



An
Bord
Pleanála

Inspector's Report

An Bord Pleanála Ref. PL61.246610

Proposed Development	Construction of a townhouse and all ancillary site works.
Planning Authority	Galway City Council.
Planning Authority Reg. Ref.	16/48
Applicant(s)	Donal Flanagan.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Appellant(s)	Donal Flanagan
Observer(s)	Adrian Frazier Thomas and Eva Bourke
Date of Site Inspection	8 th August, 2016.
Inspector	Stephen Kay.

1.0 Site Location and Description

The appeal site is located at the rear of No. 56 Henry Street to the west of the city centre and in what is an inner residential suburb of Galway City. No.56 comprises an end of terrace two storey house that has a stated floor area of 77 sq. metres. The site currently has a side entrance that accesses a yard area to the rear of the site. This yard area is separated from the immediate curtilage of the existing dwelling by a wooden fence and that area to the rear of the dwelling and enclosed within this fence is relatively limited in area. The yard area itself is loose surfaced and has rough markings for three parking spaces.

The rear yard area is enclosed by a c. 2.3 metre high wall to the rear that fronts onto the towpath of the Eglinton Canal. There is an existing pedestrian entrance in this rear boundary wall that accesses the canal towpath.

The appeal site comprises part of the existing rear yard of No.56 and is approximately L shaped. A right of way via the existing access from Henry Street is indicated and this right of way is in excess of 3 metres in width. This access appears to currently be in use to access the existing parking spaces in the rear yard of No.56. The exact area of the appeal site is not legible from the Planning Application form that is on file, however it is stated in the Planners Report to be 221 sq. metres.

To the north, the appeal site is bounded by a 3 storey apartment development that the planning history indicates is a student / holiday development. This adjoining development, 'Donegan Court' is laid out with a central courtyard and development fronting the south, west and northern boundaries of the site.

To the south east, the appeal site bounds the rear garden of the adjoining terraced dwelling at No. 54 Henry Street. This boundary wall is c. 2 metres in height.

2.0 Description of Proposed Development

The development comprises the construction of a new two storey infill dwelling on the site. This dwelling is located to the rear of No.56 but would have vehicular access off Henry Street via the existing gate to the side of No.56. This dwelling is proposed to be located against the northern site boundary and the adjoining Donegan Court development. The layout incorporates the bedrooms at ground floor level with the living accommodation on the first floor.

At the western end of the site where the site is accessed via the right of way it is proposed to have a yard area. The main area of open space is indicated as being to the south of the building between it and the boundary with No.54 Henry Street. The area indicated on the site plan comprises approximately 64 sq. metres. It is proposed that the pedestrian access to the site from the canal towpath would be retained and that this would access the private open space area of the proposed dwelling.

The dwelling design incorporates a pitched roof and materials appear to comprise timber panelling and render although they are not detailed on the submitted drawings.

3.0 Planning History

There is an extensive planning history on the appeal site. The following are the most significant previous applications:

Galway City Council Ref. 07/682; ABP Ref. PL61.226658 – Permission refused by the Planning Authority for the removal of the existing shed in the rear garden, the construction of 3 no. apartments and associated site works in a two and a half storey structure to the rear. This refusal of permission was upheld on appeal by An Bord Pleanála.

Galway City Council Ref. 04/294 – Permission refused by the Planning Authority for a two storey extension to the side and rear of the existing dwelling at No.56 and the conversion of the extended house into three apartments.

Galway City Council Ref. 02/1081 – Permission refused by the Planning Authority for alterations to the existing dwelling at No.56 and use of the extension permitted under 99/863 as two apartments / self-contained units.

Galway City Council Ref. 99/863 – Permission Granted by the Planning Authority for a two storey extension to the rear of Nos. 54 and 56 Henry Street.

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 to the rear of No.56 Henry Street and the objections received from parties including An Taisce and local residents. The proposal is considered unacceptable on visual amenity, conservation and overdevelopment of the site and a refusal of permission consistent with the Notification of Decision which issued is recommended.

Planning and Transportation – Refusal of permission recommended on the basis that the proposed access is at a location where sight lines are restricted by the development to the north west (Donegan Court). Drainage proposals are considered to be acceptable.

Irish Water – No objection.

4.2 Notification of Decision

The Planning Authority issued a Notification of Decision to Refuse Permission for five reasons that can be summarised as follows:

1. That the proposed development would exceed the density standards for this inner residential area, would constitute over development of the site and would be out of character with and have a detrimental impact on the amenity of the area.
2. That the design scale and appearance of the proposed development on the canal is unacceptable given the protected structure status of the canal. It is considered that the proposal is excessively close to the canal and that the proposal would be contrary to the built heritage policies in the development plan.
3. That the development would have an adverse impact on the residential amenities of adjoining properties and would therefore be contrary to Policies 2.5 and 4.5 of the development plan.

