raised in the appeal submission received or in the report of the Planning Officer. This relates to the change in levels at the rear of the site and ground stability. The development footprint comes to within 2 metres of the rear boundary at a point where the existing difference in ground levels is c. 2.6 metres. It is proposed to lower the ground level within the site by a further c.0.9 metres and such that in my opinion there needs to be further information provided with regard to the implications that this change in ground level and construction works in such close proximity to the boundary would have on ground stability in this location. In the absence of such information regarding the treatment of this area I consider that the proposal has

potentially significant adverse impacts on the stability of adjoining third party lands do not consider it appropriate that permission would be granted.

8.2.6 In summary therefore, I note the desire of the first party to redevelop the existing dwelling in a layout that makes better use of the site aspect and which would provide for a better level of light to the private amenity areas and main living areas of the dwelling. The site is however large and I am not convinced that a form of development that provides for an improved level of amenity for occupants could not be provided in a way that better respects the prevailing pattern of development and building line that has been established in the area. Similarly, the design proposed is in my opinion of a scale and design that when combined with the position on the site would be such that it would comprise a visually prominent and intrusive element in this location and one that does not in my opinion satisfy the requirements of paragraph 2.4 of the development plan regarding circumstances where demolition and reconstruction of existing dwellings in established suburbs will be favourably considered.

8.3 Impact on Residential Amenity

8.3.1 The appellants contend that the proposed development would have a negative impact on their residential amenity by virtue of overlooking and the aspect from their dwelling and garden. With regard to overlooking, there are no windows proposed in the rear elevation of the dwelling that would overlook the adjoining dwelling to the rear. There is specific reference in the appeal to the potential for the inclusion of rooflights in the rear roof slope by way of exempted development and concern that such rooflights could lead to the overlooking of their property. As part of the appeal response the first party has submitted revised drawings which indicate the potential location of two rooflights in the rear roof slope. The status of these proposals is not

clear and the first party states that these have been included as it is considered that it is a prudent time to have the location of any such rooflights considered by the board. In the event that a grant of permission was being considered by the Board the revised proposals for the inclusion of these rooflights could be considered and it would appear to me that the locations proposed would not be such as to have an adverse impact in terms of potential overlooking.

8.3.2 The proposed design also incorporates a significant number of windows at both ground and first floor level facing east and west. In the case of the west facing elevation the number of windows has been reduced on foot of the further information response submitted and all such windows are proposed to be a minimum of c. 12 metres from the site boundary and c.18 metres from the gable of the adjoining dwelling to the west, To the east, the proposed windows would overlook the access road to the Rosedale residential development and would be screened by existing mature trees located in the public space bounding this access road. In view of these separation distances, it is not therefore considered that there would be significant overlooking issues arising.

8.3.3 In my opinion the main potential adverse impact on the amenity of the appellant's property arises from the change in outlook and the proximity of the proposed development to the boundary. The first party dismisses the concerns raised on account of the variation in levels between the sites and the fact that the boundary between the site would restrict views of the proposed development from the appellants site. It is also contended by the first party that the proposed three storey element to the dwelling would be in a similar position to a large tree that is proposed to be felled and such that the overall outlook would not be significantly altered. I would agree with the first party that the proposed removal of the large tree at the north east corner of the appeal site would result in more light to the appellant's garden and from an inspection of the cross section drawings submitted I do not

consider that the proposal would result in the overshadowing of the appellant's garden or property. The first party states that the proposal is consistent with the BRE daylight and sunlight guidelines and I would agree that this is the case.

8.3.4 Notwithstanding the c. 10 metre rear garden depth to the appellant's property, I consider that the construction of the proposed development within c. 2 metres of the shared boundary would have the effect of introducing a visually prominent element both from the rear garden of the appellant's property and also from the upper floor windows. A comparison of the existing and proposed layouts is shown on the Site Section C on Drg. Q04-PL01—ABP-03 submitted to An Bord Pleanála on 13 June, 2016. Separation between the appellants dwelling at first floor level and the proposed development would be c. 16 metres however I am of the opinion that the extent of the north facing roof structure proposed, the proximity to the boundary and the scale of the third floor element would combine with the loss of existing screen planting to have a significant negative visual impact when viewed from the appellant's property.