4. That the arrangements for vehicular access to the site, parking and movement within the site are unacceptable such that the development would constitute a traffic hazard.
5. That the scale and massing of the proposed development is such that it would seriously prejudice the future extension of the dwelling at No.56 to provide for a modern size of residential accommodation.

5.0 Appeal Submission

5.1 First Party Appeal

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

- That the proposed development is in accordance with Paragraph 2.8 of the plan regarding mews development.
- That the proposal would be consistent with policies and objectives to promote modal change from the private car. The development of additional infill units can achieve more sustainable transport and increase the vitality of inner residential areas.
- That the proposal is consistent with the provisions of 9.2 of the plan regarding infill development and the promotion of, in particular, narrow plot sizes, variation in building heights, strong corners and sharp gables and diversity of building types.

- That the car parking standard is one space per unit. And that 11.3.3(c) of the plan makes provision for a relaxation of this standard in the case of new developments in inner residential areas.
- That there are standards and guidelines in the plan for developments in the CC (city Centre) zone. The plot ratio for city centre is maximum 2:1. There is provision for this to be exceeded where it would contribute to urban regeneration or for urban design reasons.
- That the Residential Density Guidelines for Planning Authorities and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban areas promote infill subject, inter alia, to the protection of amenities of adjoining dwellings and protection of established character. Higher density proposals should be assessed having regard to, inter alia, acceptable building heights, avoidance of overlooking and overshadowing, suitable parking provision.
- That in the case of the site at No.56 (whole site – existing and proposed) the plot ratio would be 0.5:1. There are other developments in the area that have been permitted at similar densities including at 54 Henry Street, 53 Henry Street and 15 St John’s Terrace.
- That the design of the proposed development incorporates a step down and would act as a transition between the apartment development and the other sites. The proposal would not infringe on the canal towpath or the wall and the view along the canal is not adversely affected.
- That the proposed unit is well set back from all boundaries and there would be no overlooking issues at all arising.

- That the right of way access is existing and that there is adequate space for an off street parking space as required by the development plan.
- That there are no plans for the extension of the existing dwelling at No.56 and there is adequate open space available in the proposal to serve this development.

6.0 Observers

The following are the main issues raised in the two observations received:

- That the proposal would extend the developers properties at the controversial Donegan Court development.
- The development is of excessive scale and would impact negatively on the amenity of the adjoining property at No54 as well as those of Nos. 52 and 50. These properties are already overlooked by the residents of Donegan Court and this proposed development would make that situation worse.
- That the Eglinton Court development is already in contravention of the navigation trust requirement that there would be no doorways from buildings opening onto the towpath.
- There are problems of traffic density and noise in the area that the proposal would make worse.
- The development does not provide for adequate parking.

- There will be additional loss of light for neighbours over and above the significant impact that Donegan Court.
- That the proposed development has been refused on a number of occasions in the past.

7.0 Response Submissions

7.1 Response of the Planning Authority to Appeal

The following is a summary of the main issues raised in the response submission received from the Planning Authority:

- That most of the excerpts from the development plan quoted in the appeal are not of relevance to the proposed development.
- That the plot ration for the application site is 0.69:1. This is considerably in excess of the normal maximum of 0.46:1 permissible in the residential zone. The plot ratio for the entire site would be 0.53:1.
- Submitted that the comparisons with other developments in the area are not appropriate. These precedents cited relate to extensions to existing dwellings on very small sites and where the existing dwellings were very small and required extension to provide a basic standard of accommodation.
- Restates that the proposal would severely limit the potential of the existing small dwelling to be extended in the future.

- Development considered to constitute over development and to be out of character with the area which has single dwelling units. Noted that the development of the adjoining site to the north was only permitted on the basis of its previous industrial use.

8.0 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 Inner Residential Area.

There are a number of sections of the development plan relating to residential standards.

Policy 2.5 of the Plan relates to Inner Residential Areas and recognises that these areas are dynamic and that potential exists for some additional residential development. It is however stated that it is priority of the council that new development will not adversely affect the character of the area. requires that a balance be struck between the reasonable protection of residential amenities and established character and the need to provide for sustainable residential development. Policy 2.5 states that it is policy 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. Section 4.5 relates to canals and waterways and Policy 4.5 includes a requirement to ensure the conservation of the canal corridor and insist that developments abutting the canal relate to the context of the adjacent environment and contribute to the overall amenity and explore the possibility for public access.

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 one space per dwelling would be provided.

The site is located adjacent to the Eglinton canal which is included on the record of protected structures for Galway City. The area included as part of the protected structure comprises the canal itself, the towpaths and the boundary walls which would include the wall which forms the rear or eastern boundary of the appeal site.