8.3.5 With regard to open space, the first party was requested by way of further information to demonstrate compliance with the requirements of the development plan and how private open space screened from public view could be provided. The open space proposed is located to the west of the proposed replacement dwelling and is stated to comprise 204 sq. metres. This 204 sq. metres would appear to include the 2 metre deep strip to the rear (north) of the house and I estimate that the area to the west and behind the front building line comprises c. 190 sq. metres. Such an area would comply with the development plan requirement for a minimum of 50 percent of the floor area of the dwelling and is considered acceptable subject to there being some form of screening of this area from the front of the site.

8.4 Other Issues

- 8.4.1 As part of the original proposal the existing 1.2 metre high front boundary was to be increased to c.2.0 metres in height however this proposal was omitted in response to the further information request issued by the Planning Authority. In the event of a grant of permission it is recommended that the front boundary would not exceed the existing 1.2 metres in height to reflect the prevailing front boundary treatment in the area.
- 8.4.2 The site is already served by public water and drainage connections. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.
- 8.4.3 It is noted that Condition no.7 attached to the Notification of decision to grant permission issued by the Planning Authority specifies that no exempted development extensions to the property shall be permitted without a prior grant of permission. Given the scale of the dwelling proposed and its location on the site it is recommended that in the event that the Board considers it appropriate to grant permission that a condition to this effect would be attached.

9.0 Conclusions and Recommendation

Given the scale of development proposed, its proximity to site boundaries and the height and modern design solution proposed incorporating a third floor element with a monopitch roof I am not satisfied that a clear case for demolition of the existing structure has been made and that the proposed replacement dwelling would make a

positive contribution to the areas urban design and urban fabric as required in Paragraph 2.4 of the City Development Plan. In addition, while the logic of the relocation of the building footprint to the rear of the site is appreciated from the perspective of the future occupants of the dwelling it is considered that this design approach exacerbates the scale and bulk of the proposed structure and the issues regarding compliance with development plan policy regarding replacement dwellings as set out above in addition to having significant negative implications for the residential amenity of the properties to the rear (north). A revised design approach which respects the existing building line on the site and those of adjoining sites is considered to be a more appropriate basis for any future redevelopment of the site.

In view of the above it is recommended that permission be refused based on the reasons and considerations set out below. The attention of the Board is drawn to Reason for Refusal No.2 which would constitute a new issue in the context of the submissions on file:

Reasons and Considerations

1. Having regard to the scale and bulk of the development proposed, to the design approach particularly the extent of north facing roof and the monopitch third floor element, and the proximity to site boundaries it is considered that the proposed development would not be consistent with development plan policy for the demolition of existing dwellings and provision of replacement dwellings in established suburbs and would have a negative impact on the residential amenity of adjoining properties to the north by virtue of overbearing visual impact and visual intrusion. The proposed development would therefore be contrary paragraph 2.4 and Policy 2.4 of the as set out in section 2.4 of the Galway County Development Plan, 2011-2017 regarding development in established suburban areas, would seriously injure the amenities and

depreciate the value of adjoining residential properties and would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed replacement dwelling and associated development on site incorporates a reduction in ground level across the footprint of the dwelling and construction within approximately two metres of the northern boundary of the site and at a location where there is a significant variation in existing ground levels between the appeal site and adjoining lands to the north. In the absence of a detailed methodology regarding the reduction in ground levels and the undertaking of construction in the vicinity of the northern boundary, the board is not satisfied that the proposed development would not have a negative impact on ground stability and third party property in this location. The proposed development would therefore have a potentially significant negative impact on the residential amenities of adjoining properties and would be contrary to the proper planning and sustainable development of the area.

Stephen Kay

Inspectorate

23rd September, 2016