9.0 Assessment

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

- Principle of Development,
- Design, Layout, Visual Impact and Impact on Canal
- Impact on Residential Amenity
- Access, Parking and Traffic Safety
- Other Issues

9.1 Principle of Development

9.1.1 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. The principle of residential development would accord with the residential zoning objective of the site. Policy

2.5 of the Plan relates to inner residential areas and requires that the quality of existing inner residential areas would be protected in new developments by ensuring that such new development does not adversely affect the character of the area and has regard to the prevailing pattern, form and density.

9.2 Design, Layout, Visual Impact and Impact on Canal

9.2.1 The Planning Authority determined that the proposed development would not be in keeping with the form and scale of existing residential development in the area and that the excessive density of development proposed would result in over development of the site and materially alter the established character of the area. The prevailing pattern is of single dwellings on the plots with none of the other four dwellings in the terrace having been sub divided with the addition of a mews dwelling.

9.2.2 The planning authority state that the density of the proposed development is excessive and would not be in accordance with the established pattern of development. This is disputed by the first party who cites a number of policies with regard to intensification and density from the plan. From my reading of the appeal submission however I would be in agreement with the Planning Authority that the bulk of the sections of the development plan cited by the appellant are not applicable to the appeal site. Specifically, the references to site plot ratio and a maximum of 2.0:1 relates to the city centre area and not residentially zoned lands. The density of the proposed development comprising the whole site of what is now No.56 Henry Street would be 0.69:1 and I would agree with the Planning Authority that this is considerably in excess of the normal maximum of 0.46:1 permissible in the residential zone. Even with just the development within the red line boundary, the plot ratio would be 0.53:1. On the basis of plot ratio, I would therefore agree

with the assessment of the planning authority that the proposal is not consistent with the provisions of the development plan and that it is not consistent with the established pattern of development in the area. I am therefore of the opinion that the proposed development is also contrary to Policy 2.5 of the Plan relating to development in the Inner Residential Area.

9.2.3 The appellant makes reference to a number of precedents for higher density developments on adjacent sites and specifically Nos. 52 and 54 Henry Street. I would however agree with the Planning Authority that these are not appropriate comparisons as they relate to developments comprising the extension of the existing single dwelling units on these sites. As noted by the Planning Authority, these developments relate to extensions where the existing dwellings were very small and required extension to provide a basic standard of accommodation.

9.2.4 The appellant makes the case that the proposed development would serve to break the transition in scale between the existing terrace of houses and the larger scale development to the north west at Donegan court. The form of development may create a transition in scale however I consider that the design would be such as to have a significant negative impact on visual amenity when viewed from the canal and particularly Parkavara on the northern side of the canal. The canal, towpath and boundary features are all protected structures and Policy 4.5 of the plan seeks, inter alia, to ensure that developments abutting the canal relate to the context of the adjacent environment and contribute to the overall amenity. The design of the proposed development with a large scale window at first floor level overlooking the canal and visually prominent from the canal area would in my opinion not be consistent with Policy 4.5 and would have an overall negative impact on the character and setting of the protected structure. I would accept that the development at Donegan Court to the north west of the site has set an undesirable precedent with regard to scale and impact on the canal setting however I note the

comments of the Planning Authority regarding the former industrial use of this site and the different context in which its development was permitted.

9.2.5 in terms of private open space, the submitted site plan indicates the provision of c.64 sq. metres of private amenity space. This space would be provided in a restricted and relatively irregular shaped area to the south west of the proposed dwelling and while south facing would be significantly shadowed by the existing boundary wall to No.54. The area proposed at 64 sq. metres does not meet the development plan requirement for 50 percent of the gross floor area and is in my opinion sub standard in area and amenity value. I would also note the concerns expressed by the Planning Authority regarding the impact of the proposed development on the open space provision for the existing dwelling at No. 56 and the potential impact on the future extension of the dwelling. The appellant states that there is no proposal for the future extension of this property however it is small at only 77 sq. metres and I note and agree with the concerns of the Planning authority regarding the impact that the proposed development would have on the potential future extension of this dwelling to modern accommodation standards. The private amenity space proposed to remain with No.56 is indicated on the site plan as 72 sq. metres and would meet the development plan standard.

9.2.6 Finally, I note that the appellant states that the proposed development would accord with section 2.8 of the development plan relating to mews dwellings. Specifics of how this is the case are not provided however in my opinion the appeal site is not a mews setting as envisaged in Paragraph 2.8 of the Plan given that no vehicular access from the rear is available and having regard to the restricted site size.

9.3 Impact on Residential Amenity

9.3.1 The planning authority and the observers to the appeal are both of the opinion that the proposed development would have an adverse impact on the residential amenity of adjoining residential properties by virtue of overlooking and overshadowing. It is also noted by the observers that the existing layout of Donegan Court is such that there is significant overlooking of the gardens of Nos. 52-56 Henry Street and that the proposed development would serve to make these issues worse. From an inspection of the site I would agree with the observers that the existing development at Donegan Court has the effect of overlooking the adjoining residential properties by virtue of its design with a central courtyard and balconies that have unobstructed views south east over the adjoining residential properties.

9.3.2 The design of the proposed development and specifically the first floor is such that there would in my opinion not be significant direct overlooking issues arising for the adjoining properties to the south. I do however consider that the scale of the proposed structure and its proximity to the south eastern site boundary is such that it would comprise a visually prominent and overbearing structure when viewed from adjoining residential properties, particularly those at Nos. 52 and 54 Henry Street. The proximity of the proposed dwelling to site boundaries and the visual prominence for adjoining site is in my opinion a further reflection of the high plot ratio proposed, the inconsistency with the established pattern of development in the area and the general overdevelopment of the site.

9.4 Access, Parking and Traffic Safety

- 9.4.1 The transportation Planning section of the council recommended refusal of permission on the basis of the restricted sight lines at the entrance to the proposed development, parking and restricted circulation within the site and the potential for the creation of a traffic hazard and this concern is reflected in the wording of Reason for refusal No. 4 of the notification of decision to refuse permission. The appellant notes the fact that access is proposed to be via an existing entrance to the side of No.56 and that there is adequate width at c. 3 metres for the creation of an access to serve the development. It is also stated by the first party that there is adequate space to provide a single parking space that would meet the requirements of the development plan for inner residential areas.
- 9.4.2 The area to the south west of the proposed dwelling on the appeal site measures c. 7.9 metres by 7.5 metres and would be capable of accommodating at least one car parking space. It is not however clear that it would be able to accommodate a car turning in this area to exit the site, particularly in the event that there was an existing car parked in the area.
- 9.4.3 With regard to the access to Henry Street, I note the comments of the first party that this access point is existing and also note that it would appear that the site is currently used for the parking of vehicles. It is not clear from the planning history on foot of what planning permission the hard surfacing of this area and its use for parking is authorised. Notwithstanding the above issues, the existing layout is such that visibility for vehicles exiting the site is restricted by the Donegan Court development to the north west and the fact that this development extends right out to the footpath on the Henry Street frontage and such that visibility for vehicles exiting the appeal site would be restricted. For this reason, and given the uncertainty regarding the feasibility of vehicles turning within the site, I would agree with the assessment of the Planning Authority that the intensification of the

vehicular access at this location that would arise on foot of a grant of permission would result in the creation of a traffic hazard.

9.5 Other Issues

9.5.1 With regard to appropriate assessment, the development is proposed to be connected to existing water supply and drainage networks and Irish Water have no objections to the proposed development. 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.

10.0 Recommendation

In view of the above it is recommended that permission be refused based on the following reasons and considerations:

Reasons and Considerations

1. Having regard to the scale of development proposed, to the restricted site size, the proximity to site boundaries and to the limited extent and to the poor quality of private amenity space proposed it is considered that the proposed development would constitute an overdevelopment of this inner residential site which would be out of character with the prevailing character and pattern of development in the area and which would have a significant adverse effect on the residential amenities of adjoining properties by virtue of overbearing visual impact and visual intrusion. The proposed development would therefore be contrary to Policy 2.5 of the Galway City Development Plan, 2011-2017 regarding development in inner residential areas and the open space and plot ratio standards set out in 11.3 of the Plan and would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development is located adjoining the Eglinton Canal which is included on the list of protected structures for Galway City. Policy 4.5 of the Galway City Development Plan seeks to ensure that developments abutting the canal corridor relate to the canal environment and contribute to its overall amenity and Policy 7.2 seeks to ensure that new development enhances the character or setting of protected structures. The proposed development is of a scale such that it would constitute a visually prominent feature when viewed from the canal and such that it would have a significant adverse effect on the setting of the protected structure and on the amenity of the canal and it is therefore considered that the proposed development would be contrary to Policies 4.5 and 7.2 of the Galway City Development Plan and would be contrary to the proper planning and sustainable development of the area.

3. The proposed vehicular access to the site, in particular the restricted visibility to the north at the site exit onto Henry Street, and on site provision for parking and turning of vehicles within the site are considered to be sub standard and such that they would lead to the potential conflict between vehicular traffic and pedestrians at the location of the proposed access. The proposed development would therefore endanger public safety by reason of the creation of a traffic hazard and would be contrary to the proper planning and sustainable development of the area.

Stephen Kay

Inspectorate

20th September, 2016